African Union	**Policy and Regulation Initiative for Digital Africa (PRIDA)**	

Continental Workshop - ICT harmonization in Africa - How to monitor and evaluate it? - What are the next steps to better adapt to the challenges of digital transformation?

A working Document

(Project Output A1.1, A2.1, A2.7, A3.1, A4.4)

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Foreword

The rise of digital technologies offers an opportunity once in a generation to unlock new pathways for rapid economic growth, innovation, job creation and enhanced service delivery which would have been unimaginable even a decade ago. The digital revolution is well underway in Africa with significant progress in many foundational areas of the digital economy and leveraging global and regional initiatives. However, in comparison with other continents, Africa lags behind in broadband connectivity availability and affordability which is critical to drive the digital transformation of Africa and ensure its full participation in the global digital economy.

The Policy and Regulation Initiative for Digital Africa (PRIDA) project aims to address some of these policy and regulatory challenges. PRIDA was set up after the 2017 AU-EU Summit in Abidjan, where the African Union (AU) and the European Union (EU) committed to seize the opportunities of technological development and the digital economy. PRIDA is funded by the EU and is jointly implemented by the African Union Commission Department of Infrastructure and Energy - Information Society division (AUC-DIE-ISD) and the International Telecommunication Union (ITU).

PRIDA has set out to achieve three main objectives: (i) Efficient and harmonized spectrum utilization across the Continent, (ii) Harmonization of measurable ICT/Telecommunications policy, legal and regulatory frameworks and (iii) African stakeholders' active participation in the global Internet governance debate.

PRIDA will contribute to the African Digital Transformation Strategy which aims at guiding a common, coordinated response for reaping the benefits of the Digital Economy.

In that context, this draft working document has been developed to serve as an input and guide the discussions during the Continental Harmonization Workshop, from 2 – 6 September 2019, Addis Ababa, Ethiopia. This workshop is a platform for the representatives of Member States, Regional Economic Communities (RECs), Regional Association of Regulators and AUC to make an analysis of current and past ICT policy, Legislative and Regulatory harmonization, monitoring and evaluation (M & E) initiatives in Africa and compare with other international initiatives. Based on the lessons learnt, the participants will develop a two-year action plan. This draft will be modified, adapted and finalized based on the merit of the discussions and reflections of the participants.

The document was developed under the direction of the Information Society Division. It has been produced by Ms. Katia Duhamel under the supervision of the PRIDA technical assistance team (PRIDA-TA) Team.

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List of the acronyms

ADUA	African Union Development Agency
AFD	African Development Bank
AfCFTA	The African Continental Free Trade Agreement
AMU	Arab Maghreb Union
ANPDPA	African Network of Personal Data Protection Authorities
ARPAKE	African Regional Plan of Action for the Knowledge Economy
ATU	African Telecommunication Union
AU	African Union
AUC	African Union Commission
ARICEA	Association of Regulators of Information and Communication Services
ARCT-CPLP	Associação de Reguladores de Comunicações e Telecomunicações da Comunidade dos Países de Língua Portuguesa
ARTAO	Association of West African Telecommunications Regulators
ARTAC	Association of Telecommunications Regulators of Central Africa
AXIS	Internet Exchange Point Program
CEN-SAD:	The Community of Sahel-Saharan States
CEMAC	Economic and Monetary Community of Central Africa
CISA	Comprehensive ICT Strategy for Africa
COMESA:	Common Market for Eastern and Southern Africa
CRASA	Communications Regulators Association of Southern Africa
DECA	Digital Economy Country Assessment framework
DNS	Domain Name System
GDPR	General Data Protection Regulation
EARPTO	East African Postal and Telecommunications Regulation Organization

EU	European Union
EAC:	East African Community
EARPTO :	East Africa Regulatory Postal and Telecommunications Organization
ECA	The Economic Commission for Africa
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
ECTEL	Eastern Caribbean Telecommunications Authority
EMERG	European Mediterranean Regulators Group
FRATEL	**Réseau francophone de la régulation des télécommunications**
HIPSSA	Harmonization of the ICT Policies in Sub-Saharan Africa
ICANN	Internet Corporation for Assigned Names and Numbers
ICT	Information and Communications Technology
IETF	Internet Engineering Task Force
IGA	Intergovernmental Assembly
IGAD	Intergovernmental Authority on Development
IOC	Indian Ocean Commission
ITU	International Telecommunication Union
MMRI	Mobile Money Regulation Index
NEPAD	The New Partnership for Africa's Development
NPCA	NEPAD Planning and Coordinating Agency
NRA	National Regulatory Authority
OHADA	Organisation for the Harmonisation of Corporate Law in Africa
PRIDA	Policy and Regulation Initiative for Digital
PRQ	Priority Regulation Question
RAR	Regional Association of Regulators

REC	Regional Economic Community
SADC	Southern African Development Community
STC	Specialized Technical Committees
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commision of Africa
UNCITRAL	The United Nations Commission on International Trade Law
WAEMU	West African Economic and Monetary Union
WATRA	The West African Telecommunication Regulators Assembly
WGDE	Working Group on Digital Economy

Section I: African Union Initiatives for the Harmonization of the ICT Sector in Africa in the last 10 years

1. Foundations and issues

1.1. The general objectives of the AU

The African Union (AU) is a continental organization to which the 55 member states that make up the countries of the African continent adhere. It was officially founded in 2002 taking over from the Organization of African Unity (OAU, 1963-1999).

On 9 September 1999, the Heads of State and Government of the Organization of African Unity (OAU) signed the Sirte Declaration announcing the creation of an African Union to accelerate the process of continental integration and to enable Africa to play its role in the global economy, while facing the challenges of globalization.

The AU was formally established in July 2002 in Durban, South Africa and its vision is: "An integrated, prosperous and peaceful Africa, led by its own citizens and representing a dynamic force on the international stage".

The Constitutive Act of the AU (2000)[1] and the Protocol on Amendments to the Constitutive Act of the AU (2003)[2] outlines the objectives of the African Union as to:

- achieve greater unity and solidarity among African countries and among the peoples of Africa;
- defend the sovereignty, territorial integrity and independence of its Member States;
- accelerate the political and socio-economic integration of the continent;
- promote and defend common African positions on issues of interest to the continent and its people;
- encourage international cooperation
- promote peace, security and stability on the continent;
- promote democratic principles and institutions, popular participation and good governance;

[1] https://au.int/sites/default/files/pages/34873-file-constitutiveact_en.pdf
[2] https://au.int/sites/default/files/treaties/35423-treaty-0025_-_protocol_on_the_amendments_to_the_constitutive_act_of_the_african_union_e.pdf

- promote and protect human and people's rights in accordance with the African Charter on Human and People's Rights and other relevant human rights instruments;
- create the right conditions for the Continent to play its role in the world economy and in international negotiations;
- promote sustainable development at the economic, social and cultural levels, as well as the integration of African economies;
- promote cooperation in all areas of human activity with a view to raising the standard of living of the African people;
- coordinate and harmonize policies between existing RECs
- accelerate the development of the Continent by promoting research in all fields, especially science and technology;
- work with relevant international partners to eradicate preventable diseases and promote health on the continent;
- ensure the participation of women in the decision-making process, particularly in the political, economic and socio-cultural fields;
- develop and promote common policies on trade, defense and external relations with a view to defending the Continent and strengthening its negotiating positions;
- Invite and encourage the effective participation of Africans in the diaspora, as an important part of our continent, in building the African Union.

More specifically, the articles 3 and 4 of Abuja Treaty are the foundations of the African Union's competence and mission in harmonizing regional policies:

- Article 3 (principles)

  a) The equality and interdependence of the Member States;

  c) Inter-state cooperation, harmonization of policies and integration of programmes;

  d) Promotion of a harmonious development of economic activities among Member States;

- Article 4 (goals)

1. (d) To coordinate and harmonize policies among existing and future economic communities in order to foster the gradual establishment of the Community.

2. (b) The conclusion of agreements aimed at harmonising and coordinating policies among existing and future sub-regional and regional economic communities;

2. (e) The harmonisation of national policies in order to promote Community activities, particularly in the fields of agriculture, industry, transport and communications, energy, natural resources, trade, money and finance, human resources, education, culture, science and technology;

The activities of the AU are implemented through decisions and declarations adopted by bodies such as the Assembly of Heads of State and Government, the Executive Council (Meeting of Ministers in charge of Foreign Affairs), Specialized Technical Committees - STC- (Meeting of Ministers in charge of sectors). The Regional Economic Communities (RECs) and the African Peer Review Mechanism are also part of the organs that make up the structure of the African Union.

To ensure the realization of the pan-African vision of an integrated, prosperous and peaceful Africa, the AU Conference adopted on 31 January 2015 (Assembly / AU / dec.565 (XXIV) a strategic framework, the **Agenda 2063**[3] for a sustainable and inclusive socio-economic transformation of Africa.

The 2063 Agenda is based on seven aspirations[4] and identifies 14 priority or "flagship" projects to accelerate Africa's growth and economic development and promote a common identity. Some of these projects are directly related to the development of digital space:

- The Pan-African Virtual and Electronic University, which aims to use ICTs to improve access to education and lifelong learning on the continent, as well as to accelerate the development of human capital, science and technology; and Technologies and innovation;
- The introduction of an African ePassport[5] with the removal of the visa requirement for all African citizens in all African countries;
- Connect Africa through a world-class infrastructure especially in the field of ICT;
- The pan-African e-services project, which aims to set up infrastructure for telemedicine, distance education and diplomatic communications between Heads of State and Government;

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[3] https://au.int/en/Agenda2063/popular_version

[4] 1. A prosperous Africa based on inclusive growth and sustainable development. 2. An integrated continent, politically united and rooted in the ideals of Pan-Africanism and the vision of the African Renaissance. 3. An Africa where good governance, democracy, respect for human rights, justice and the rule of law are on the agenda. 4. An Africa living in peace and security. 5. An Africa with a strong identity, common heritage, shared values and ethics. 6. An Africa whose development is people-oriented and which builds on the potential of its people, especially women and young people, which care about the well-being of children. And 7. An Africa acting as a strong actor and partner, united and influential actor and partner on the world stage

[5] The joint African passport initiative was launched symbolically at the AU Conference in July 2016 in Kigali. In July 2018, AU Member States' immigration officials met in Nairobi, Kenya to discuss draft directives regarding the format, production and issuance of this passport.

— Cybersecurity and the protection of personal data. These areas are covered by the African Union Convention on Cybersecurity and Protection of Personal Data.

1.2. AU Foundations and Competencies in the Telecommunications / ICT Sector

The African Union (AU) regulatory framework for ICT is composed of two categories of acts:

1. **The primary acts**, signed by the States, and not by any of the institutions of the African Union, which are subject to ratification by member countries:

   — The High-Level Policy and Regulatory Framework for High-Speed ICT Infrastructure of the New Partnership for Africa's Development ("NEPAD") for Eastern and Southern Africa 2006;

   — The Resolution of the First Ministerial Meeting of the Intergovernmental Assembly ("IGA") on the implementation of the Kigali Protocol, which is annexed to the above protocol and which states that the IGA's role includes facilitating and assisting in promoting NEPAD's high-speed ICT network infrastructure.

   — The Convention on Cybersecurity and Protection of Personal Data, known as the Malabo Convention.

2. **Acts of secondary law** adopted by the AU institutions (taken on the basis of a primary law act): [6]

   — The NEPAD Reference Document[7] (adopted in October 2001), referred to in Article 9 (b) of the AU Constitutive Act, which provides for the implementation of the NEPAD Framework and its Initial Plan of Action;

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[6]The Assembly of Heads of State and Government (the Conference) and the Executive Council of Foreign Ministers of the African Union have decision-making power (Articles 9 and 13 of the AU Constitution). The Executive Council may delegate all or part of its powers and duties, including its decision-making power, to the specialized technical committees. The decisions of these committees are submitted to the Executive Board for their approval.
The decisions of the Conference and the Executive Council are binding. In accordance with Article 23 of the Constitution, "any Member State which does not comply with the decisions and policies of the Union may be subject to sanctions, in particular with regard to links with other Member States in the field of transport and communications and any other measures determined by the Conference in the political and economic fields ".

[7] The New Partnership for Africa's Development (NEPAD) was adopted by the African Heads of State and Government of the Organization of African Unity in 2001. The NEPAD Program is the Master Plan for the development of the Continent in the 21st century, which aims at transforming Africa. Adopted at the highest political level of the African Union in 2001, the NEPAD program calls for reforms in the priority areas of agriculture and food security, regional integration and infrastructure, climate change and the environment , human development, as well as good governance, capacity development and women's empowerment.
NEPAD was integrated into the AU structures by the decision of the African Union Conference adopted at the 14th Ordinary Session held in Addis Ababa, Ethiopia, from January 31 - February 2, 2010 (Assembly / AU /Dec.283(XIV)). In addition, the NEPAD Planning and Coordinating Agency (NEPAD Agency) was established by that decision.

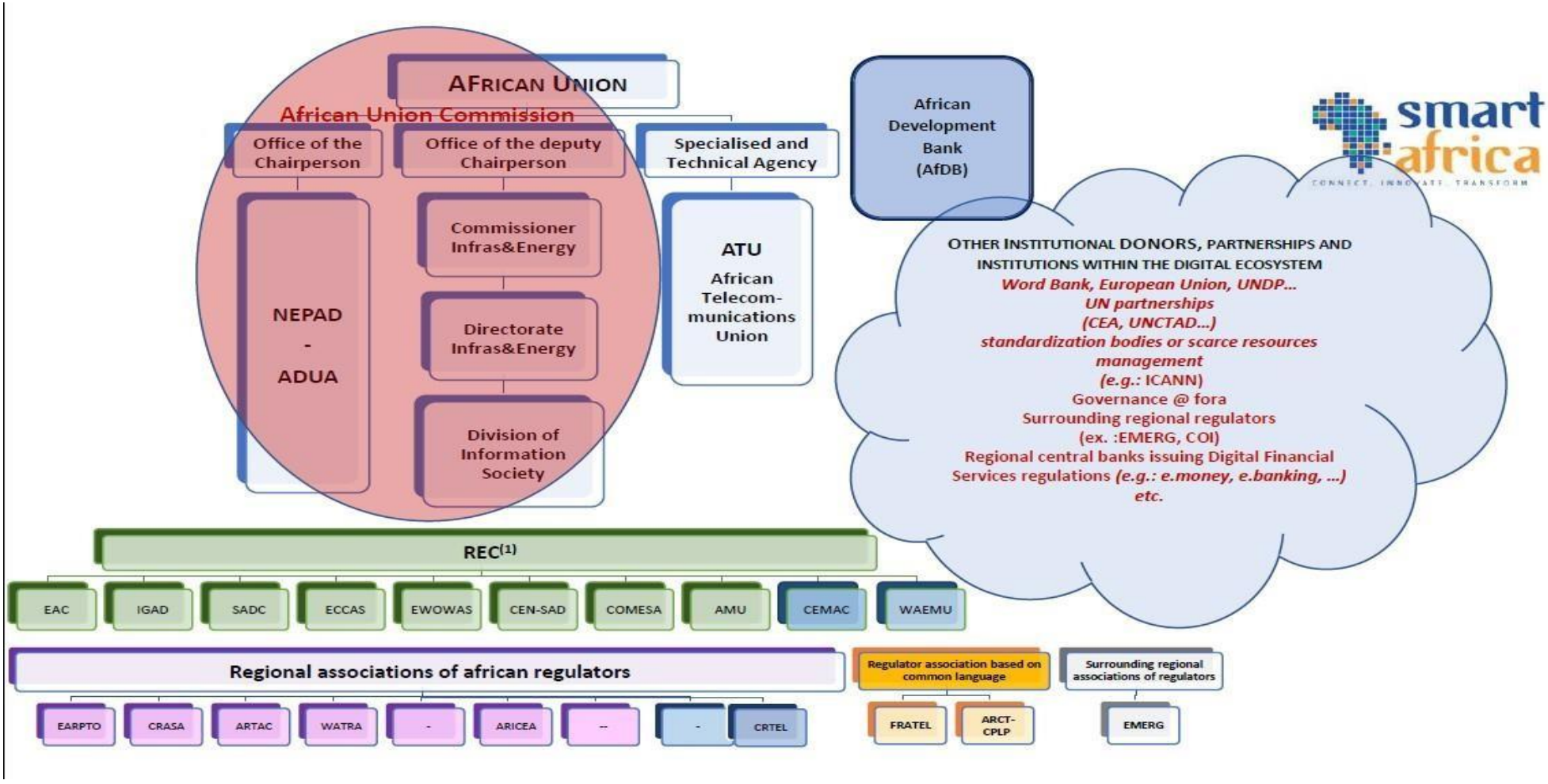
- Decision EX.CL/Dec.258 (VIII) [8] of the Executive Council of the AU adopting the African Regional Plan of Action for the Knowledge Economy (ARPRKE) in relation to the World Summit of the Information Society from Tunis;
- - Decision EX.CL/434 (XIII) [9] of the Executive Council of the AU, which (i) endorses the AU Framework for Harmonization of Telecommunications and ICT Policies and Regulations in Africa and (ii) implement the Report of the Second Session of the AU Conference of Ministers of Communication and ICT[10], annexed to the **2008 Cairo Declaration**;
- The Plan for the Implementation of Decision EX.CL/434 (XIII), which is a measure for implementing this Decision, and which identifies both the actors (the AU Commission and the RECs essentially) and the actions to be taken;
- - AU Executive Council Decision EX.CL/759 (XXII)[11] on the Report of the Fourth Ordinary Session of the Conference of Ministers of the African Union in Charge of Information and Communication Technologies (CITMC) -4) which approves the Khartoum declaration mentioned below.
- Etc.

In addition, the Conference of African Ministers in charge of ICT adopts declarations inviting institutional actors to continue the process of harmonization and coordination of telecommunication and ICT regulations, policies and programs. For example, it adopted the above-mentioned Cairo (2008), Abuja (2010) and Khartoum (2012) declarations.

For a summary presentation of the African Union's competences and actions in the ICT sector see. Annex 1.

[8] EXECUTIVE BOARD Eighth Ordinary Session January 16 - 21, 2006 Khartoum, Sudan EX.CL/Dec.236-277 (VIII)
[9] EXECUTIVE BOARD Eighth Ordinary Session June 24 - 28, 2008 Sharm-El-Sheikh, Eygpt EX.CL/434(XIII)
[10] The Reference Framework for Harmonization of Telecommunication / ICT Policies and Regulations in Africa was adopted by the 2nd Session of the Conference of African Ministers Responsible for ICT held in Cairo from May 11-14, 2008.
[11] EXECUTIVE BOARD Twenty-second regular session January 24 – 25, 2013 Addis Ababa, Ethiopia

2. Institutional Framework



THE DIFFERENT (PUBLIC) STAKEHOLDERS IN ICT POLICY AND REGULATORY INITIATIVES ON THE CONTINENT

(1) The AU recognizes eight RECs (to become 7 if IGAD and EAC merge): EAC, ECCAS, ECOWAS, CEN-SAD, COMESA, IGAD, and SADC UMA

Within the AUC, a structure is mainly in charge of the ICT sector: the Information Society Division which is part of the Infrastructure and Energy Department.

The NEPAD planning and coordinating agency (transitioning to the African Union Development Agency - ADUA) could continue to implement ICT-related activities. Its mandate is being finalized[12].

The Infrastructure and Energy Department is responsible for infrastructure development at the regional and continental levels, including: i) coordination, implementation and monitoring of transport programs and policies; energy, ICTs in collaboration with RECs and AU institutions and specialized bodies, ii) facilitation of private initiatives in this area, iii) advocacy with development partners for program implementation. It is also responsible for a number of Agenda 2023[13] projects and oversees the Infrastructure Development Program in Africa ("PIDA", which has an ICT component) in partnership with ECA, AfDB and NEPAD.

The African Telecommunication Union (ATU) as an AU specialized institution with 47 African member states and 37 associate members including operators and private actors in the telecommunications sector coordinates most of the activities related to ITU. It contributes in particular to the formulation and implementation of the decisions of the ITU Plenipotentiaries.

Regional Economic Communities (RECs) are considered as pillars of the AU and collaborate closely with it. The Abuja Treaty and the AU Constitutive Act specifically provide for the establishment of these relations, which are governed - inter alia - by the 2008 Protocol on Relations between the AU and the RECs. The vast majority of policy harmonization initiatives and telecommunications/ICT regulatory frameworks have taken place and are still taking place at the REC level with the greater or lesser contribution of the associated Regional Regulatory Associations.

The African Union recognizes eight RECs, namely:

- Intergovernmental Authority on Development (IGAD);
- East African Community (EAC);
- Southern African Development Community (SADC)

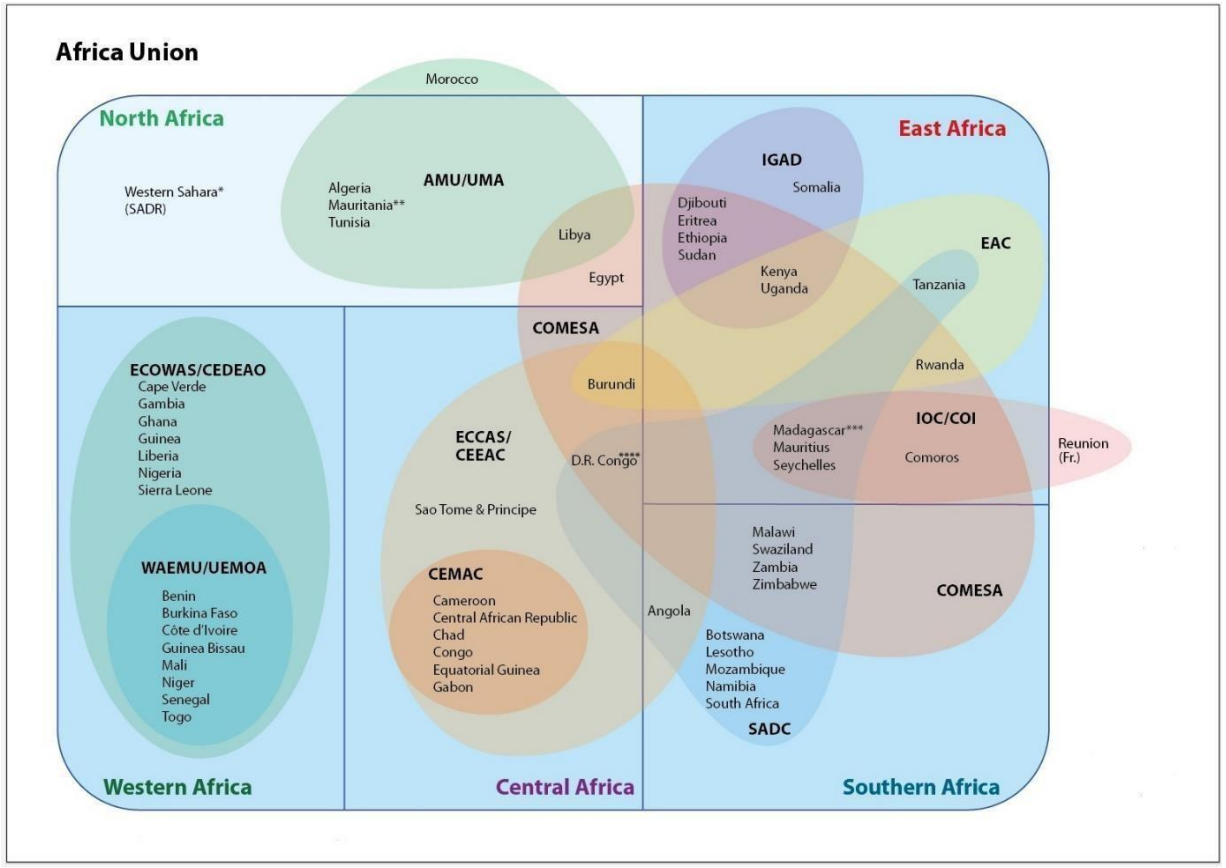
[12] See ASSEMBLY OF THE UNION Thirty Second Ordinary Session February 10 – 11, 2019 Addis Ababa, Ethiopia , which RECALLS Decision Assembly/AU/Dec.691(XXXI) of the 31st Ordinary Session of the Assembly held in Nouakchott, Mauritania in July 2018 which approved the establishment of the African Union Development Agency (AUDA-NEPAD) and ALSO RECALLS Decision Ext/Assembly/AU/Dec.1(XI) of the 11th Extraordinary Session held in Addis Ababa, Ethiopia, in November 2018 which outlined the mandate of AUDA-NEPAD;

[13] The Single Market for Air Transport in Africa, the Pan-African Online Services Project, the High Speed Rail Network, the Grand Inga Dam and Cybersecurity.

— Economic Community of Central African States (ECCAS)
— Economic Community of West African States (ECOWAS)
— Community of Sahelo-Saharan States (CEN-SAD)
— Common Market for Eastern and Southern Africa (COMESA)
— Arab Maghreb Union (AMU).

However, there are other RECs on the Continent, for example: WAEMU or CEMAC which have adopted regulatory regional frameworks in the ICT sector. In fact, the participation of African countries in various regional trade groupings or agreements only further complicates the progress of regional integration in Africa. Of the fifty-four countries of the African Union (before Morocco's accession), twenty-seven are members of two regional groupings, eighteen belong to three groupings and one country is a member of four groupings. Eight countries are members of only one group[14].

The diagram below made at the time of the HIPSSA[15] project shows the degree of entanglement and, by implication, the complexity of the regional institutional architecture.



[14] Source: Fifty Years of Regional Integration in Africa: A Global Assessment, Ochozias A. Gbaguidi in Financial Techniques and Development 2013/2 (No 111):https://www.cairn.info/revue-techniques-financieres-et-developpement-2013-2-page-47.htm
[15] Since the realization of this scheme Morocco has joined the AU.

The African Development Bank Group (AfDB) is a multilateral development finance institution that plays a leading role, for example, in the implementation of NEPAD but also in the creation of the African Continental Free Trade Area (ACFTA).

The ADB has 81 shareholder countries, including 54 African countries and 27 European, Southern and North American countries, and as permitted by Article 3 of the ADB Agreement.

Apart from the above-mentioned AU institutions and structures, including the RECs and, by extension, the regional associations of regulators, other institutions or organizations play a role in the process of harmonizing markets, policies and regulatory frameworks, including:

- Institutional donors and development agencies, in addition to AfDB, eg. The World Bank or the Millennium Change Corporation Developing Programs involving the adoption of reform in the sector;
- Partnerships with the United Nations. For example, ECA is developing a special partnership with the AU on the issue of deploying a continent-wide digital identity platform, while UNCTAD is supporting the Continent on development issues, among others, e-commerce;
- Regional and national central banks that regulate digital financial services (e-Money, e-mobile, e-banking ...)
- Standards bodies whose standards apply to all ICT networks, products and services;
- Rare resource management organizations (eg ICANN);
- Internet governance forums;
- Peripheral or language-based regional organizations (Francophonie, lusophonie, etc.): the EMERG (European Mediterranean Regulators Group) which includes among its members the Algerian, Moroccan and Tunisian regulators, the FRATEL which brings together the French-speaking regulators or the Association of Portuguese-speaking Regulators, the ARCT-CPLP (Associação de Reguladores de Comunicações e Telecomunicações da Comunidade dos Países de Língua Portuguesa);
- Other multi-stakeholder initiatives implemented to a greater or lesser extent, such as the Smart Africa Alliance;

(...)

It is therefore a complex institutional landscape that interacts on the reforms in the ICT sector on the Continent.

3. The AU Framework for the Harmonization of Telecommunication and ICT Policies and Regulations in Africa

3.1 2008: The Cairo Declaration

The Cairo Declaration is annexed to the report of the 2nd Conference of Ministers of Information and Communication Technologies of the African Union held on May 14, 2008 in Cairo, Egypt.

It was endorsed by AU Executive Council Decision EX.CL/434 (XIII) [16], which thus endorses **the AU Framework for the Harmonization of Telecommunications and ICT Policies and Regulations in Africa**[17] with the objective of creating a conducive environment that attracts investment and promotes the sustainable development of competing telecommunications / ICT markets in Africa, infrastructure and access[18];

3.1.1 The starting observation

The Cairo Declaration Framework is based on the need for a concerted vision of the key actors on:

- Harmonization of national regulations to create a regional telecommunications / ICT market;
- The construction of the information society;
- The definition of common guidelines / guidelines for major players in order to reap the full benefits of the information society;
- The search for coherence and economic efficiency of measures, the concentration of attention on priority initiatives, and the adoption of effective and efficient implementation strategies;

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[16] EXECUTIVE BOARD THIRTEENTH ORDINARY SESSION JUNE 24-28, 2008 Sharm-el-Sheikh, Egypt:EX.CL/434(XIII) : https://au.int/sites/default/files/decisions/9634-council_fr_24_28_june_2008_executive_council_thirteenth_ordinary_session.pdf

[17] REPORT OF THE SECOND SESSION OF THE CONFERENCE OF MINISTERS OF COMMUNICATION AND INFORMATION TECHNOLOGY (ICT) OF THE AFRICAN UNION CAIRO , EGYPT MAY 11-14, 2008
https://au.int/sites/default/files/documents/30943-doc-report_of_experts_citmc-2_cairo08.pdf
"The executive council (...)
2. ENDORSES the Reference Framework for the Harmonization of Telecommunication / ICT Policies and Regulations in Africa
3. ENDORSES ALSO the Strategic Orientation and Action Plan for the Development of Postal Services in Africa;
4. ENDORSES the eleven (11) flagship projects of the African Regional Action Plan for the Knowledge Economy (ARAPKE);
5. URGES Member States to ensure the effective use of the Telecommunication / ICT Policy and Regulatory Framework and the strategic direction and the Action Plan for the development of postal services in Africa;
6. REQUESTS the Commission to disseminate the Reference Framework for Harmonization of Telecommunication / ICT Policies and Regulations and the Strategic Orientation and Action Plan for the Development of Postal Services in Africa to Member States and key stakeholders and facilitate its implementation; (…)
7. ALSO REQUESTS the Commission, in collaboration with the Regional Economic Communities (RECs), the specialized agencies, the Member States and other interested parties, to take the necessary measures to accelerate the implementation of the Reference Framework for Harmonization of Policies and ICT / ICT regulations, strategic directions and action plans for the development of a postal sector in Africa and PARAES to promote a successful, integrated and sustainable communication system on the continent

— The creation of effective coordination between RECs on the one hand and between RECs and continental actors on the other to oversee the implementation of Community actions and projects at regional or continental level.

3.1.2 Goals

On the basis of the above observation, the objectives identified were as follows:

i. Establish harmonized legal, regulatory and policy frameworks at the regional and continental levels to create an enabling environment that attracts investment and promotes the sustainable development of competitive African Telecom / ICT regional markets, infrastructure, and increasing access;

ii. Implement integrated infrastructures and access networks as the cornerstone of online services, with effective cross-border connectivity to provide more access to telecommunication / ICT services for the largest number of people in Africa, as well as improvement of connectivity of the African Continent with other continents.

iii. Support the development of industrialization and research in science and technology related to Telecommunications / ICT.

iv. Develop African human resources and raise awareness to ensure Africa's active participation in the global information and knowledge-based economy

v. Develop relevant and valuable applications to encourage the deployment and use of telecommunications / ICT in all socio-economic sectors in Africa, to improve efficiency and productivity;

vi. Promote and develop African content to increase the global visibility of African values, cultures, languages and indigenous knowledge;

vii. Mobilize financial resources to strengthen regional cooperation and multi-stakeholder partnerships and encourage public-private partnerships

3.1.3 Strategy & action plan for implementation

The strategy to achieve the goal of (i) harmonization of legal, regulatory and policy frameworks at the regional and continental levels consisted of:

1. Engage the authorities to strengthen the political will to promote the development and harmonization of the telecommunications / ICT sector;

2. Develop harmonized regional and continental electronic strategies;

3. Develop regulatory guidelines at regional and continental levels;

4. Establish mechanisms to encourage and strengthen stakeholder participation in the harmonization process.

This strategy was the subject of an action plan described as follows:

1) Working towards the commitment of the political authorities

i. Create a telecommunication / ICT commission / body at the highest level of political leadership, at national and continental level.

ii. Designate a focal point with appropriate authority and resources to encourage regional and intracontinental cooperation

2) Telecommunications / ICT Policies

i. Develop and implement e-strategies with the participation of all stakeholders

ii. Develop and implement cyberspace policy and legislation.

3) Develop regulatory guidelines at the regional and continental levels.

i. Develop and adopt regional telecommunication / ICT regulatory guidelines, namely interconnection, spectrum, licensing, tariffs, universal access / service, dispute resolution, standards and certification, consumers and the environment;

ii. Develop and adopt the guidelines on cyber security, the management of domain names, the electronic signature ... etc.

iii. Promote the adoption of fair and sustainable competition rules at the national / regional and continental level;

iv. Promote regional / continental licensing mechanisms to create regional / continental network operators and service providers.

4) Create mechanisms to encourage and enhance stakeholder participation in the harmonization process

i. Establish regular forums for telecommunication / ICT actors at the national, regional and continental levels on issues of specific interest.

ii. Strengthen the coordination of frequency spectrum planning, numbering and other scarce resources.

iii. Strengthen regional coordination for the development of common African positions in international fora;

iv. Strengthen collaboration with African institutions (ATU, Afrinic,) and the regulators in charge of Telecommunications / ICT and broadcasting policies.

Some of these activities have been identified as priority programs such as at the continental (AU) and regional (REC) level: developing and adopting policy and regulatory guidelines; Initiate and support forums for sharing knowledge, resources and experience among telecommunication / ICT development actors; Provide expertise to RECs / Governments to translate policy and regulatory guidelines at the continental level into regional / national frameworks.

3.1.4. The main actors and their mission

The African Union Commission (AUC)

In coordination with the Bureau of the Conference of African Ministers Responsible for ICT (hereafter "STC Office"), the AUC is responsible for overseeing and coordinating the implementation of the Reference Framework for the Harmonization of Policies and Regulations. In the telecommunications / ICT sector, mobilize the necessary financial resources, organize meetings at the continental level, produce model guidelines and create an ad hoc working group.

The RECs

From the outset, RECs have been seen as executing agencies and the driving force behind the implementation of a harmonized ICT framework in their respective regions.

As such, the tasks identified for the RECs include:

i. Develop and implement capacity building programs;

ii. Translate the continental frame of reference into regional guidelines;

iii. Provide support to Member States to transpose the regional guidelines at national level;

iv. Participate in priority studies;

v. Support and cooperate with regional associations of regulators and operators;

vi. Gather and analyze information on implementation processes.

3.2. 2010 – 2012: The Declarations of Abuja and Khartoum

Subsequently, other Conferences of African ICT Ministers reiterated their commitment to continue on the path of harmonization outlined in the Cairo Declaration

Thus, the 3rd Conference of African Ministers of ICT (Nigeria, 3-7 August 2010) adopted the Abuja Declaration. This statement reaffirms the principle of harmonization of ICT policies at

the national, regional and continental levels and invites the AUC to continue, with all development partners, activities related to the harmonization of ICT policies and regulations in Africa.

The 4th Conference of African Ministers of ICT (Khartoum Sudan, 2-6 September 2012) [19] adopted the Khartoum Declaration. This statement expresses the Ministers' commitment to continue to promote the implementation of the previous decisions and declarations adopted by the African Union Conference and by the Conference of African Ministers in charge of ICT, in particular those relating to:

- Infrastructure Development Program in Africa (PIDA);
- Framework for the Harmonization of Telecommunication / ICT Policy and Regulation in Africa;
- African Regional Action Plan for the Knowledge Economy (ARAPKE);
- Action Plan for the Development of the Postal Sector in Africa;

African ICT Ministers also ask the AUC to:

- Set up a coordination mechanism taking into account the existing institutional architecture and meet annually, on the basis of rotation between the different regions of the Continent to harmonize the programs;
- Develop an updated, integrated, coherent and strategic ICT framework for Africa taking into account current frameworks, all ICT stakeholders in Africa and,
- Support the formulation of cyber legislation at the national level.

They also request the AUC to submit the draft African Union Convention on Cybersecurity for adoption in accordance with the rules of procedure of the African Union;

These recommendations were endorsed by the Executive Council Decision EX.CL/759 (XXII) [20].

[19] CONFERENCE OF THE AFRICAN UNION OF MINISTERS IN CHARGE OF COMMUNICATION AND INFORMATION TECHNOLOGY (CITMC-4) 4th ORDINARY SESSION KHARTOUM, SUDAN SEPTEMBER 02-06, 2012 AT / CITMC-4 / MIN / Decl. (IV) - Rev2 DECLARATION OF KHARTOUM 2012: https://au.int/sites/default/files/documents/30935-doc-declaration_khartoum_citmc4_fr_final_3.pdf

[20] EXECUTIVE BOARD Twenty-second regular session January 24 – 25, 2013 Addis Ababa, Ethiopia

4. 2008 – 2013: Support for Harmonization of ICT Policies in Sub-Saharan Africa (HIPSSA)

4.1. Objectives and Perimeter

Between 2008 and 2013, the project "Support to the harmonization of the policies concerning ICT in sub-Saharan Africa" (HIPSSA[21]) was an important tool under the supervision of ITU to set in motion the program of harmonization in Africa.

Although the HIPSSA project only covered sub-Saharan Africa and didn't cover the whole Continent, it became an important base element in implementation of the Reference Framework of the AU for the harmonization of the policies and law concerning telecommunications and ICT in Africa. It notably greatly participated in the setting in work of some of the measures classified as important in this Reference Framework, the objective being to have frameworks of harmonized policies, legislation and regulation to the regional scale and the scale of the Continent.

On the legislative plan and the role of the RECs, it appeared that the African regional organizations didn't advance to the same rhythm in the process of harmonization, what is also true for their States respective members.

4.2. Methodology

First, to create a harmonization dynamic and reflect the geographical, political and cultural diversity of the regions, the HIPSSA project selected a list of common priorities that were then implemented in four subregional programs: East Africa; Central Africa, Southern and Western Africa.

From the outset, the HIPSSA project also relied on a highly participatory and inclusive method through which regional and national stakeholders provided advice and monitoring of progress, from the initial launch meeting to last steps.

At the beginning of each sub-project, all stakeholders in the region were formally invited to actively participate in a multi-stakeholder kick-off meeting. The first task was to update and validate a first list of priorities. Its results have been incorporated into a work plan adopted by all stakeholders. Structures and mechanisms for stakeholders to participate in and take ownership of the project were then identified based on participants' ideas and knowledge of

[21] Support for harmonization of the ICT Policies in Sub-Saharan Africa

the region. Once its priorities and governance arrangements were agreed, each region followed a coherent process in several stages.

4.2.1 Prior evaluation

This phase started with an assessment of the priorities of each beneficiary country, taking into account the results of previous initiatives of the EU and other international and regional organizations. This approach avoided duplication, made the best use of regional resources and increased efficiency. Identifying good practices and failures at the regional level allowed regional organizations and individual countries to identify success factors, and points requiring specific attention in their region' and to compare them with good practices internationally. These detailed assessments served as a basis for discussions with all regional and national stakeholders.

4.2.2 Regional Policy

The results of these discussions led to the development of a draft model of regional guidelines and policies for each priority area identified. Stakeholders discussed the advantages and disadvantages of each model before finalizing and adopting the best suited to the needs and culture of the region.

4.2.3 Regional legislation

After the adoption of the policy, stakeholders developed draft legislation or regional model legislation. Throughout the process, regional organizations reported on progress at ministerial meetings and other ad hoc meetings. This way of working has made it possible to follow the local political agenda and deeply anchor the results to the realities of the region.

The final decision on the definition of deliverables remained the preserve of the RECs and their Member States, but all stakeholders were invited to give their opinion at each stage of the process. Representatives from civil society, academia and the private sector, regulatory bodies participated in all discussions and in the preparation of deliverables.

4.2.4 National legislation - Technical assistance in countries

As a follow-up to the validation and approval of draft legislation or regional model laws, technical assistance was made available to the countries concerned to transpose these regional acts into national legislative and regulatory frameworks taking into account national specificities. As with regional activities, procedures have been put in place in the countries receiving technical assistance, so that they can take ownership of the process and commit to it.

This assistance was conducted in four stages agreed by all participating stakeholders:

1) Comparison of validated regional guidelines with national policies, legislation and regulation
2) Recommend changes to national policies, legislation and regulation.
3) Organizing stakeholder consultations and adoption and validation workshops with national stakeholders.
4) Organization of capacity building activities for national stakeholders.

4.3. Field of activities

Assistance in the development of regional reference frameworks and models for the harmonization of national policies and regulations has been focused on a number of pre-identified areas:

- Licenses and authorizations;
- Universal service and universal access
- Access / Interconnection
- Financial and technical audits
- Dispute Settlement
- Frequencies
- Frequency and spectrum policies
- Cybersecurity
- (...)

5. 2011: The Program for Infrastructure Development in Africa (PIDA)

PIDA is a continental program that aims to establish a vision, policies, strategies and program for infrastructure development at the regional and continental levels of transport, energy, water and sanitation; and telecommunications/ ICT.

The program's primary mandate was to merge all continental infrastructure initiatives: NEPAD Short Term Action Plan, NEPAD Medium to Long Term Strategic Framework (MLTSF), and the AU Infrastructure Master Plan initiative in one coherent program for the whole continent.

It is therefore the main AU / NEPAD guidance document on programming, policies and investment priorities in transport, energy, water and ICT between 2011 and 2030 with among its key objectives being to set up a framework of engagement with institutional donors willing to support infrastructure at the regional and continental levels.

In ICT, PIDA's vision is to put Africa in a position to build an integrated information society and digital economy in which every government, business or citizen will have reliable and cheap access to information, communication and technology networks, including:

- bringing ICT contribution to GDP from 5% currently to 10% in 2015
- meeting the lowest cost of African broadband demand while expanding access to the connection and enhancing security;
- encouraging intra-African online commerce
- Intensifying the physical integration of networks at the regional and continental levels.

The First Priority Action Plan (PAP 1 / 2011-2020) of the ICT component of PIDA is as follows:

PIDA PAP (1) - ICT Sector					
Programme	**Description**	**Cost (MUSD)**	**Country**	**RECs**	**Regio**
1. Enabling environment for ICT	This program improves the private sector environment for investment in broadband infrastructure	25	Whole continent		
2. ICT terrestrial connectivity	This program has two main components: (a) connect each country with at least two broadband infrastructures and (b) ensure access to submarine cable to all landlocked countries	320	Whole continent		
3. (AXIS) Internet Exchange Point Program (IXP)	The purpose of this program is to support and facilitate the establishment of appropriate Internet exchange nodes in Africa for maximum development of internet traffic	130	Whole continent		

Source: PIDA Executive Summary[22]

[22] https://www.au-pida.org/download/pida-executive-summary/

PIDA's infrastructure actions consist mainly of support for the preparation of these projects and does not prejudge their implementation, which makes it difficult to assess the real and specific impact of the program on infrastructure improvement of the regional and international connectivity of the continent.

The implementation of PIDA goes beyond the usual challenges of project implementation (financing, project management) as it also includes, albeit to a lesser extent, the harmonization of national legislation to take into account projects at the regional level.

With a view to launching the second phase of the PIDA PPA program (2), an evaluation of the results of PAP (1) 1 is ongoing but is not yet available.

To date, one of the visible and concrete results of the PIDA telecom component is the AXIS program, with the effective establishment of several new national Internet exchange points, some of which are specifically designed to develop as regional Internet exchange points covering the five African regions.

The association with the World Bank to finance the equipment necessary for the establishment of national exchange points was essential for the project as well as the involvement and coordination of regional regulators.

6. 2014: The Comprehensive ICT Strategy for Africa (CISA)

At the Conference held from 2 to 6 September 2012 in Khartoum (Sudan,) (informed by a lack of coordination at the continental level, the African Ministers in charge of ICT asked the Commission of the AU to develop an integrated, coherent and strategic ICT framework for Africa and to establish a coordination mechanism to harmonize programs in collaboration with NPCA, RECs, Specialized Agencies, AfDB and ECA.

This recommendation adopted by the Executive Council of the AU gave rise to activities between 2013 and 2014 that led to a SWOT analysis of the African ICT landscape, a proposed global ICT strategy draft for the continent, a roadmap and an action plan. On May 16, 2014, in Addis Ababa, the 5th Meeting of Heads of ICT Units of the AUC, the NEPAD Agency, RECs and Regulator Associations adopted the Comprehensive ICT Strategy for Africa (CISA). The new strategy that will guide the development of the ICT sector on the Continent until 2024 is articulated around 7 strategic themes: postal and telecom infrastructure, capacity development, electronic applications and services, creating a favorable environment and governance, mobilizing resources and partnerships, industrialization, as well as research and development.

Pillar 4 "enabling environment and governance" includes objectives for harmonization and coordination of REC policy and ICT regulatory frameworks on a number of thematic areas with expected results at the continental level:

- harmonized universal service policies;
- harmonized convergence policies;
- standard rules of operations and engagement for regional operators;
- The implementation of a Continental Regulatory Forum;
- Coordination meetings;
- Improving the implementation of continental and regional directives at national level;
- The creation of tax and customs incentives for ICT equipment;
- Promoting the growth of an African digital economy.

At the regional level, following is envisaged

- Management of scarce resources (frequencies, domain names, rights of way)
- Development of electronic waste management

No information on the effective implementation of CISA and its results could be found.

It should also be noted that a new continental strategy for the digital transformation of Africa is being developed.

7. 2014: African Union Convention on Cybersecurity and Personal Data Protection (Malabo Convention)

The African Union Convention on Cybersecurity and Data Protection (Malabo Convention), adopted in June 2014, addresses the following topics: electronic transactions, protection of personal data, promotion of cybersecurity and fight against cybercrime.

This is the first AUC initiative to go beyond the boundaries of regional frameworks and to adopt a continental and globalizing approach to support the development of a credible digital space in Africa.

It is also a pioneering initiative in the sense that the Malabo Convention comes out of a purely normative approach to online offenses to encourage on the African Continent an approach that integrates the implementation of a global cybersecurity policy and strategies. By working on the issue of online security in parallel with the issue of personal data protection, the latter being the new petroleum of the digital revolution, the Convention aims to build confidence in the African cyberspace by covering the main areas in this field.

However, the Malabo Convention did not have the desired effect because very few countries had ratified it. To date, only 14 of the 55 countries in Africa have signed this convention: Benin, Chad, Comoros, Congo, Ghana, Guinea-Bissau, Mozambique, Mauritania, Rwanda, Sierra Leone, São Tomé and Príncipe, Togo, Tunisia and Zambia.

And still, only five signatory countries — Ghana, May 5, 2019, Guinea July 31, 2018, Senegal, August 3, 2016, Mauritius, March 6, 2018 and Namibia, January 25, 2019- have ratified it for it to enter into force on their national territory[23].

However, in accordance with its article 36, the Malabo Convention can not enter into force until thirty (30) days after the receipt by the Chairperson of the African Union Commission of the fifteenth (15th) instrument of ratification.

8. The African Continental Free Trade Agreement (AfCFTA)

The 18th Ordinary Session of the Assembly of Heads of State and Government of the African Union, held on 29-30 January 2012 in Addis Ababa[24], adopted a decision proposing the establishment of a Continental Free Trade Area, a real economic revolution.
Negotiations were initiated by African Union Heads of State and Government in June 2015 and culminated in the agreement of 21 March 2018 in Kigali, which created the African Continental Free Trade Area.

The AfCFTA came into effect on Thursday, May 30, 2019 after ratification by 24 African countries. In total, the agreement has been signed by 52 countries since the creation of the Continental Free Trade Area in March 2018. Three countries have not yet signed the consolidated text of this agreement: Benin, Eritrea and Nigeria.

This project aims to bring together all African countries - comprising 1.2 billion people and a combined GDP of more than $ 3.4 trillion - into a single continental market for goods and services, including the free movement of people in Africa, business and investment, and the development of intra-African trade.

In light of current technological trends and innovations, it is fairly clear that international trade within the Continental Free Trade Area will not be achieved only through physical means but also broadly online or with the support of digital technologies and services. AfCFTA is therefore

[23] https://au.int/sites/default/files/treaties/29560-sl-AFRICAN%20UNION%20CONVENTION%20ON%20CYBER%20SECURITY%20AND%20PERSONAL%20DATA%20PROTECTION.pdf
[24] https://au.int/sites/default/files/pressreleases/28962-other-assembly_au_dec_391_-_415_xviii_f_0.pdf

also an opportunity for Africa to unleash the potential for the development of the digital economy and in particular e-commerce.

In return, the entry into force of the Continental Free Trade Area only reinforces the continent's need to harmonize its digital policies, laws and regulations across the continent.

However, the current AfCFTA does not address measures to regulate aspects related to electronic commerce, such as data flows or data localization, which have been taken into account in other regional approaches to electronic commerce (for example, the Trans-Pacific Partnership and the European Union Partnership).

Nevertheless, some actions and initiatives - not creating at this stage legislative framework - were taken within the AU with some very active support of its partners and in particular the United Nations Conference on Trade and Development (UNCTAD) and the European Union:

- Statement by the STC on Trade and Industry of July 2016 endorsed by Decision of the Executive Council of the Union EX.CL/Dec. 921(XXIX) Rev.1 calling for the promotion of regional integration through trade and industry by developing mechanisms to use ICTs to promote innovative business pathways including e-commerce and e-payments.
- Statement by the STC on Communication and ICT of November 2017 endorsed by Executive Council Decision 987 which reaffirmed the urgent need to mainstream new technologies and digitization in all sectors of socio-economic development and invited the Commission to work for the development of the digital economy and innovation in Africa;
- AU Trade Conference in Nairobi from 23 to 25 July 2018 which resulted in the adoption of the various recommendations in the following areas:
    - Skills and human capacity development programs;
    - Security of electronic transactions;
    - Consumer protection;
    - Infrastructure and logistics;
    - Modernization of legal and institutional frameworks;
    - Regional and continental cooperation frameworks;
    - Development aspects.

A roadmap has also been approved for the establishment of an African e-commerce strategy by December 2019. The roadmap includes the following steps:

- Stakeholder mapping, creation of working groups and situation analysis;
- Obtaining a ministerial mandate;

- Mapping of good practices, capacity building and awareness campaign;
- Recommendation to appoint an e-commerce champion and create a specialized unit;
- Development and implementation of the e-commerce strategy

It is in this context that the first African e-Business Week was held in Nairobi, Kenya, to discuss ways to improve the readiness of African countries to engage more effectively with e-commerce and the digital economy. This week-long event was organized by UNCTAD, the AU and the EU in December 2018.

It resulted in the publication of the "***Nairobi Manifesto on the Digital Economy and Inclusive Development in Africa***"[25], which contains many policy recommendations for African countries, organized according to the seven areas of intervention of the "*e-Trade for all*"[26], along with two key crosscutting themes: the promotion of the role of women and statistical data.

The 7 areas of invention identified are:

- E-commerce readiness assessment and strategy formulation:
- ICT infrastructure and services
- Payment Solutions
- Trade Logistics: Transport and Trade Facilitation
- Legal and regulatory framework
- Building e-commerce skills
- Access to financing

In the area of regulation, the recommendations made are as follows:

1. Adopt basic legislation on electronic commerce or update relevant laws and regulations and enforcement mechanisms, incorporating provisions on cross-border e-commerce.

2. Build the capacity of legislators and the judiciary.

3. Involve the private sector and NGOs in the consultations.

4. Raise public awareness of existing e-commerce laws.

5. Develop tax policies adapted to the digital economy.

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[25] https://unctad.org/en/conferences/Africa-e-week2018/Pages/default.aspx
[26] https://unctad.org/en/Pages/DTL/STI_and_ICTs/eTrade-for-All.aspx

6. Create an institutional framework to facilitate the adoption of cloud computing and the development of digital platforms.

9. 2018 - 2021: Policy and Regulatory Initiative for Digital Africa (PRIDA)

In Africa, substantial progress has been made in recent years in infrastructure. This is particularly the case with the new submarine cables connecting Africa and the rest of the world, as well as the deployment of many terrestrial fiber optic networks at national and regional level.

However, these investments are not enough. African economies must not only make the necessary investments to develop their infrastructure, but also create an enabling environment to take full advantage of ICTs and then integrate them into all parts of the economy and society to strengthen their economies creating an economic and social impact. To do this, sound policy, legislative and regulatory frameworks need to be developed at the national level. However, this work cannot be undertaken in parallel and in isolation. Similar problems could be solved by similar responses across the Continent. Harmonization at the regional and continental levels can play a vital role in laying the groundwork for making the most of the increased use of ICTs and creating an enabling environment for Internet-based services.

At the 2017 AU-EU summit in Abidjan, the African Union and the European Union pledged to seize the opportunities offered by technological development and the digital economy. The Regulatory and Policy Initiative for Digital Africa (PRIDA) was then put in place. It aims to help the African continent to take advantage of the benefits of digitization by addressing the different dimensions of broadband supply and demand in Africa and by building the capacity of AU Member States in the field of Telecommunications and Internet Governance.

The specific objectives of PRIDA are as follows:

1) To facilitate an efficient and harmonized use of the spectrum,
2) To harmonise measurable ICT/Telecommunications policy, legal and regulatory frameworks and,
3) To strengthen the capacity of African decision makers to participate actively in the global governance of the Internet.

This working paper aims to inform discussions on the above-mentioned Objective 2 to be held in Addis Ababa, Ethiopia from 2 to 6 September 2019. It aims to i) evaluate what has been tested under the mandate of the AUC (diagnosis), (ii) to examine different possible harmonization options for Member States, RECs, RAR and the AUC and (iii) to make decisions about the wayforward based on lessons learned. It will be modified and adapted according to the discussions with the participants during this workshop.

10. Assessment of the implementation of the AU Harmonization Reference Framework

In the absence of a comprehensive Monitoring & Evaluation strategy based on specific and shared indicators, it is difficult to accurately assess the results of the implementation of the AU's framework for the harmonization of policies and legislation in the field of telecommunications and ICTs in Africa; and its associated action plan.

The intervention of multiple actors for the implementation of this Reference Framework (AUC, AfDB, REC, NEPAD, ITU / EU for the HIPSSA project, etc.), each with their own approach and agenda, makes all the more difficult overall assessment.

The coordination mechanism sought by the Khartoum Declaration was established and stakeholders met approximately every 6 months from 2012 to 2017, sometimes in conjunction with other meetings such as the AXIS Steering Committees or ICT meetings organized by donors.

These meetings had the positive effect of constituting a platform for exchange of information and common approach on the development of ICTs on the Continent among the main stakeholders of the ICT within the RECs. They have the disadvantage of depending on uncertain external financing which does not allow them to settle down in the long term, to ensure continuity and follow-up of the actions from one meeting to another.

At the same time, the HIPSSA initiative has contributed significantly to the implementation of the AU Framework for the Harmonization of Telecommunication and ICT policy andlegislation in Africa.

On the basis of the themes that were selected after consultation with stakeholders at the continental, regional and national levels, different studies and evaluations were conducted. Also, guidelines, legislation & regulations including regulatory tools at regional and national level were developed and adopted[27].

Thus, in the opinion of the stakeholders interviewed, the HIPSSA project achieved majority of its objectives by giving a pivotal role to the RECs on a list of pre-defined priorities under AU coordination. In doing so, HIPSSA has helped advance the harmonization of ICT policy and regulatory frameworks in sub-Saharan Africa and contribute to continental dynamics.

This success can largely be attributed to the following factors: a list of concrete and clearly defined priorities, a participatory and inclusive approach that took into account differences

[27] For details see. :https://www.itu.int/en/ITU-D/Projects/ITU-EC-ACP/hipssa/Pages/default.aspx

between regions and countries in terms of the maturity of telecom markets and their regulation; and issues of institutional and legal framework..

However, the success of the HIPSSA project does not guarantee the sustainability of the harmonization process at continental and regional level. At the end, each REC has resumed its freedom to work individually by adopting and modifying its texts with the risk of diversions losing the benefit of harmonization. It is important to emphasize here the importance of implementing a sustainable exit strategy for such a project, independent of project funding.

11. The Digital Transformation Strategy for Africa

Conscious of the essential challenges of digital technology and its catalytic role in the realization of the National Development Agenda, the AU Agenda 2063 and the Sustainable Development Goals; the AU is committed to developing a comprehensive Digital Transformation for Africa in collaboration with the United Nations Economic Commission for Africa, Smart Africa, AUDA-NEPAD, Regional Economic Communities, African Development Bank, African Telecommunication Union, Building Foundation capabilities in Africa, the International Telecommunication Union and the World Bank.

The draft strategy under discussion is based on the vision of an integrated and inclusive digital economy in Africa that enhances the quality of life of African citizens.

Its overall goal is to leverage technology and innovation to transform African societies and economies to promote continental integration, generate inclusive economic growth, stimulate job creation, reduce digital divide; and eradicate poverty, with a view of taking advantage of the digital revolution for socio-economic development.

These general objectives are broken down into several objectives which are being finalized:

- Establish and improve digital networks and services with a view to strengthening intra-African trade and socio-economic integration of the continent;
- Create the enabling environment to secure investment and financing, fill the gap in digital infrastructure and broadband services, affordability and reliability, making it available throughout the country and without gender discrimination;
- Reinforce inclusively human capital, technical and professional skills in the digital sciences and in education (programming, analysis, security, Blockchain, Machine Learning, Artificial Intelligence, robotics, engineering, innovationentrepreneurship, digital policy and regulation, etc.);
- Identify the policies and regulations needed to stimulate and accelerate the development of the fundamental pillars of digital transformation (eg standards, interoperability, trust, protection of personal data and privacy ...);

- Ensure the inclusive growth and development of secure digital platforms, including electronic payments and e-commerce, nationally and internationally, in the African Continetal Free Trade Area and other regional markets;
- Create a dynamic and inclusive digital culture that stimulates ideas, innovation, cooperation and multiple partnerships;
- Support the flagship digital programs of Agenda 2063 by putting in place policies and strategies that lead to transformational applications and services,
- Build a dynamic sectoral approach to the digitization of the agriculture, health and education sectors

The Digital Transformation Strategy for Africa is designed to be based on several pillars after identification of critical sectors for digital transformation as well as cross-cutting issues to support the digital ecosystem. It will also include political commitments and actions for each of the pillars, critical sectors and cross-cutting themes.

All the components of a digital ecosystem are important, but the fundamental pillars are the elements on which the digital transformation is based, and without which a digital transformation would be neither stable nor autonomous. The four strategic pillars under discussion are:

A. Environment, Policy and Enabling Regulation;

B. Digital infrastructure

C. Digital skills and human capital

D. Digital innovation and entrepreneurship

12. Preliminary conclusions

Looking back at the method (s) of harmonization and the experience accumulated since 2008, some observations can be highlighted:

- The harmonization process takes place on three levels which makes it delicate and complex: (I) pan-African level; (II) regional level and (III) national level;
- Due to this complexity and other institutional barriers, the time required for harmonization and implementation of reforms far exceeds the pace of market transformation;
- With the exception of the Malabo Convention, the AU has so far favored the political rather than the legislative or regulatory approach leaving the RECs with such initiatives;

- The multiplicity and complexity of accession of the Member States to the RECs and the overlaps of geographical areas covered by them create additional constraints to regional and continental integration
- The absence of coercive measures in the AU system
- Whatever the level of intervention chosen for the harmonization initiative, an inclusive and iterative dialogue with all stakeholders and support to the countries concerned in the implementation of recommendations or decisions adopted at the continental, regional or local level are key to the success of the initiative;
- Although some of the "package" strategies of some RECs provide for clarity and legal certainty, there are significant risks of conflicts of rules between certain regional organizations due to their common membership (the Member States belonging to different RECs while some rules differ between these RECs).
- Following the adoption of regional initiatives, there is no common mechanism to measure the quality of implementation and the adequacy of national frameworks (Monitoring & Evaluation).
- In general, whether at the level of continental or regional, policies, regulations, Monitoring & Evaluation tools based on shared indicators are sorely lacking;
- The focus has been on the telecommunications sector but is not yet adopting a broader vision reflecting the rampant digitization of our societies with the gradual integration of digital technologies and services across all sectors of the economy and society.

Section II: Ensuring a Common Understanding of Challenges

1. Harmonization

1.1 Definition

For the purposes of this document and the discussions that will take place during the September workshop in Addis Ababa, we propose the following definitions for harmonization:

In French	In English
« **Harmonisation** » : processus de rapprochement entre deux ou plusieurs systèmes juridiques des Etats membres de l'organisation afin d'en réduire ou d'en supprimer certaines contradictions dans les domaines où les organisations régionales concernés ont compétence	"**Harmonization**": process of bringing together two or more legal systems of the Member states of the organization in order to reduce or eliminate certain contradictions in the areas in which the regional organizations concerned have jurisdiction;

1.2 Different models and ways of harmonization

As it is simplistically proposed above, the concept of harmonization refers to a reconciliation of two or more legal systems in order to reduce or eliminate certain inconsistencies.

Thus, harmonization is a means of establishing the guidelines of a legal framework ("first-degree legislative unit") by leaving to the various stakeholders in charge of this integration the task of completing the common framework which accurately reflects their values, preferences or level of development.

Harmonization is therefore essentially a process different from unification or standardization which are more easily measured in terms of results or outcomes.

In practice, the concept of harmonization is not implemented homogenously as its definition might suggest. Depending on the case, its full integration varies within a continuum of national autonomy and full integration. At one extreme, a supranational centralized authority to which each member state should abandon its national sovereignty. At the other extreme of national autonomy there is total preservation of autonomy and national independence.

Between the two there are, theoretically, several equilibrium points or different models.

Regarding harmonization of policies and regulations at supranational level, for example, it is possible to identify four relevant models:

- The monistic model which, in general, tends to obtain perfectly identical legislative and regulatory contents for those involved in legal integration;
- The model of subsidiarity,
- The dualistic model,
- The "soft law" model.

The characterization of these various models is based on the central criterion of the distribution of competences. This distribution determines the contribution made to various levels of integration, interaction process and the margins of appreciation. Four criteria can be distinguished, in order to implement the distribution of these competencies in the various harmonization models implemented:

1. The first criterion is the principle of distribution of competencies. It makes it possible to distinguish between the various models, according to the degree of concentration of competences at the regional level. By reviewing the four models mentioned above, one notes the progressive transfer of competencies from the regional to national level of integration. From the monistic model, to the subsidiarity model, then to the dualist model, and finally to the soft law which is the least coercive model.
2. The second criterion is related to the vertical articulation of competences between the regional authorities ("RA") and the national authorities ("NA"). It expresses itself through the mode of reception of the legal standards in the national framework. Thus, depending on the model chosen, the legal nature of the standard emanating from the regional authority may differ. It can be a regulation practice with direct effect or whose implementation at the national level requires transposition. The margin of appreciation by the authority of the regulation practices issued by the regional authorities may differ based on the legal nature and the binding force of the regional regulation.
3. The third criterion focuses on the scope of compentencies of the national authority. Thus, the powers of the national authority may, depending on the model, be limited to national legislations, or may be extended to the application of regional legislations.
4. Finally, the fourth criterion is based on the existence and / or the need for a regional court in charge of interpreting and enforcing rules.

The characterization of each of the different models involves an examination of this model with regard to these four criteria derived from the distribution of competencies. Therefore, different models, monistic, subsidiarity, dualist and "soft law", can be presented successively in the light of these criteria.

Criteria	Monistic model	Subsidiarity model
Competency distribution	Centralized competency at regional level	A predetermined distribution of the areas of competence attributed to the RA and NAs, based on the effectiveness: it is a question of reserving to the RA the competences that the NA could exercise less effectively
Legal nature & application of the regional standard	The acts of the RA have direct effect in the internal legal framework of the Member States;	The acts of the RA have direct effect in the internal legal framework of the Member States, subject to its compentencies;
National scope of competence	The RAs are in charge of regulating the telecommunications sector on their territory, on the basis of supranational legislations;	The RAs are in charge of both the legislation and / or regulation practices of the telecommunications sector in their area of competence, but also responsible for the control and application of supranational regulations
Need for regional jurisdiction	The creation of a supranational jurisdictional body is necessary : • To judge the possible failures of the NA to the regional treaty;To investigate the procedures of the Member States' breaches;To Interpret regional regulatory standards at the request of any Member State	The creation of a supranational jurisdictional body is necessary to judge the possible failures of the NA to the regional treaty.
	Dualistic model	**Soft law model**
Competencies distribution	Regional and national legislations are strictly distinct;	Regional law legislative framework is a non-binding and the RA can only recommend
Legal nature & application of the regional standards	RAs issues directives without direct effect. In addition, their application requires transposition into the national legal framework.	RAs issues guidelines and objectives to be implemented in various fields (eg interconnection, licensing, right of way, infrastructure sharing, cybersecurity, etc.)
National scope of competence	The NAs are in charge of legislations and / or regulation practices of the telecommunications sector within the national territory; They decide on the transposition of the RA directives into the national legal framework;	The NAs are in charge of the legislation and / or regulation of the telecommunications sector in the national territory;
Need for regional jurisdiction	The creation of a supranational jurisdictional body to sanction any delay in the transposition of the directives of the RA and to interpret the directives in order to guide the Member States in the transposition process.	NAs have full jurisdiction over the legislation of the telecommunications sector;

If we refer to the table above, the harmonization process of legal systems on the African continent is more based on a subsidiarity model. It includes at least three levels, which makes it particularly complex and, in some respects, heterogeneous:

- The pan-African level of the AU;
- The regional level with RECs that are more or less integrated and more or less[28] overlapping. In addition, there are various trade agreements, all on specific themes[29] but different geographical scope;
- The national level;

In general, African regional organizations, including the AU, have an approach of harmonization based on legal and general policy considerations, rather than based on the harmonization of regulatory practices.

However, the RECs are very different in terms of the means, the mode of operation; and the intrinsic harmonization model itself. Some regional organizations give their member states more "legislative" leeway than others. For example, this is the case, with COMESA and SADC, unlike in ECOWAS, WAEMU or CEMAC.

The typology of standards (treaties, additional acts, legislations, directives, and decisions) and other non-binding acts (declaration, guidelines, strategic plans, roadmap, etc.) also varies considerably between RECs. Moreover, an identical term can be used with different meanings and radically different scope depending on the legislative frameworks.

In one REC it may refer to a legislative standard, in the other a standard and still in another REC to Infra-legislation standard[30].

To take into account these differences, we propose in the previous paragraph that the term harmonization be defined in the least restrictive way possible on the basis of the following assumptions:

(1) Harmonization is a process of reconciliation between two or more legal frameworks of the member states in order to reduce or eliminate certain contradictions in the areas of competence of the organization;

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[28] In 2013, an article by economist Ochozias A. Gbaguidi of the United Nations Economic Commission for Africa (ECA) entitled "Fifty Years of Regional Integration in Africa: A Global Assessment": "On the Fifty four African countries (Morocco had not yet joined the AU), twenty-seven are members of two regional groupings, eighteen belong to three groupings and one country is a member of four groupings, only eight countries are members only of a single group. "

[29] Eg. : Smart Africa, G5 Sahel

[30] For a comparative analysis between African RECs in the field of telecommunications see : "Regulatory Harmonization of ICTs; Comparative study of regional initiatives ", HIPSA project, December 2009, ITU publication: https://www.itu.int/ITU-D/projects/ITU_EC_ACP/hipssa/docs/D_REG_HIPSSA_2010_PDF_E.pdf

(2) Harmonization may have different objectives and results in the national legal frameworks depending on the legal nature of the standard adopted at the regional level and how it is received at the national legal framework.

For example, it may be a standard having a direct effect (eg a legislation) or a standard whose implementation at the national level requires a transposition (eg a Directive) or a rule having a "semi-direct" effect ("primary" acts signed by States which become a direct source of national legislation, however, subject to ratification).

Depending on the regional standards used, the degree of similarity of the legislative and regulatory contents, regulatory practices and policies implemented at national level may vary.

(3) In Africa, at regional level with (AU) as the subregional (REC), all the above harmonization methods coexist with the different effects attached to them.

For example, uniform acts of the Organisation for the Harmonisation of Corportate Law in Africa (OHADA), leans towards a second-degree legislative unit that characterizes the standardization of business law in French-speaking countries.

On the other hand, in the field of ICTs, regional and sub-regional standards are very diverse in nature as noted earlier.

2. Policy (s), Legislation(s) and Regulation practice(s)

2.1 Definitions

There are several levels of intervention for a regional harmonization initiative in a sector such as ICT.

The first level concerns the harmonization of public policies (sectoral ICT policies). The second level concerns legislation. The third level concerns regulation practices. These three regional levels are identical to those used in the Member State intervention at national level.

Therefore, for the purposes of this document and future discussions, the following three definitions are proposed

The definitions are, however, only valid at continental or regional level as they could be different at the national level.

For example, the initiatives of the national regulator are most often translated into binding measures (market analysis decisions and obligations of Significant Market Power (SMP) operators), even if there are other parts of its activity that are not binding (eg: data publication or data regulation). On the other hand, in this document, the term regulation refers to an

initiative that has no binding value, adopted by regional regulators or, where appropriate, by other organizations, institutions or regional entities.

In French	*In English*
— « **Politique**» : document ou initiative adopté par des organisations, institutions ou entités régionales qui orientent les mesures prises dans le secteur des TIC en vue d'obtenir le résultat désiré. Ce type de document ou initiative laisse une importante marge de manœuvre aux Etats-membres, il n'a pas de valeur obligatoire en soi sauf décision contraire ; — « **Réglementation**» : tout document adopté par des organisations, institutions ou entités régionales ayant en soi une valeur obligatoire [à l'égard des Etats-membres]; — « ***Régulation***» : tout document ou initiative adopté a priori par des régulateurs régionaux ou, le cas échéant, par d'autres organisations, institutions ou entités régionales n'ayant pas en soi de valeur obligatoire [à l'égard des Etats-membres].	— "**Policy**": A document or initiative issued by regional organizations, institutions or entities that guide the actions taken in the ICT sector to achieve the desired result. This type of document or initiative leaves a considerable flexibility to the Member States, it has no binding value in itself unless decided otherwise; — "***Law"*** or "***Legislation***" any document issued by regional organizations, institutions or entities having a binding value in itself [on Member states]; — "***Regulation practice***" means any document or initiative issued a priori by regional regulators or, as the case may be, by other regional organizations, institutions or entities that is not binding in itself [on Member states].

2.2 The criteria of distinction

The following paragraphs attempt to better analyze these three notions:

- Policy (i.e. a sectoral ICT public policy)
- Laws or Legislation
- Regulation practices - meaning regulation practice of the regulators

It is useful to take into account the following considerations:

For the three concepts, the distinctions according to the author of the initiative or its scope (binding or non-binding) are insufficient if used in isolation.

At first glance, initiatives adopted by regional associations of regulators could be considered regulatory initiatives, while those taken by RECs would be considered as legislations. However, this may not be thecase. For example, the model laws adopted by ECCAS are closer to a policy rather than a legislation because of their lack of binding force.

In addition, some distinctions applicable at the national level are not directly applicable at the regional level. For example, the difference between legislation developed in the Member States by the Parliament and a regulation practice adopted by a State body or an administrative authority. This demonstrates separation of power between the legislative and executive arms of the member states at national level which does not exist as such at the regional level. However, it is found in substance in the distinction between primary and secondary law.

Finally, linguistic differences or legal frameworks can create difficulties defining collective meaning of these notions at the continental level.

2.2.1. ICT sectoral public policy

In the digital ecosystem, it should first be noted that this type of public intervention, commonly known as "sectoral policy" at the regional or state level, is only one of the many facets of the governance of the sector at large. That is a multi-stakeholder governance[31], which aims at bringing together all stakeholders[32] to participate in the dialogue, decision-making and the implementation of solutions to common problems or objectives:

"The Internet ecosystem is therefore jointly governed by stakeholders like:

- users;
- policy makers (global, regional + national level);
- civil society actors;
- *And, because "code is law" (Lessig, 1999), technical communities like the Internet Society, technical standards bodies (eg IETF), organizations that manage critical resources (eg ICANN or registries), eg DNS providers, IXPs, cloud providers)*

However, the debate is simplified here by only mentioning public policy interventions in the digital sector. For example, the following general and specific definitions apply at the national level:

- A public policy is a concept of political science which refers to the interventions of an authority invested with public power and governmental legitimacy in a specific area of society or territory.

[31] "Multi stakeholder governance model" or "Multi stakeholder initiative" (MSI)
[32] A stakeholder refers to a person, group or organization with a direct or indirect interest in a given organization, whether business, civil society, governments, research institutions or non-governmental organizations.

- The ICT Sector Policy is a formulation of the strategic directions that the government of a country decides to implement to develop the use of information and communication technologies (ICT) to ensure economic and social development of the country.

For the purposes of this document, focusing on a regional initiative including at the continental level, we propose to adopt the following definition:

- "**Regional policy": any initiative or document adopted by regional organizations, institutions or entities that guide the measures taken in the ICT sector with a view to achieving the desired result. This type of document or initiative leaves an important margin of maneuver to the Member States. It has no binding value in itself unless decided otherwise**.

2.2.2 Legislation and Regulation Practices

Between legislation and regulation practices, the distinction is not always easy, and it is hardly possible to distinguish them by ignoring their links.

The interference is accentuated by the inaccuracies of the translation from English to French and vice versa. French language refers to concepts of "réglementation" and "régulation" while English language uses the terms “legislation” and “regulation"

At a conceptual level, French language is therefore more specific because it distinguishes between "réglementation" (in the meaning of binding law) and "régulation". French language delimits two semantic areas that may not cross each other. On the other hand, English language will be able to play ambivalence because it confuses the two verbs.

For example, in French, the following definitions can be found in the Dictionary of Economic and Social Sciences:

- Regulation is a set of mechanisms that adjust supply and demand in different markets. Regulation can be based on market mechanisms (price flexibility) or state: in this case, the State intervenes in the economy to restore imbalances. (246)
- *Réglementation* translated to Legislation in English, are a set of measures (laws, decrees, regulations, etc.) that impose obligations on economic agents. (259)

It is also possible to find definitions of regulation that focuses on the relationship between legislation and regulation, for example:

- The regulation practices of electronic communications strives to ensure compliance with the legislation by operators and service providers. Regulation practices is the

responsibility of a regulatory authority (obligatorily independent of any influence of operators and suppliers and in principle independent of the Government); or

— The very suggestive definition given by Sébastien Soriano, the president of the French regulator during an interview: "The difference between “réglementation” and regulation is the same as between playlist and DJ"

In the end, for our needs and as regards regional initiatives, we propose to adopt the following definitions which seems to us the simplest to apprehend:

— "**Regional law" (Legislation): any document adopted by organizations, institutions or regional entities having a binding value in themselves;**

— **"Regional regulation" or “regional regulation practice”: any document or initiative adopted a priori by regional regulators or, where appropriate, by another regional organization, institution or entity that does not have any binding value in itself.**

Section III: Moving Forward - What Role for Member States, RECs and AUC?

1. First step: recall the initial goal of harmonization

The harmonization of policies and regulations is part of the tools for the integration of a community of more or less countries. This integration is primarily aimed at the transfer of national economic mechanisms on a wider scale, which generally involves the creation of a free trade area (FTA) or a customs union (CU) characterized by the elimination of the regional scale of trade barriers and discriminatory measures.

The economic component of any regional integration rests on the promise of creating a large internal market that can bring greater prosperity to member countries through:

- the increase in trade, which allows the specialization and localization of production where it is performed in the most efficient way;
- the increase in the size of the markets, which allows the realization of economies of scale, the intensification of competition (lower prices and incentives for innovation);
- the creation of a business-friendly economic environment (the reduction of exchange rate risks and the risk of protectionist policies as well as the harmonization of regulations are favorable to investment)

However, regional integration has many other dimensions and challenges, for example: cohesion around shared values, collective autonomy for development and economic independence. This is particularly true in the Continent, where adherence to regionalism has its source in the pan-Africanism that has nourished independence.

In fact, given the crucial role ICTs play in the transformation of the African economy and society as a whole and in the development and growth of the continent, they are at the crossroads of all the preceding dimensions, economic and social.

As a result, decisions on the creation of an internal African ICT infrastructure and service market will also have an impact on the implementation of integrated development policies at the regional level.

In this direction:

- The creation of an African domestic digital market should aim to reduce barriers and offer more opportunities to conduct cross-border business in a legal, safe and affordable way.

— While intra-African trade still accounts for only a small share[33] of the trade of AU member countries, the creation of an African online single market can significantly change the situation, provided that citizens and businesses can transport fairly and securely access goods and services online, irrespective of their nationality.

— The advent of this African digital single market also aims to contribute to the development of the Continent and can help Africa to strengthen its economic position in the world.

2. Second step: diagnosis / evaluation of the main initiatives to date

2.1 Harmonization / Implementation in national laws

2.1.1 RECs: past experiences and common trends.

The purpose of this section is to summarize past experiences and identify common continental trends at the RECs on two levels: i) the development of a regional framework and ii) its transposition at the national level

i. Existence and scope of regional frameworks

There are many harmonized regional legislative frameworks. However, depending on the legislation of each REC and the type of governance that has been put in place, regional integration organizations have followed different paths.

Two major options can be mentioned here:

1) The REC has the faculty and has opted for binding directives that its member states must transpose in their national legal framework (eg ECOWAS, UEMOA ...)

2) The RECs have chosen to adopt model laws that its member states can use as a basis for updating their legal framework as well as non-binding guidelines that can be adopted and implemented by national authorities.

Depending on the path chosen, the type of products and outcomes that can be expected from the harmonization process are different.

However, in both cases, for harmonization to be effective, the first phase of regional harmonization must be followed by a second phase of implementation at national level which requires measures by the RECs to accompany the Member States.

[33] 15.4% of Africa's total merchandise trade (exports plus exports) in 2016 is $ 129 billion, to other major world economic areas such as the European Union (61.7%) or the Free Trade Agreement -North American exchange (Nafta, 40.3%).

Despite a convergence in the issues of harmonization of the telecommunications / ICT regulatory framework in several areas (licensing, universal service and access, frequency management, numbering, interconnection, more recently cybersecurity & cybercrime, electronic transactions and data protection) the RECs continue to progress at different rates in the harmonization process, which is also true for their member states (see table below).

In this context, some RECs have initiated a more or less formalized collaboration between them.

For example, there is a Regional Strategy Paper and Regional Indicative Program between the EU and COMESA, EAC, IGAD and IOC (under the 10th FED 2008-2013).

In another example, WAEMU and ECOWAS benefit from several coordination mechanisms, including the Joint Technical Secretariat (JTS), and recently decided to launch a joint study (as funded by the European Union) for the reform of their regional ICT framework.

**** Comparison of regional initiatives by thematic[34]***

REC	Policy Harmonization & Reg	Access / interco.	RegimeRegime Autorisation	Access and universal service	numbering	frequencies	consumers	Data protection	Electronic transactions	cybercriminality
EAC	✓			✓			✓			
ECCAS	✓	✓ 35				✓ 36		✓	✓	✓
ECOWAS	✓	✓	✓	✓	✓	✓ 37	✗	✓	✓	✓
CEN-SAD		✗		✗	✗	✗	✗			
COMESA	✓	✗	✗	✗	✗	✗	✓		✗	✗
IGAD	✗	✗	✗	✗	✗	✗		✗	✗	✗
SADC	✓	✓	✓	✓	✓	?	✓	✓	✓	✓
UMA		✗	✗	✗	✗	✗	✗	✗	✗	✗

**** Breakdown of initiatives according to their nature / legal scope***

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[34] 7. Regardless of the nature of the initiative: policy, regulatory or regulatory
8. To be validated
9. Idem
10. Idem

In accordance with the definitions adopted at the beginning of this document, the harmonization initiatives in the table above may be binding law initiatives or non-binding policy or regulatory initiatives. (Sometimes even both)

With regard to policy initiatives, most regional organizations have issued one or more policies or strategies. With regard to policy or regulatory initiatives (none directly binding initiatives), SADC and ECCAS have opted for this approach. ECCAS initiatives are moving at a slower pace than SADC.

With regard to legislative initiatives, ECOWAS, UEMOA and CEMAC have chosen this path.

There are thus very different or even opposing choices of harmonization method difficult to ignore, which are based on different legal cultures and institutional mechanisms depending on the RECs.

Regardless of the number of harmonization initiatives of the RECs and the binding or non-binding nature of these initiatives, the most important is to assess the effectiveness of the implementation of these initiatives at the national level and their impact. This partly explains the crucial role that commitment and political will play in the success of these initiatives beyond the legal strategy adopted.

The table below illustrates in a non-exhaustive way the breakdown of regional harmonization initiatives according to the legal nature / scope:

	POLICY	LEGISLATIONS/LAW	REGULATION
ECCAS	— Regional ICT Development Policy for Central Africa (June 2009) — Framework for the harmonization of national policies and regulations. (June 2009) — Model laws: o Inter-border interconnection o o Data protection o Electronic transactions o CybercriminalityCybercriminality o (…)		
ECOWAS	— Telecommunication / ICT Development Strategy in the ECOWAS region for the period — (2016-2020 (June 2016)	— Additional Act A / SA.1 / 01/07 on Harmonization of ICT Policies and Regulatory Framework; — Additional Act A / SA.2 / 01.07 on access and interconnection of ICT networks and services; — Additional Act A / SA.3 / 01/07 on the legal regime applicable to operators and service providers; — Additional Act A / SA.4 / 01/07 numbering; — Additional Act A / SA.5 / 01/07 frequencies — Additional Act A / SA.6 / 01/07 on universal access / universal service. — Regulation C / REG.06 / 06/12 access to submarine cable landing stations, — Regulation C / REG 19/12/16 access of landlocked countries to national and international bandwidth	Guidelines on the relevant market analysis methodology and recommendation on relevant markets

	POLICY	LEGISLATIONS/LAW	REGULATION
		— Regulation C / RE21 / 12/17 on roaming in the ECOWAS region	
SADC	— ICT declaration (2001) — Model Laws (2012) o Data Protection o Cybercrime o Electronic transactions		— TRASA Guidelines o Interconnection Guidelines (May 2000); o Pricing Policy for Telecommunications Services (November 2000); • o Licensing Guidelines for SADC Countries (February 2002); o Wholesale Pricing Guidelines for the ICT Sector (September 2002) o TRASA guidelines on harmonization of numbering for SADC countries (November 2002 and January 2003); o Consumer Protection Guidelines (April 2004). — CRASA o Guidelines and regulations for wireless technologies put in place by CRASA (2004/2006); guidelines on consumer protection and rights (2009)

ii. Implementation in national law

In this respect, the first observation is that there is no common regional or continental tool for monitoring and evaluating the process of implementing a harmonized regulatory framework in the Member States.

There are studies on the subject but by nature circumscribed to a given period of analysis. They are therefore rapidly becoming obsolete - in whole or in part – as long as the situation of countries is changing and the process of harmonization is by nature dynamic. Moreover, they can adopt very different evaluation grids making the juxtaposition of their conclusions hazardous.

Nevertheless, some of the findings of the studies[38] carried out over the last ten years remain valid:

- Lack of financial and / or human resources of the RECs and a need for capacity building to accompany and control the Member States in their transposition,
- Difficulties of the Member States belonging to different overlapping RECs, each with their own regional legislation
- Difficulties related to the governance and political will of the States concerned whose resolution requires the deepening of the political dialogue to convince the Member States of the interest of the effective integration of policies and regulations in the field of ICTs but also the creation of a common digital agenda to give Africa a chance to resist the challenges of globalization;
- The absence of a reliable jurisdictional mechanism[39], or where such mechanism exists, the reluctance of the actors to resort to it, to sanction the deficiency of the States not transposing or transposing badly the rules of the regional framework[40] ;

Finally, subject to further analysis, it seems that a country's formal compliance with its regional regulatory framework and the speed with which it has transposed the regional framework is not strictly correlated with the country's development maturity in ICTs.

This lack of correlation raises the question of the effectiveness and / or impact of harmonization measures on the development of digital uses and the market (see § 2.2 below).

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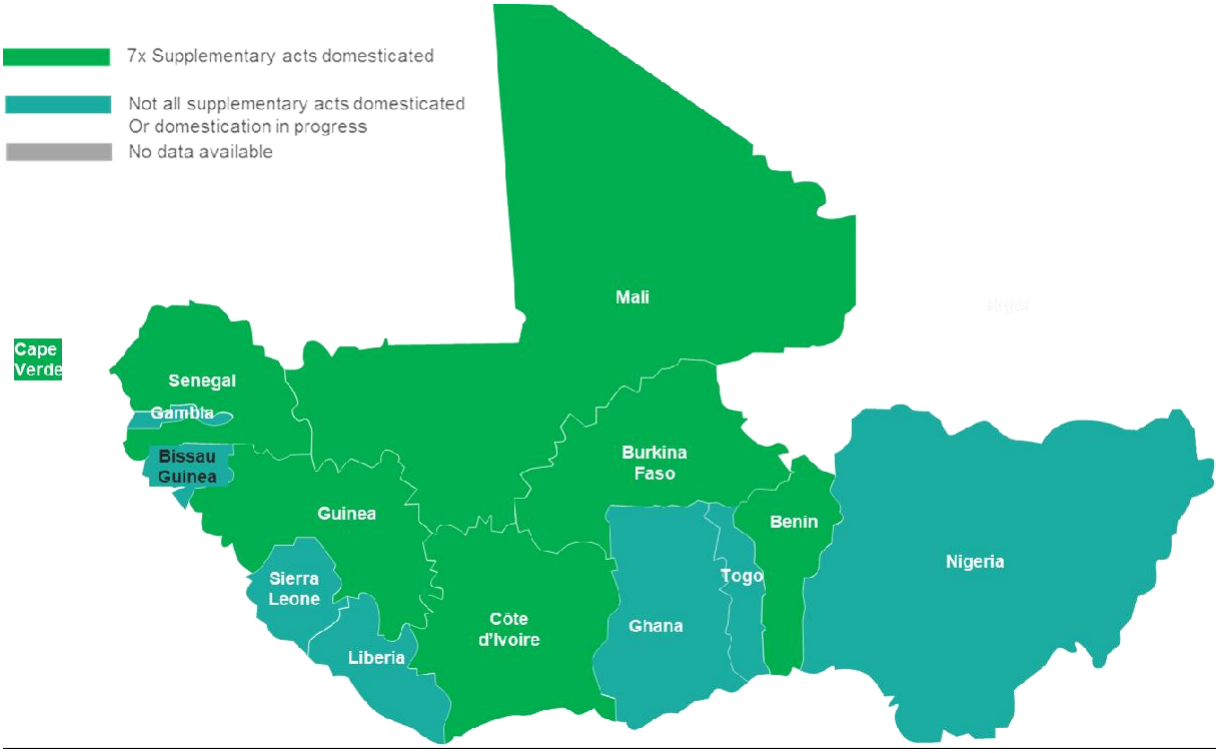
[38] See in the bibliography, the reports / studies section

[39] This is to say, the existence of a supranational authority with jurisdictional powers that **can act directly** or upon demand by any private or public person with an interest in acting to control and sanction the lack of or the poor transposition of the regional or continental norm.

[40] This applies only when the regional initiatives are of a legislative nature this is to say they are binding on themselves [with regard to the Member States];

Example: comparison between the level of transposition to ECOWAS Additional Acts and ranking of ECOWAS member countries in the IDI



Status of the Transposition of Additional Acts of ECOWAS (2017)

Source: DETECON 2017 for a report from the GSMA

Country	Regional Rank 2017	Global Rank 2017
Cap Vert	**4**	**93**
Ghana	**7**	**116**
Côte d'Ivoire	**9**	**131**
Senegal	**14**	**142**
Nigeria	**15**	**143**
Gambia	**16**	**144**
Mali	**22**	**155**
Togo	**23**	**156**
Benin	**25**	**161**
Burkina Faso	**26**	**162**
Guinea Bissau	**35**	**173**
Sierra Leone	**Unclassified**	**Unclassified**

Sources IDI rankings and values, Africa, IDI 2017 and IDI 2016.

It can be seen that Ghana and Guinea Bissau, which both partially transposed the ECOWAS additional acts, have a very different ranking in the IDI ranking. Ditto for Burkina Faso and Cape Verde both of which are in perfect conformity with the additional acts of ECOWAS but which have a score very far apart from each other in the IDI ranking.

2.1.2 Regional associations of regulators: past experiences and common trends

On the Continent the main regional associations of telecommunication / ICT regulators are:

- Communications Regulators Association of Southern Africa (CRASA, eg TRASA) → SADC
- Association of West African Telecommunications Regulators (ARTAO) → ECOWAS
- Association of Regulators of Information and Communication Services (ARICEA): → COMESA
- East African Postal and Telecommunications Regulation Organization (EARPTO) → EAC
- Association of Telecommunications Regulators of Central Africa (ARTAC) → ECCAS.

To this list of purely African organizations, we must add the network of French speaking regulators (FRATEL), the association of Portuguese-speaking regulators (ARCT-CPLP) and the group of European regulators of the Mediterranean (EMERG) which brings together 24 regulatory authorities including Morocco, Algeria, Libya and Egypt.

Originally, the African regional associations of regulators contributed positively to the process of harmonization on the continent.

This contribution has been important in the RECs whose harmonization model is based on regulatory initiatives (see above). RECs have created meeting places which have facilitated exchange of experiences that have been central to the development of guidelines.

This was the case, for example, of the SADC Regulators' Association, CRASA, which has published several guidelines on interconnection, the pricing policy for telecommunications services, licenses, wholesale prices in the telecommunications sector, ICT, numbering and consumer protection.

However, this initial advantage of meeting and exchanging information is gradually losing its importance as there are more and more discussion forums.

Moreover, the interaction of RARs varies. Thus, some regional associations of regulators develop a model of cooperation while, others prefer to focus solely on their region.

Similarly, the interaction of regional regulators' associations with RECs also varies. Some RARs have formalized their collaboration with their respective RECs, while others do not. In addition, the priorities of RARs and RECs are not always aligned.

At the continental level, this collaboration of regulators has another challenge: the difference between continental law and common law (Anglo-Saxon) or language barriers.

In this context, the future role of RARs in the process of governance and continental harmonization remains to be defined.

Finally, going back on the conclusions of the first study carried out within the framework of the HIPSSA[41] project makes it possible to recall here one of the flagship recommendations of this study, namely:

- ***"Creation of an independent pan-African regulatory body with enforceable capacity, as well as a pan-African appeals mechanism***"

In this respect, while the independence of national regulators is far from being achieved in all the countries of the Continent and none of the RARs has any enforceable power, let alone coercive, it seems premature for a continental regulator with such skills to emerge.

Moreover, even the Body of Eurpean Regulators of Electronic Communications (BEREC), 10 years after its creation has only limited powers and entangled with those of the NRAs and the European Commission, the publication of a new regulation in December 2018[42] is likely to change the situation.

Finally, the powers of BEREC are exercised in the European context of a highly harmonized and binding regulatory framework in which the European Commission has strong control and sanctions powers which it does not hesitate to invoke. The case of the African continent is radically different (harmonization and weak constraints) which makes the BEREC model non-transposable within the AU.

[41] Regulatory Harmonization of ICTs: Comparative Study of Regional Initiatives - HIPSSA IUT / EU Program, Dec. 2009 https://www.itu.int/ITU-D/projects/ITU_EC_ACP/hipssa/docs/D_REG_HIPSSA_2010_PDF_E.pdf

[42] REGULATION (EU) 2018/1971 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of December11, 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the BEREC Support Agency (Office of BEREC), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/ 2009

Some models of regional regulators

Since its creation, BEREC has been assisting the Commission and national regulatory authorities (NRAs) in the implementation of EU telecoms rules. However, it is only the new regulations that make this institution a full-fledged agency. The Regulation also assigns new tasks to BEREC and gives it legally binding powers. The new tasks include providing national regulatory authorities (NRAs) with guidelines on geographic investigations, developing common approaches to meet the interests of end-users and providing peer-reviewed advice on draft national measures. (For example, radio spectrum assignments) and cross-border disputes. In terms of governance, the European Parliament and Council have found a compromise by ensuring that the BEREC Office has legal personality, but not BEREC itself, which remains an organ of the NRAs. Parliament and Council also agreed and moved from a simple majority to a two-thirds majority for key decisions of the Board of Regulators and the Board of Directors.

Much further towards integration, ECTEL, the Eastern Caribbean Telecommunications Authority is, to our knowledge, almost the only, if not the only, regional regulatory authority in the world. Its specificity lies in a very important transfer of national regulatory powers at regional level. The ECTEL's original approach is that Member States[43] simultaneously adopt identical laws, negotiated jointly under the auspices of ECTEL, which allowed initial establishment of harmonized national frameworks. This model applies to very small countries that do not have the resources to have an independent regulator.

EMERG, the group of European regulators of the Mediterranean is on the other side of the path that goes from least to most integration. It is the upstream of BEREC from this point of view with which it signed a MoU of cooperation. Its mission is as follows:

- Serve as a forum for regular discussions and exchange of information for its members on issues related to electronic communications;
- Promote the approximation of the European regulatory framework and best practices among its members;
- Monitor the evolution of electronic communications in the Mediterranean region;

[43] Dominica, Grenada, ST Kitts & Nevis, St Lucia, St Vincent and the Grenadines

- Facilitate cooperation and exchange of ideas and expertise with international organizations, other regulatory networks and industry experts;
- Prepare and contribute to the preparation of the pool of documents, reports, benchmarks, presentations, analysis and common positions of a region.

EMERG is essentially a forum for discussions, experience sharing and documentary resources for the regulators who are members.

If we compare the different models of regional regulators mentioned above, EMERG is probably the only model likely to be suitable at pan-African level in the medium term given the imperfect harmonization of the national texts in force, the absence or the weak means of coercion available to regional and continental institutions and the culture of consensus dear to Africa.

On the other hand, designing mechanisms for the settlement of cross-border disputes or finding their source in different jurisdictions is a path that would be interesting to study in the short term.

For example, the cross-border regulation mechanism for access to national and international bandwidth within the ECOWAS area, as provided for in Article 9 of Regulation C / REG 19/12/16[44] deserves to be reviewed and extended to other topics than that of access to bandwidth.

2.1.3 To evaluate the relevance of the African Union Convention of Malabo in terms of harmonization

As discussed above, the African Union Convention on Cybersecurity and Personal Data Protection has not fulfilled all its promises as the first binding and innovative pan-African instrument to create a coherent cyber security momentum across the continent.

This is particularly because the number of countries whose ratification is necessary for its entry into force has not been achieved.

Why is the Malabo Convention not ratified when all RECs and Member States have been invited in one form or another to participate in its preparation? This is not easy to establish.

[44] Regulation C / REG 19/12/16 on conditions for access to national and international bandwidth on terrestrial networks within the ECOWAS region

Nevertheless, and subject to a thorough examination of the specific motivations of each of the Member States, the use of the "Malabo legal instrument" poses a series of questions in terms of substance as well as method:

On the substance:

- The Malabo Convention contains provisions that go far beyond the principles but create specific rules leaving little room for application by Member States when these States have different legal frameworks and pre-existing texts on the same subject. However, it is very unusual for the African Union to adopt texts aimed at the total standardization of national rules in a given field.
- The primary acts of the African Union, including the Malabo Treaties, Protocols and Conventions, establish principles on the basis of which the Member States undertake to base their regional legislation and regulations, either when they establish specific obligations, then these relate primarily to cooperation mechanisms between States; the movement of people and goods; and the relations of the Continent with the outside world.
- While it made sense to create an African cybercrime cooperation tool modeled on the Budapest Convention, such an approach is less relevant for electronic transactions or data protection[45]. In these areas, adoption of model laws on the UNCITRAL[46] model might have been more appropriate.

On the method:

- According to some stakeholders, support and advocacy actions by Member States to ratify the Convention would have been insufficient;
- Although not publicly expressed, the proposed adoption of the Malabo Continental Convention may have competed with regional initiatives in the same areas, debated at the same time as the Continental Legislative Project.

2.2. Harmonization / measuring the effectiveness of the framework

The transposition of continental and / or regional texts into the national regulatory frameworks of the Member States is an important step, but it does not automatically lead to the desired objectives.

[45] Cross-border data flows, data localization and, in a slightly different sphere, geo-blocking are much more relevant topics at the continental level than national data protection rules.

[46] Loi type de la CNUDCI sur le commerce électronique ; Loi type de la CNUDCI sur les signatures électroniques

The example above comparing the level of transposition to ECOWAS additional acts and the ranking of ECOWAS member countries in the IDI shows that the link is not automatic. This is all the more true as the time for regional reform and its transposition is excessively long, totally out of step with a market and usage evolution infinitely faster.

In this context, the original purpose of this section was:

i) Evaluate the initiatives and / or tools put in place to measure the impact (effectiveness) of telecommunication / ICT law and regulation in Africa on investment, competition, development and adoption digital uses, rights; and consumer protection in a digital environment, etc.

ii) Next, compare these methods implemented in Africa with other relevant evaluation methodologies around the world.

In practice, the exercise is difficult.

Indeed, to our knowledge in Africa, there is no systematic, continental or regional, mechanism for evaluating the impact of legislation and regulation practices on the telecommunications / ICTs market on the supply side, as the demand.

On the other hand, this type of evaluation is carried out promptly by the Member States in the simple[47] form of a sectoral diagnosis, generally when a reform is envisaged.

The consultants who carry out these diagnoses use the same indicators (most of the time) that have the merit of being known and shared:

[47] Regulatory impact analysis methods can be very complex and costly to implement. See **« Building an Institutional Framework for Regulatory Impact Analysis (RIA): Guidance for Policymakers »,** OECD, 2008

Usual indicators and associated objectives

ANALYSIS OF THE NATIONAL MARKET	OBJECTIVES
- Infrastructures (networks & technologies) - The available offers and their competitive nature - the quality of services - the price level	Accessibility Plurality of the offer QoS affordability (Offer)
- penetration rate - If possible a measurement of utilization (frequency, volume of data etc.) - (...)	Development of uses (Request)
ANALYSIS OF THE RULES IN FORCE AND ITS IMPLEMENTATION	**OBJECTIVES**
- Independence activity of the regulator - Regime of telecommunications activities	Effectiveness of regulation Removal of barriers to entry Development of competition
- Access / interconnection	Competition
- Universal access / service	Accessibility
- Spectrum management	Competition / spectral efficiency / optimization of scarce resources
- Regulation of the quality of service	QoS
- Cybersecurity	Security of transactions, goods and people in a digital environment
- Consumer rights	Consumer protection

Even if there are specific sectoral diagnoses in the Member States, due to the lack of a common method and reliable, up-to-date and standardized data at regional and / or continental level, these national diagnoses do not allow themselves to measure the impact of, regional or continental harmonization, in other words **to compare the degree of adequacy of national law and regulations with a number of pre-defined objectives.**

A fortiori, they also do not allow comparison of the extent national regulations prepare or promote in Africa, the emergence of a digital economy and an information and knowledge society in Africa.

In an attempt to move forward on this subject, institutional donors such as the World Bank have undertaken a relatively recent reflection to try to link existing regulatory frameworks to certain market impact indicators.

Thus, at the regional level, the launch of the "**ICT Regulatory Watch Initiative"** with the support of the World Bank is one of the first attempts to fill this gap.

This initiative is in test phase with phase 1, concerning only:

- a limited number of issues, namely the following 3 areas: i) the telecom regime (i.e., market entry requirements), ii) access to international gateways, and iii) OTTs
- ECOWAS member states.

The ICT Regulatory Watch Initiative has three main objectives that are close to those that will bring together stakeholders and ICT experts from the African Union Members to Addis Ababa in September:

(i) Make a thorough diagnosis of regulations and competition, establish benchmarks and publish international best practices and rankings,

ii) Contribute to the definition of a common roadmap with guidelines, specific actions and milestones to address identified bottlenecks, and

(iii) Strengthen regional best practices to implement regional guidelines and regulations and strengthen overall institutions. At the continental level, the Monitoring & Evaluation of the harmonization process is all the more embryonic since the AU does not yet have a framework or policy defining sufficiently precise objectives on what to harmonize and by when. If these objectives are not defined, they cannot be monitored and evaluated.

Once these objectives have been set, it would still be necessary to choose the Monitoring & Evaluation method. Yet, at the international level there are very numerous methods of evaluating the impact - whether ex ante or ex post - of public policies, legislations and regulations. In addition, these methods are often complex and costly to implement.

For example, policy aspects can be assessed using UNCTAD's ICT Policy Evaluation Framework[48], the evolution of the digital economy using the Digital Economy Country Assessment framework (DECA) from the World Bank[49].

The regulatory aspect can be assessed using the OECD Regulatory Impact Analysis (RIA) method[50] or the *LIRNEasia* / RIA Telecommunications Regulatory Environment (TRE) Assessment Methodology[51].

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[48] https://unctad.org/en/PublicationsLibrary/dtlstict2013d6_en.pdf

[49] TOOLKIT FOR MEASURING THE DIGITAL ECONOMY DRAFT VERSION - NOVEMBER 2018 : http://www.oecd.org/g20/summits/buenos-aires/G20-Toolkit-for-measuring-digital-economy.pdf

[50] https://www.oecd.org/regreform/regulatory-policy/ria.htm

[51] http://lirneasia.net/farmhouse/projects/2008-2010/indicators-continued/telecom-regulatory-environment/

There are also national initiatives to monitor and evaluate ICT policies, for example in Rwanda, which regularly evaluates the results of its national ICT strategy and its National Information Communication Infrastructure (NICI) program, usually using consultants.

In short, there is no perfect and unambiguous tool, nor a magicc solution for the implementation of a Monitoring & Evaluation tool. But the discussion on monitoring and evaluation is in itself a good thing.

There are also studies by the private sector that attempt to link a country's regulatory framework to the opportunity of investing in a specific market. For example, the recent Mobile Money Regulation Index (MMRI) created and published by the GSMA[52] determines how much of a country's regulatory framework allows widespread adoption of mobile money (index of entry).

In this case, the areas of regulation that have been selected for analysis as enablers for the adoption of mobile money are as follows

- Authorization
- Consumer protection
- Cap for transaction
- KYC
- Conditions for the creation and operation of a network of agents (distributors)
- Environment for infrastructure and investment

The MMRI measures the six fields of enabling regulation by aggregating several indicators for each regulatory dimension.

There is a total of 27 indicators associated with measurement which can be of three different types

1. Continuous. A numeric value that is not limited to particular values (for example, transaction values or maximum account balances allowed).

2. Binary. A value that can only take two answers, usually "Yes" or "No" that gives scores of 1 or 0 respectively (for example, does the regulation impose a geographical restriction on mobile money service distributors? Yes? No?). Some indicators can be constructed using several binary indicators (for example, 5 binary indicators could be combined so that one country receives a score of 5).

[52] The Mobile Money Regulatory Index https://www.gsma.com/mobilefordevelopment/wp-content/uploads/2019/03/The-Mobile-Money-Regulatory-Index-1.pdf

3. Ordinal. A ranking based on a predefined scale. The higher score being associated with "better" performance or more enabling regulation.

As an example, on the topic "authorization", the MMRI index uses the following indicators and ranking method:

Dimension	Indicator	Scoring	
		0	Non-banks including MNOs are not eligible to issue e.money/offer mobile money services at all
		1	Non-banks are eligible to issue e-money/offer mobile money services, but MNOs are prohibited from doing so. Alternatively, MNOs are eligible to provide mobile money services, but no other non-bank is.
		2	Non-banks (including MNOs) are not eligible to issue e.money/offer mobile money services except by acquiring or establishing a lower-tiered prudentially regulated institution that is authorized to issue e-money/offer mobile money/branchless banking directly. The test here is whether the non-bank owns the customer relationship with the mobile money account holders. If not, then this indicator applies
	Eligibility	**3**	Non-banks (including MNOs) are not eligible to issue e.money directly or obtain regulatory authorization to offer mobile money services except in partnership/in conjunction with a prudentially regulated institution whose role extends beyond providing funds custodial services (e.g. regulatory authorization, regulatory engagement, etc.) but does not have a customer relationship with mobile money account holders. The test here is whether the non-bank owns the customer relationship with the mobile money account holders. If it does, then this indicator applies
		4	Non-banks (including MNOs) are eligible to issue e.money/offer mobile money services directly or through a subsidiary (which is not prudentially regulated) with the involvement of a prudentially regulated institution as custodian of customer funds
	Authorization Instruments	0	There exists no regulatory framework to provide authorization for the provision of mobile money services

	1	There exists no regulatory framework to provide authorization for the provision of mobile money services, but letters of no objection are released.
	2	There exists a formal authorization to provide mobile money services, which is based on a regulatory framework. However, no licenses have yet been issued
	3	Here exists a formal authorization to provide mobile money services, which is based on a regulatory framework, and licenses have been issued.
Initial capital requirements	Continuous	Ratio of the initial capital requirements for mobile money providers to the initial capital required to become a bank in that country.
International remittances	1 point if	Regulation allows mobile money providers to send international money transfers
	1 point if	Regulation allows mobile money providers to receive international money transfers
	1 point if	There is no separate licensing regime for international remittance services.

Source: Mobile Money Regulation Index Methodology, GSMA Intelligence, September 2018[53]

Of course the type of classification proposed is influenced by the fact that the author of the initiative, the GSMA is an association of operators. However, the method itself is interesting because of its precision and its objective of evaluating regulations with regard to a single and limited theme.

3. Step Three: Learning from the Previous Diagnosis

This section aims to summarize what has been the added value of each of the main stakeholders (AU, RECs and RARs) in the process of harmonization of policies, regulatory frameworks and telecommunications regulation / ICT, to identify at each level certain obstacles and to start some lines of thought for the future.

[53] https://www.gsma.com/mobilemoneymetrics/assets/data/MMRI_Methodology.pdf

3.1 The RECs: the linchpins for the harmonization of national regulations

Despite the disparities in the methods, pace and scope of their harmonization activity, **the RECs remain the linchpin and the most relevant tier for advancing the harmonization of telecommunications / ICT regulations on the continent.**

This seems true to us whatever the harmonization model chosen, the non-binding type also referred to as "soft law" (SADC, ECCAS) or, via a more restrictive approach (eg ECOWAS).

From this point of view, the experience gained over the past ten years is a valuable asset on which to capitalize.

Moreover, the RECs are also the effective echelon to take measures of consultation and accompaniment (advocacy, training, workshops etc.) with their Member States. These measures are necessary to encourage and facilitate the transposition of regional rules into national laws.

However, they face a number of difficulties that are still difficult today to overcome:

- Limited human and financial resources in contraction with the will to cover a lot of contents. This creates a voltage with a general slowdown. One solution would be to have more financial means. Another would be to limit its scope and focus on a few central elements
  - Difficulties linked to the cumbersome public procurement procedures to which the REC is subjected to in order to effectively mobilize their own resources (often a REC prefers to go through another contractor to recruit an expert because its own recruitment is too long)
- A lack of political will by some Member States. In North Africa, the situation has long been blocked and the REC does not play its role of regional harmonization.

3.2 Regional associations of regulators: a very different level of contribution depending on the region and lack of clarity

Although African RARs have made a positive contribution to the process of harmonization on the continent, their role and contribution are less clear today, particularly because the number of platforms for meeting and sharing information on regulation has increased over time and are potentially entering in competition with each other.

On the other hand, over time the agenda of RECs and RARs have tended to emancipate one another, creating tensions or simply inefficiencies in terms of regional regulation.

At the continental level, a series of attempts to overcome these challenges have been implemented. The most recent is the initiative resulting from the Smart Africa Alliance on the

creation of the African Council of Regulators of the Member States whose 8th meeting has just been held in Bamako from 16 to 18 July 2019. However, it does not cover the entire continent.

In a certain way, the current situation is an opportunity to build a new approach between the RARS and to better coordinate the priorities of these associations with those of the RECs and at the continental level to ensure the effectiveness and coherence of regulatory harmonization.

However, this approach assumes that the RARs select and work on a list of common priorities. The challenge at the pan-African level is to identify and define such a continental list.

3.3 The African Union: Political role as a catalyst and a guide for the harmonization of telecommunication / ICT policies and legislation that should be better controlled and more in line with the objective of creating a continental internal market

With the Cairo Declaration, African Ministers charged with ICT have certainly promoted the emergence of a harmonized continental environment that makes full use of telecommunications / ICTs to increase their economic and social impacts.

By engaging the political representatives of states at the highest level, this declaration sent a strong signal to generalize at the level of the Continent the harmonization dynamics that had emerged previously in some RECs (ECOWAS, SADC ...).

This political action is the main contribution of the AU which has made it possible to create the conditions for partnerships and fundraising with its international strategic partners (ECA, UNCTAD, IE etc.) to implement the actions recommended in the framework of reference.

Despite difficulties related to the lack of cooperation and coordination between regional and continental actors and the lack of Monitoring & Evaluation at regional and continental level, this approach was partly implemented between 2008 and 2013 through the HIPSSA project which unfortunately did not cover North Africa.

The approach has proved to be more effective and constructive than the Malabo Convention initiative for the following reasons:

- It preserves the specificities in the legal culture of the Member States and the great diversity of maturity of their market
- It takes into account an important feature of Africa's integration process in which key decisions are always made by consensus, rather than binding legal requirements, making the application of a problematic rule, and the discretion of the Member States;
- The AU does not have enough resources to support Member States in effectively transposing continental directives;

- It respects a clear, transparent and pragmatic division of tasks by concentrating AU action on policies and leaving to the RECs and RARs the harmonization of legislations at the regional level.

4. Fourth step: options for moving forward in continental cooperation

4.1 Prior framing

The purpose of this section is to propose a series of options that will be discussed during the continental workshop. These options are based on the lessons learned above from the diagnosis / evaluation of past experiences.

Ultimately, they should allow i) to identify the most relevant added value of the AUC in the harmonization process and ii) to agree on an ad hoc methodological strategy including a Monitoring & Evaluation component as well as an impact assessment to achieve the expected results.

This methodology should reflect the environmental constraints of the RECs and the AUC (limited human and financial resources) to ensure a sustainable approach.

It distinguishes between the harmonization of telecommunication ICT legislation and the harmonization of regulation practices, which are two sub-components of the PRIDA[54], harmonization component, plus a third policy dimension on the cross-cutting use of ICT in the economy and the society.

The 3 components mentioned above (policy, legislation, regulation practices) refer to the following expected results of the PRIDA project:

- Result (1): a continental methodology for monitoring and evaluating telecommunication / ICT laws and regulations is developed;
- Result (2):continental cooperation between national telecommunication regulatory authorities (NRAs) is strengthened;
- Result (3): Public authorities and civil society are made aware of the cross-cutting use of ICTs (policy);

This discussion paper does not address the final strand (outcome 3) above regarding the cross-cutting use of ICT that i) is the subject of a specific work-independent PRIDA activity that

[54] Pillar 2 of the project: Harmonization of policy frameworks, regulatory frameworks and regulatory practices in the area of ICTs that can be evaluated

underpins this report geared towards the harmonization of legislation specific to telecommunications or electronic communications and their implementation in Member States[55] and, ii) is largely taken into account in the draft Digital Transformation Strategy for Africa referred to in Section 1 &11.

Thus, the September workshop in Addis Ababa focuses on the implementation of a continental methodology for Monitoring & Evaluation of legislative and regulatory frameworks in telecommunications / ICT field (outcomes 1 and 2), the issue of cross-sectoral use ICTs throughout the economy and society is treated elsewhere.

Of course, the two subjects are not waterproof and legislators and telecommunications regulators can no longer work in isolation. They are increasingly in need of interaction with other regulators / legislators involved in related areas of legislation, for example: the protection of personal data, the regulation of financial services (banking), and justice when it applies to cybercrime, commerce when it is electronic etc.

So, if some priority topics proposed to the 4.3 infra are related to integration with ICT in almost all human activities, they are not intended to capture all the fields of legislation & regulation affected.

4.2 Methodology

The implementation methodology of the PRIDA project is divided into the following steps, which will enable the program to be rolled out over the next two years;

1. The first step is the September 2019 workshop in Addis Ababa aimed at reaching agreement among all stakeholders on the three pre-requisites:

- Define the role of the AUC, RECs and RARs in the process of harmonization of policy, legislation and regulation in the telecommunications / ICT sector in Africa,
- Select a list of regulatory priorities to test the Monitoring & Evaluation methodology that will be used
- Define a continental Monitoring & Evaluation methodology

2. Implementation of identified priorities

3. Evaluation of the activities carried out

[55]Of course the two subjects are not totaly distinct and legislators and telecommunications regulators can no longer work in isolation. They are increasingly in need of interaction with other regulators / legislators involved in related areas of legislative framework, for example: the protection of personal data protection, the regulation of financial services (banking), justice when it applies to cybercrime, commerce when it is electronic etc..

4.2.1 Prerequisite 1: Define the role of AUC, RECs and RARs

The workshop scheduled for September 2019 in Addis Ababa should help define the role of the AUC, RECs and RARs in the process of harmonization of policies, legislation and regulation in the telecommunications / ICT sector.

The first step required is therefore to define the division of tasks and the role of each of the main actors, as part of the harmonization process. In some cases, several scenarios are possible based on the non-exhaustive list of proposals below. These proposals are not exclusive of each other.

The objective is to select at the end of the continental workshop the scenario favored by and for all stakeholders.

The lessons of previous experiences discussed earlier in this document, outline the following major lines for discussion:

1) **AU**: The AU could continue its political contribution to harmonization and, in addition, have a pivotal role in the implementation of a methodology for measuring the impact (Monitoring & Evaluation) of telecommunication / ICT policies, law and regulation in Africa (see section i below).
2) **RECs-AUC**: RECs could retain their pre-eminent role in the preparation and adoption of regional legislation/ guidelines and support for Member States in the implementation of the regional framework in national laws. The AUC and RECs could decide on more effective cooperation mechanisms to promote greater coherence and integration at the continental level (see ii below);
3) **Regional Associations of Regulators**: New NRA cooperation mechanisms should be implemented to improve the harmonization of continental regulatory practices and coherence of actions between the RARs and RECs (see iii)

i. Role of the AU

On the basis of lessons learned from past experiences, the AU could concentrate on:

- The adoption of policies to i) promote and support the cross-cutting use of ICTs to transform African societies and economies to ii) create an African digital single market that would be just as logical as necessary for the **AfCFTA** which has just come into force. These policies could identify a number of areas where RECs and Member States will have to adopt new rules or modernize existing rules, based on principles and expected results discussed and approved at the continental level.

- The provision of strategic guidance as part of the regulatory priorities set out in *§ section ii)*
- the implementation of coordination mechanisms facilitating the harmonized implementation of regulations adopted at regional level and ensuring their coherence with the operationalization of the African Vision 2063;
- **Development, support and monitoring of the implementation of a common methodology for Monitoring & Evaluation of harmonization initiatives in all RECs;**
- Seeking support from development partners.

Given the objectives foreseen in PRIDA, this paper focuses on the issue of **developing, supporting and monitoring the implementation of a common methodology for Monitoring & Evaluating harmonization initiatives in all RECs**.

From this point of view the following two options can be proposed

Actions	Options	REC role	REC role	Role of Member States
Definition of a general methodology for M & E	**Option 1:** Continental Guidelines	- AUC to propose principles of continental methodology after collecting inputs from RECs - Adoption by the AU	- Inputs - Implementation	- Initial inputs to determine the methodological principles - Providing the data needed for implementation
	Option 2: Regional guidelines	- AUC coordinates and supports the adoption of a specific methodology by REC	- each REC proposes the principles of a regional methodology after collecting inputs from Member States - Adoption - Implementation	- Initial inputs to determine the methodological principles - Providing the data needed for implementation

ii. REC-AUC cooperation:

While it seems logical for the RECs to play a pre-eminent role i) in the preparation and adoption of legislations / guidelines at regional level and ii) in supporting Member States in the implementation of the framework in national law, more effective co-operation mechanisms should be established to promote greater coherence and continental integration::

- The collective establishment of a continental-wide list of regulatory priorities for the adoption of future harmonized regulations after a discussion involving all stakeholders at the September workshop in Addis Ababa is one such mechanism.
- A continent-wide discussion (post-September workshop in Addis Ababa) that would identify - at the continental or regional level - objectives and expected results for each of the initiatives on the list of regulatory priorities would be one more step in the implementation of a harmonized continental regulation. This implementation remains at the level of the RECs

Finally, it seems to us that it would be useful to designate a regional or national champion responsible for coordinating the initiative at the continental level for each regulatory priority chosen.

In the end, the options submitted for discussion are as follows:

Important note: the table above is multiple entries:

For example, we can imagine that stakeholders agree on a scenario where

- the objectives are continental
- regional measurement indicators
- National expected results

Or

- the objectives are continental
- continental measurement indicators
- Regional expected results

Etc.

Additionally, for each regulatory priority selected, the above "mix" may be different.

Actions	Continental harmonization	Options	ECA role	REC role	Role of Member States
Designation of a regional or national champion for each regulatory priority	+	-	-	- Designation	- Designation
Definition of the objectives pursued for each regulatory priority detention	+	**Option 1:** Definition of continental objectives	- The AUC must coordinate the RECs to agree at the continental level on high-level and specific objectives for each priority, eg. * ***High Level Objective***: *to lower barriers to entry into the telecommunications market;* **Specific objectives**: *- Development of Competition:* *- Geographical and tariff accessibility* *- Quality of services in particular in terms of available throughput Development of uses (penetration rate)*	inputs Country support for implementation	inputs Implementation
	_	**Option 2** Definition of regional objectives	AUC coordinates and supports the adoption of regional goals	Each REC must coordinate the countries in order to agree at the regional level on high level and specific objectives for each priority chosen. cf. examples above	inputs Implementation
Definition of indicators for each regulatory priority	+	**Option 1** Adopt unified continental indicators	AUC to coordinate RECs to agree on continental indicators for each regulatory priority	inputs Country support for implementation	inputs Implementation

	–	**Option 2** Adopt regional indicators that may differ from one REC to another	AUC coordinates and supports the adoption of regional measurement indicators for each regulatory priority	The RECs propose and adopt, on the basis of Member States' inputs, the regional measurement indicators for each regulatory priority	initial inputs to identify relevant indicators Implementation
Definition of expected results on the basis of the predefined indicators and by regulatory priority	+	**Option 1** Anticipate different regional results from one REC to another	The AUC coordinates and supports the adoption of expected regional or national outcomes for each regulatory priority	The REC proposes and adopts on the basis of Member State inputs the expected regional results for each regulatory priority	initial inputs to identify regional expected results for each regulatory priority
	–	**Option 2** Anticipate national results from one state / member to another	The AUC coordinates and supports the adoption of expected regional or national outcomes for each regulatory priority	RECs coordinate and support the adoption of national expected results for each regulatory priority	Definition of national results for each regulatory priority

iii. Regional associations of regulators (RARs):

One of the objectives of the PRIDA project is to strengthen continental cooperation between national telecommunication regulatory authorities (NRAs).

To do this, it is proposed the following methodology in 3 steps.

Step 1 - Identification of a list of concrete questions regarding the implementation of existing or future regulations

During the September workshop in Addis Ababa, the RARs and the regulators present at the workshop identify and propose a series of concrete and priority issues of implementation in relation to:

Legislation in force

- Legislation that could be considered in the context of the regulatory priorities defined at the beginning of the project (see § 4.2.2. below);
- Cross-cutting issues that are not directly related to legislation in force or that can be anticipated

a. For example, the issue of "data regulation" could prove to be a very successful theme for national regulators; this new mode of intervention aims at completing the traditional tools of intervention of the regulator, by its less intrusive approach and according to a

logic of State-platform. Its principle is to use the power of information to steer the market in the right direction.

Another subject of interest in terms of regulation, is the implementation of a cross-border settlement mechanism based on the mechanism provided for in Article 9 of Regulation C / REG 19/12/16[56] to extend it to other topics that acceess bandwidth.

Beforehand, it would be necessary to determine what have been the obstacles so far to the establishment of such a mechanism (that of Regulation C / REG 19/12/16 is not operational) and what would be the structural and operational solutions to lift these brakes.

Priority Regulatory Questions (“PRQs") may be selected from the list of proposals in section i. below or any other relevant topic proposed before or during the workshop.

Step 2 - Establish a cooperation / coordination procedure between the RNAs of the Continent

As a follow-up to the validation, at the continental level, of the list of PRQs, it is in this phase to set up a working group made up of experts for each question / problem identified previously in order to:

- Develop common approaches / positions, guidelines or methodologies;

Jointly develop work programs on specific common priorities.

These working groups may consist of:

- On a continental basis by the regional associations of existing regulators;
- On a smaller basis between certain associations. This would not be true continental cooperation, but it is a realistic scenario a bit like the initiative of the Council of African Regulators (CAR) of the Smart Africa Alliance ;

On the basis of a group of regulators not necessarily belonging to the same African region who face the same problems.

A responsible NRA should also be designated for each issue and associated working group. The latter could be in charge of:

- convocations
- hosting experts on its premises or organizing video conferences

[56] Regulation C / REG 19/12/16 on conditions for access to national and international bandwidth on terrestrial networks within the ECOWAS region

- preparation of working documents / reports
- propose an association with international experts or twinning with leading foreign NRAs on the subject concerned,

Etc.

Monitoring & Evaluation

The monitoring and evaluation of initiatives undertaken by the above-mentioned regulatory working groups is carried out on the basis of the "legislation and regulatory impact assessment model" proposed below.

4.2.2 Prerequisite 2: Select a list of priorities to test the methodology that will be used

i. Justification

Taking into account the limited resources of the RECs and the AUC, the implementation methodology for regulatory harmonization that will be adopted should first be applied to a limited number of key priorities reflecting the Hemisphere's policy agenda.

The objective is to select at the end of the continental workshop a limited number of priorities from the list proposed below.

This list can be updated with other proposals that will be communicated and contextualized by any interested party before the continental workshop.

Principles that can guide the selection of priority topics include:

- Avoid duplication with other similar initiatives on the continent,
- Provide stakeholders with specific measures and actions to further develop enabling regulations;
- The regulatory priority must be able to be associated with specific expected, concrete results that can be measured easily;The choice of topic is relevant to the goal of creating a single African digital market;
- The choice of topic is consistent with the policies or strategies developed by African Union in this area.

During the workshop, an evaluation grid will be proposed to the participants to facilitate the discussion and the choice of the regulatory priorities that will finally be retained.

ii. Regulatory priorities - The following topics are proposed for discussion.

Conditions of entry into the market (authorization / licensing regime)

Many regional and national frameworks create artificial entry barriers that hinder the development of competition.

International practices shows that the most effective way to grant frequencies is to be systematically technologically neutral and to be distinguished from the granting of market entry authorizations.

The various regional legislative frameworks developed by the RECs with the aim of harmonizing the licensing regime in their respective regions appear to be insufficient with regard to the two mentioned issues above. In particular they advocate for an extensive system of prior individual authorizations (individual licenses) and that they do not create an operational mechanism whereby an operator on the market of a State may be authorized to provide services in all Member States of the same regional economic community.

However, a modern regulation should aim to facilitate as far as possible entry into the wider regional market and to ensure that all operators are on an equal footing in this enlarged market to access the resources required for entry.

To meet this objective several options are possible, which are not mutually exclusive. Opt for a mutual recognition regime: the authorizations issued by a Member State are automatically valid through the REC or either opt for a single regional license issued by a supranational body; or drastically simplify existing national regimes and take the lighter regimes as models.

In any case, it is necessary to clearly distinguish the problem of market access, via a general authorization and possibly individual rights of use of frequencies and numbers, of the granting of rights or obligations in the framework of the very exercise of its activity. The granting of such rights and obligations should no longer be subject to individual license authorization.

Measures to reduce the cost of deploying broadband networks

Despite the progress made, there is still a significant deficit in brodband and, a fortiori, high-speed infrastructure and services in Africa. Yet these services are needed to provide the foundation for the digital transformation of the African economy and society.

To prevent broadband Internet from being restricted to major urban areas, while limiting the use of public funds to expand their geographic coverage (for example through Public-Private Partnerships), governments in developed and developing countries are increasingly aware of the need to develop policies and procedures that will reduce the cost of deploying fiber optic networks.

Access to excess capacity on existing fiber optic networks along energy or transportation infrastructure is a posible solution. When these energy or transport infrastructures are not

available, another solution is to promote the coordination of civil works in new infrastructure construction projects between the public service network sectors (transport, water), energy) and telecommunications.

The coordination of civil works between infrastructure projects can indeed generate significant financial savings because the construction of infrastructure (railway projects, roads, terrestrial fiber optics, etc.) involves a lot of civil works (digging trenches, etc.) which constitute the major part (70-90%) of the cost of deploying optical fiber networks.

In addition, the deployment of fiber optic cable ducts (either for immediate use or for future use) along transport infrastructure (roads, highways, bridges, etc.) at the time of construction or their rehabilitation involves only marginal costs: it is estimated that the installation of fiber optic cable ducts represents only a fraction (possibly less than 0.02%) of the cost of deploying the hosting infrastructure.

Similarly, the laying of guard wire with excess optical fibers during the production of new power lines is only a marginal blow compared to the guard cable comprising only the number of pairs required for electrical operation. "

A legal framework to facilitate (through incentives or obligations) synergies between public service network projects (transport, water, and energy) and high-speed network projects can be useful or even necessary. In the absence of such a legal framework, cross-sectoral synergies remain limited as they rely solely on voluntary initiatives between telecom operators and public service network operators seeking - often opportunistically and unsystematically - to share the investment costs.

For example, the European Parliament and the Council of the Union have validated **Directive 2014/61 / EU[57] on measures to reduce the cost of deploying electronic communications** networks and to encourage the deployment of communication networks at a very high speed on European soil, considering that "A high-quality digital infrastructure is the foundation on which virtually all sectors of a modern and innovative economy are based and is of strategic importance for social and territorial cohesion. All citizens as well as the public and private sectors must be able to participate in the digital economy. "

According to the aforementioned directive, the reduction of the costs of deploying new generation networks, fixed and wireless, essentially depends on four main points:

[57]https://eur-lex.europa.eu/eli/dir/2014/61/oj

- The exploitation of existing passive infrastructures (ducts, pipes, inspection holes, boxes, poles, pylons, antenna-related installations, towers and other supports), particularly from those of other energy operators (gas, electricity, water, etc.);
- better coordination of civil works;
- the simplification of administrative procedures (in particular access to civil works authorizations) and their charges (in particular by centralizing the information relating to these authorization requests to a single point);
- The systematic presence of very high speed infrastructures in all new buildings and major renovation projects.

So many points that the EU Member States have or are in the process of transposing into national law.

Quality of service and consumer satisfaction:

The measurement of quality of service consists of measuring the performance of services provided over telecommunications networks.

The regulatory provisions in force applicable to operators in terms of quality of service were defined at a time when only traditional voice services were available.

Few operator specifications take into account:

The continuous transformation of communication services that requires a prospective and flexible approach to enable the development of an intelligent and connected nation.

- The customer experience beyond the technical criteria traditionally applied to networks (network availability, communication failure rate etc).

Accordingly, regulations and their implementation at the national level do not always:

ensure that the quality of service of the telecommunication services provided by the operators meets the needs of all customers and allows the appropriate provision of the content or services requested by the customers;

- adapt in real time the quality of service obligations, to take into account the evolution of the environment, the improvements resulting from the evolution of technologies and political objectives;
- encourage customers to give their opinion on the quality of service;
- use the availability or publication of operator performance against quality of service parameters as an incentive to improve the quality of service well beyond a minimum acceptable level; and

— sets principles for clearing customers when the quality does not reach an acceptable QoS level;
— etc.

Quality of service complaints are recurrent, and the relatively heavy fines imposed by regulators on operators do not have the expected deterrent effect or quality improvement.

Regulatory methods such as data-driven or *Name & Shame* may be more effective in improving service performance.

In practice,

Empower users by providing them with accurate and personalized information, whether it comes from users themselves (crowdsourcing) or is collected by the NRA from operators ("data unbundling"); the NRA prioritizes information rich in the coverage and quality of telecom networks, so that competition not only exerts price but also enhances investment in networks. To facilitate the dissemination of this information, the NRA generalizes the open data dissemination of data from its observatories;

— Mobilize users to raise the problems encountered via an alert space, moving from a consumer complaint logic to a citizen act.

In this situation, it might be useful to adopt at the continental level a policy setting common objectives in terms of results and methods.

Digital taxation

Today, telecommunication services and products have been subject to different types of taxes. Their impact on consumers or operators depends on the market context and the nature of each tax levy.

Depending on the case, these taxes or fees may be absorbed by operators, in the form of reduced products, or passed on to consumers in the form of higher prices, or a combination of both.

Under their traditional telecommunications activity, operators, mainly mobile operators, are subject to taxes (introduced or modified by law) or to charges (created or modified by regulation) known as "specific" found in most countries of the world.

This mainly concerns the contribution to universal service, training and research & development, the control of authorization obligations ("regulatory charge") as well as charges for the use, management and control of scarce resources (frequencies and numbering).

In addition to these old forms of taxation of the sector, new forms of taxation have emerged in recent years also specific, as they apply only to telecommunications operators, but are

characterized by their chronic instability. In other words, their unpredictability for the actors of the sector and the fact that they do not benefit the sector but benefit either the general budget of the State or from other sectors (ie: the former contribution to the Fund of the promotion of culture and the CODETE 95% allocated to the reduction of the energy deficit in Senegal).

Some of these new forms of taxation directly impact the prices charged to users acting as "over VAT" collected by operators for the benefit of the State, which increases the weight of the cost of communications in the household budget, particularly in countries where GNI is low.

Some countries also apply a tax on international traffic despite the negative and recognized biases of such a tax which:

- Artificially increases the cost of communications for users[58],
- Encourages the routing of illegal traffic, to the detriment of operators 'and governments' incomes, while reducing the quality of service for consumers,Can prove to be an inefficient form of taxation due to the necessary monitoring of the traffic carried out by an external party receiving close to 50% of the tax revenue and because of its negative impact on the traffic which limits the base of the taxes expected revenues.

It is also necessary to add the customs taxes which apply on the personal telecommunication equipment which in certain countries can prove to be very high and slows down the rate of ownership of devices by the people, for example smartphones[59].

Finally, it is clear that there is:

- disparity in the tax burden on the sector based on the country,
- a tendency to stack new taxes, some of which directly penalizes users
- lack of harmonization of customs duties and:-

Above all, the lack of consideration of the new tax challenges related to the digital economy, which has specific characteristics that imay be advisable to take into account for tax purposes.

These features include mobility, large data use, network effects, multiplication of multi-faceted business models, monopoly or oligopoly trend, and volatility.

Different types of emerging business models, such as various forms of e-commerce, online sales sites of online advertising applications, cloud computing, participatory network platforms, high frequency transactions, not to mention online payment services.

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58 If the direct price affects the foreign users, the reciprocity means that the prices of the international calls originated can increase at the national level.

59 Note that some countries have chosen to lower or eliminate customs duties (and / or reduce and / or eliminate VAT on terminals to democratize broadband uses

The digital economy has also helped to accelerate and change the development of global value chains in which multinationals list their international activities.

Thus, while African states are still struggling to broaden their tax base due to the importance of the informal economy, they are already suffering the problems of erosion of the tax base and the transfer of benefits raised in the context of the digital economy.

Many observers and, of course, the operators who are the first to be concerned, point to the negative impacts on investments of a tax system that would only consider the sector as a cash cow for the public treasury, forgetting that it is also creator of growth levers for the entire economy.

Moreover, it is not certain that the front-end increase in taxation that only affects local operators or even consumers directly, captures the real sources of profit for the digital economy; De facto, as the digital economy spreads throughout the economy, the margins of the various actors - and not just the operators - risk being relocated abroad and disappearing from the States, thus depriving the countries potential tax revenues related to the productivity of this economy.

It would undoubtedly be more profitable for African states to engage in a collective reflection on the issues of taxation in the digital economy and to design disruptive tax mechanisms that take into account the new digital situation.

In short, it could be useful to think collectively a common policy of the Member States with regard to the digital taxation that should be tunned more towards:

The means to control and reduce the reduction of the tax base by the repatriation of turnover abroad and,

The widening of the taxable base by the double effect of the growth of the users and taking into account other actors apart from the operators.

For example, following a mandate from the G20 Finance Ministers in March 2017, the OECD is currently working on the issue of tax challenges arising from digitization in a Working Group on Digital Economy (WGDE)[60].

[60] See OECD / G20 Project on Base Erosion and Profit Shifting: "Addressing the Tax Challenges of the Digital Economy» **- https://www.oecd.org/tax/beps/public-consultation-document-addressing-the-tax-challenges-of-the-digitalisation-of-the-economy.pdf**

Mobile Money

A recent report released by the International Monetary Fund reveals that in 2017[61], sub-Saharan Africa dominated the world in terms of adopting and using mobile money with nearly 40 countries using this mobile payment service.

At that time, the region had close to 250 mobile money accounts per 1000 adults, compared with 150 accounts per 1000 adults in Asia, 125 accounts per 1000 adults in Latin America and Europe, and 50 accounts per 1000 adults in the Mena area (Middle East and North Africa).

The number of mobile money service outlets is also higher in sub-Saharan Africa. At the date of finalization of the aforementioned study, there was an average of 200 mobile money points per 100,000 adults. Tanzania is the largest country in the Continent by the volume of transactions made through this method of payment. It is supported by Kenya, a country that pioneered the adoption and development of mobile money.

More and more money mobile services allow transactions between the mobile operators and the banks. An opportunity to accelerate financial inclusion for a region in which only 20% of the population has a bank account. But also, an evolution that involves a lot of challenges.

However, this progression of mobile money goes hand in hand with the challenges that will have to be addressed in particular through regulations and the appropriate secure infrastructure.

Thus, the exponential growth of the number of players in the ecosystem of digital financial services, makes the regulation practices to become more complex. Five major themes dominated the mobile money regulatory landscape in 2018: taxation, KYC, cross-border funds transfers, national financial inclusion strategies and data protection. These developments require a more nuanced assessment of regulatory frameworks and collaboration between providers and regulators to achieve the common goal of developing mobile money services.

As mentioned above, the AfCFTA must have its digital counterpart, which consists of the creation of an African Digital Single Market.

Security and trust are fundamental to e-commerce because they reassure consumers and businesses alike. It is essential for countries to establish appropriate laws and regulations concerning electronic transactions including electronic payment solutions (in a cross-border environment), digitization, consumer protection, competition, data protection and privacy; and cybercriminality.

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[61] https://www.agenceecofin.com/regulation/1902-64098-mobile-money-derriere-la-success-story-en-afrique-subsaharienne-il-faut-pouvoir-anticiper-sur-les-defis-latents-selon-le-fmi

In the digital financial services, the vast majority of the regulatory frameworks is from central banks, but telecom regulators are also concerned and groping in this new world (VAS regime, access to codes USSD operators ...)

In this context, African states need to continue regional and international regulatory convergence to facilitate markets and perhaps clarify the role of telecom regulations in the digital financial services' legal environment.

Net Neutrality

Net neutrality is a founding principle of the Internet which guarantees the free circulation, without discrimination of the content on the web. This neutrality can have important consequences not only in the economic field (free competition and regulation of the dominant players in the market) but also in terms of respect for the privacy of Internet users, guaranteeing freedom of expression and quality and continuity of services offered on the Internet.

The Internet has been conceived as an open network, based on a decentralized architecture and the principle of the "best effort": each operator must do his best to ensure the transmission of all the data packets that passes through its network, with no guarantee of results (obligation of means) but excluding any discrimination with regard to the source, destination or content of the information transmitted.

In Europe, the principle prohibits Internet Service Providers (ISPs) from discriminating access to the network according to the services (for example by offering a slower Internet to some customers and faster to others to access identical services).

The NRAs guarantee the respect of this principle which was enshrined as a principle by the European regulation of November 25, 2015 on the open Internet, applicable since April 30, 2016.

The Body of European Regulators for Electronic Communications (BEREC) oversees the implementation of the EU's network neutrality rules and has gained experience. A memorandum of understanding has been even reached with the Indian regulator on this subject. At the same time, the group of European regulators of the Mediterranean (EMERG) has set up a dedicated working group in 2019.

In contrast, the United States officially abandoned the principle of net neutrality after a decision made on December 14, 2017 by the federal communications agency, the Federal Communications Commission (FCC).

Under the guise of a very technical or, conversely, very theoretical question, net neutrality can prove to be a fundamental question in the coming years, at the level of each country as well as at the global level, since the proper functioning of the networks of electronic communications

and the internet is in part a condition for the future of the planet. A crisis in these networks would mortgage all activities and lead to a general disruption of the economy and society[62].

Preserving the neutrality of the Internet is also, for some, a democratic issue. Net neutrality puts citizens on an equal footing and allows everyone to express themselves freely. The Internet is a platform for egalitarian expression that differs in this respect from traditional means of communication (radio, TV, press) because no investment is required to issue information.

On the other hand, guaranteeing the principle of Internet neutrality does not amount to refusing any traffic management practice. For example, European laws allow targeted, temporary and transparent infringements of the principle of Internet neutrality without calling it into question (for example, blocking sites with child pornography content, etc.).

If broadband becomes more affordable and therefore more used in Africa, the question of Internet neutrality will probably become central in Africa as well and should preferably be treated in a harmonized way on the Continent.

Protection of personal data and location of data

Originally, any data processing required a physical terminal. The challenge was the high initial cost (CAPEX) and subsequent hardware maintenance as well as software maintenance / upgrade. After a while, this equipment was often out of order and obsolute.

With the advent of cloud-based solutions and the smartphone becoming more powerful, these problems can be bypassed by cloud solutions.

This assumes the availability of broadband to connect devices to the Internet / cloud.

However, in such an environment, the issue of privacy and location of data is becoming increasingly important. For example, many projects in Africa face a lack of trust and serious questions about the location of data especially for sensitive data as in the health sector.

In Europe, the adoption of the EU General Data Protection Regulation (GDPR) was approved in April 2016 and entered into force in May 2018. This is the most important change in the regulation on data protection for 20 years.

The digital revolution represents new dangers with regard to the protection of personal data - and therefore of privacy

Google, Apple, Facebook and Amazon (GAFA), and all digital platforms massively collect data from their users.

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[62] Taken from an interview with former president of Arcep (France), Jean-Ludovic Silicani

In Europe, the General Data Protection Regulation (**GDPR**), tries to prevent these by introducing the following novelties:

Extra territoriality: application to companies outside the EU processing data on the activities of EU organizations and those targeting EU residents through profiling or offering goods and services to them;

- Requirement of "explicit" and "positive" consent of the user;
- Right to erasure, also called "right to digital neglect" (possibility to ask Google to delete a link to a Facebook page for example);
- Right to portability of personal data (to switch from one social network to another, for example);
- "Data protection from the design stage" and "security of the IS by default" (or also "security by design", that is to say the security and protection of the data from the design of the software of services);
- Notifications from data protection authorities in case of data leakage;
- Mandatory appointment of a data protection officer for public or private bodies whose "core activities [...] require regular and systematic large-scale monitoring of the data subjects";
- Financial penalties of up to 4% of the annual worldwide turnover of a company or 20 million euros (highest amount retained), in case of non-compliance with the provisions of the GDPR;
- Creation of the European Data Protection Board.

The GDPR should fundamentally change the way data is processed in all sectors and should become a global standard. At the same time, few countries have comprehensive digital protection legislation.

In addition, the GDPR Considers that this is a human rights issue because much of our data is shared online and creates the risk of misusing digital technologies to control citizens.

In Africa, this is a challenge as there is little legislation and in some cases national telecom regulators are required to manage data protection in the absence of national protection authorities.

The Malabo Convention sets out certain principles governing the processing of personal data. The AUC and the Internet Society (ISOC) have also jointly developed the "Guidelines for the Protection of Personal Data for Africa", which detail best practices and some form of assistance for countries wishing to integrate the Malabo Convention in their national settings.

At the same time, the African Network of Personal Data Protection Authorities (ANPDPA) was created in 2016 and its office holders elected in 2018. Its first meeting was held in June 2019 in Ghana.

Electronic waste

As a result of rapid technological changes and falling prices, millions of tons of high-tech electronic devices are becoming obsolete in developed countries, making e-waste one of the major environmental challenges of the 21st century.

Electronic waste management has become a major challenge for many African countries due to lack of awareness, environmental legislation and limited financial resources.

Open discharge, burning and landfilling are the predominant disposal methods used in Africa, with potentially serious consequences for human health and the environment.

Heavy metals and other hazardous substances in electronic products contaminate groundwater and pose other risks to the environment and public health.

In addition, African countries are not only confronted with local waste, they are also importing electronic waste that is not hunted by the rest of the world. New and innovative solutions are needed to integrate the informal sector of e-waste recycling across the Continent into sound and sustainable e-waste management strategies.

Currently, little information is available on the amount of documented electronic waste that is collected and recycled by the formal sector in Africa. Only a few countries in the Continent have policies and laws specific to e-waste. Recycling activities are dominated by poorly equipped informal sectors, with inefficient resource recovery and environmental pollution.

Most African countries are developing various models of Extended Producer Responsibility (EPR) systems as part of their solution to the problem of electronic waste.

Internet of Things (IoT)

In general, people are connecting more and more to the Internet. At the same time, the devices are connected to each other to enable machine-to-machine (M2M) communication.

Africa is an active player in this trend of connecting things to the Internet with very interesting and innovative use cases on the continent. In other words, IoT technologies are becoming a central part of the growth of the African economy.

However, IoT devices are largely designed without security. Many are sold with well-known default passwords, no possibility to update their firmware after sale and without encryption by design.

It is therefore essential for African decision-makers to put in place regulations that promote the sale and use of IoT devices and services and the deployment of the necessary micro-grids respecting some of the best basic safety practices.

The AUC and Symantec announced that in 2015, 67% of adults in South Africa had been victims of cybercrime, which would have cost the South African economy $ 242 million.

The report also notes that more than one in seven mobile devices in Nigeria is currently infected with a mobile malware program. Africa must learn from past incidents of the Internet of Things in other parts of the world.

Over The Top Services (OTTs)

As Internet users in sub-Saharan Africa have grown from a few thousand to millions over the last decade, all the major platforms - Apple, Facebook, Google - have a strong presence, (with the notable exception of Amazon) and a critical role in the transformation of telecommunication / ICT markets and their competitive dynamics.

Of course, these new players raise a long list of questions related to their regulation, some of which could perhaps be dealt with at a continental, regional or national level.

The issue of OTT voice services, given their fierce competition with traditional operators, is the most acute point of friction with telecom regulations, but OTT services regulatory issues are beyond this question and concern. Moreover, there are several regulators exercising in different fields with related subjects:

- dominant positions and competition (competition regulators);
- telecommunications (telecommunications regulators);
- the media (regulators of the press, broadcasting and advertising);

This is without counting the questions straddling these areas.

The issues of net neutrality, digital taxation and the protection / location of personal data - which are already part of the regulatory priorities proposed in this section - covers some of the major regulatory issues related to the OTTs model.

There are likely to be friction issues with the traditional rules of the telecommunications sector especially because operators are subject to a number of costs that do not apply to OTTs:
Direct costs such as the price of licenses or spectrum

Indirect costs arising from different sectoral obligations: quality of service; taxes (payments to the government and the regulator, import taxes, universal service taxes); coverage requirements and sometimes price controls.

In addition, African governments have tended to view operators as a cash cow and impose a series of additional tax obligations on them, including schemes to tax incoming international incoming calls via single gateways.

OTTs are not subject to this type of obligation and, therefore, from a regulatory standpoint, they do not compete on a level playing field. There are two choices that are usually suggested - (i) the same obligations are incumbent upon the OTTs operators; or (ii) the obligations of African operators are eased by changing market conditions which- are neither obvious nor easy to implement.

Leaving aside the thorny issue of taxation, it is also difficult to see how regulatory obligations can be imposed on entities with little or no presence in a given African country.

The other key issue facing telecom regulators is that the level of data revenues is increasingly decorrelated from the infrastructure investment required.

It is conceivable that in the absence of coercive powers over OTTs, regulators could engage them on a voluntary basis to help address the continent's major infrastructure challenges. A dialogue on how the market can be developed would benefit both data vendors and data services.

Some countries in Africa seem to have already initiated a reflection on the subject and there are two initiatives at the regional level:

- The African Council of Regulators under the Smart Africa Alliance issued a note on OTTs stating that the following issues have not been resolved in regulatory terms with respect to: the lack of protection of data of staff; the inability to identify the entity responsible for quality of service; the inability of States to identify users without referring to OTTs who may or may not provide the requested information; lack of knowledge of the rules for the use of personal data; lack of protection framework for vulnerable people (minors, disabled, women, etc.); inability to make emergency calls; the impossibility of enforcing safety orders, particularly listening and tracing; and the impossibility of determining a tax base or collecting royalties.
- The ICT Regulatory Watch Initiative funded by the World Bank in the ECOWAS zone also has a significant OTTs component (not published to date)

Examples of topics of specific interest for NRAs and RARs

- **"Regulation by data**": This new mode of intervention aims at completing the traditional tools of intervention of the regulator, by its less intrusive approach and according to a

logic of State-platform. Its principle is to use the power of information to steer the market in the right direction.

- **Implementation of a cross-border dispute settlement mechanism** based on the mechanism provided for in Article 9 of Regulation C / REG 19/12/16[63] to extend it to other subjects than access to bandwidth.
- Others

Other potential topics

- ***Smart Cities:*** Note that there is a SmartAfrica Alliance initiative on this topic, supported by significant funding from international donors and the private sector. To avoid duplicating initiatives on the same subject, it is probably inappropriate to treat it within the AU
- ***Affordability / accessibility of services due to lack of competition;*** in regions where RECs have developed a regional framework that has been effectively transposed, there are often problems of effectiveness. Although the availability of mobile coverage or Internet access may seem good at first, offers may remain out of reach for the vast majority of the population because of their tariff.

  This problem could be solved in part by effective competition law, collaboration between NRAs and competition authorities where they exist; or by strengthening the ex-post jurisdictional powers of sector regulators in the retail market.

  Any response should take into account the available resources of the stakeholders.
- ***International Roaming***: This topic is already being addressed in the framework of the Smart Africa Alliance.
- ***Others?***

4.2.3. Prerequisite 3: Agree on the M & E methodology to be implemented

The objective of this section is to agree on the broad outlines of the implementation of a tailor-made M & E mechanism to monitor and evaluate the progress and results of harmonization of policies, legislative frameworks and regulation practices at the continental level.

However, as discussed above, there is no M & E of harmonization at the hemisphere level, if only because the AU does not yet have a framework or a policy defining precisely what to harmonize and by when.

[63] Regulation C / REG 19/12/16 on conditions for access to national and international bandwidth on terrestrial networks within the ECOWAS region

Given the gap that needs to be filled, this document proposes a pragmatic approach likely to bear fruits in the short or medium term. This approach is based on a discussion that would allow stakeholders, present at the workshop, to agree on

1. What is the appropriate mechanism of M & E and what principles / steps should be followed for its implementation?

2. The perimeter of which it is advisable to follow and to measure?

3. The simple and effective M & E tools to put easily in place?

i. What is M & E and what is it for?

M & E consists of collecting data on the progress of a project, then analyzing them regularly in order to draw conclusions in terms of project management: to what extent is it possible to to achieve the objectives assigned to the project? Is there a need to modify certain activities? Eventually, should some aspects of the project be reoriented?

Designed during the planning phase, M & E must be used continuously throughout the project implementation phase and relies in particular on indicators to be informed throughout the project, both qualitative and quantitative.

These indicators are valued by means of collection tools (tables to centralize the data collected) and decision support (dashboards and summary notes giving an analytical vision of the collected data).

M & E is a tool for steering the effectiveness of projects. It allows the following:

- Making decisions following difficult encounters
- Implementing new activities to achieve goals
- Reviewing some overly ambitious goals downward
- Facilitating multi-stakeholder decision-making on an objective basis

M & E also allows for shared understanding of the project by all actors, enabling stakeholders to speak the same language, in relation to the objectives of the project and what it actually leads to. It enables sharing and analyzing together successes and failures, deepening knowledge on the intervention sector.

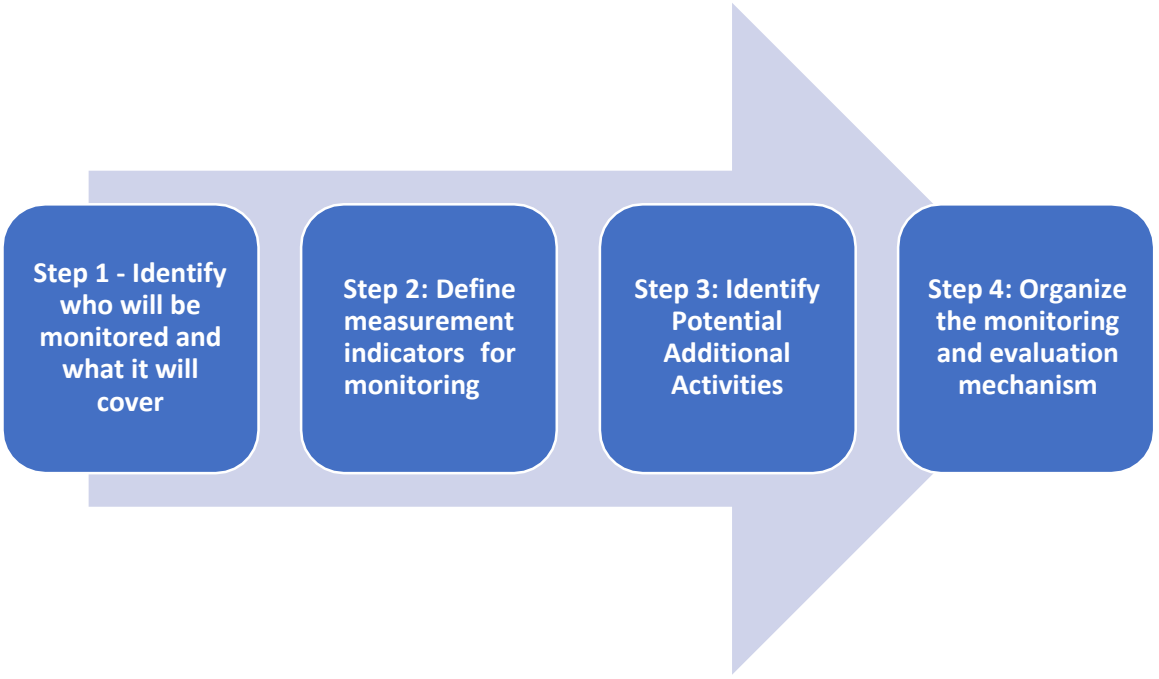
It is also used to objectively report to partners and all stakeholders on the progress of the project and the results obtained.

ii. What principles to follow when designing and implementing a realistic M & E tool

In order to be realistically implemented, M&E tool must be:

- light: it should not require too much time or investment (financial or human)
- concerted: it must be conducted with the participation of all
- Targeted: it will be a question of choosing very clearly the information which one must know and to follow and to determine the significant indicators whose number will be voluntarily limited.

The steps to follow are:



iii. AU M & E proposal for the harmonization of policies, legislative and regulation frameworks at the African continent level.

Proposal 1:

M&E for harmonization of policy, legislative frameworks and regulations is at the continental level;

Proposal 2

M&E of policy harmonization, legislative frameworks and regulations covers a limited number of regulatory priorities selected by stakeholders during the workshop

From the start of the project, each of these priorities is specifically linked to objectives, measurement indicators and results based on these indicators.

Proposal 3

Based on the discussions that will take place during the workshop, the objectives, measurement indicators and results are uniform - or not - at continental or regional level

Proposition 4

The main tool for M & E is the development of a sheet / dashboard that specifies for each of the priorities selected:

1. A regional or national champion to coordinate the activity at the continental level

2. A high-level objective,

3. Specific objectives

4. Concrete and quantifiable expected results

5. Identifying indicators to ensure achievement of objectives and results

6. Expected results on the basis of the aforementioned indicators, at what time horizon

7. An action plan with a timetable

Regulatory priority	**Conditions of entry into the telecommunications market**	
Regional or national champion	Designate a REC or country	
Sub domains	— Authorization — Special incentives (eg tax) — Other	
High level objective	Reduce barriers to market entry	
Specific objectives	— Development of Competition: — Geographical and tariff accessibility — -Quality of services, particularly in terms of available throughput — -Development of uses	
Indicators for measuring results	1) Harmonization / implementation in national law: Adoption of (the) measures to reduce the barrier to market entry 2) Harmonization / impact — Competition: Number of operators present on the national market (correlated or not with GNI population, etc.); — Accessibility: infrastructure coverage; tariffs (notably lower prices recorded over the last 3 years), etc. — Quality of services, especiallyin terms of available throughput — development of utilization: penetration rate of services (different types and levels of services to be defined)	
Expected results based on the above indicators	*On the horizon of* — *The telecommunications activity regime has been modified on the basis of the principle of a general authorization. The licenses are reserved for the right to use the spectrum* — *At least one wholesale operator and two ISPs have entered the market* — *An average rate of X Mbit is available for X% of the population* — *Retail offer rates for X Mbits are below X* — *The penetration rate of offers (3G, 4G, Adsl, Ftth ...) is greater than X%*	
Action plan	Activities	Calendar
	Activity 1: [•] *Activity 2: [•]*	*Date: [•]* *Date: [•]*

	(…)	*(…)*

Depending on the regulatory priorities chosen, the difficulty in defining the right indicators may be minor and the indicators may be very different in nature.

Thus, on a known problem benefiting from a mature regulatory framework whose implementation can be evaluated or has already been evaluated with sufficient hindsight (eg the licensing of operators since the liberalization of the market in Africa), the definition of the indicators is certainly less complex than on forward-looking topics such as digital taxation or the Internet of Things that do not yet benefit from any regulatory reference that can be measured over time.

Proposal 5

On the basis of an agreement of all stakeholders on the previous proposals 1-4, work is being undertaken and a timetable has been set for the organization and implementation of the M & E mechanism.

As such, stakeholders will agree on a two-year roadmap for i) organizing and implementing the M & E framework and ii) initiating the implementation of selected priorities. For example, you will need to:

- Finalize within a reasonable time the sheet / dashboard above for each regulatory priority
- Review of data quality and compatibility
- Identify the persons responsible for the preparation of the sheets / the approval of the sheets, the collection of data necessary for the monitoring of the indicators, the compilation and the analysis of these data,
- Implement collaborative sharing tool allowing stakeholders to access and feed the M & E process in real time
- define a timeline
- Perform the first evaluation cycle
- Discuss the potential opportunity to take corrective action relating to priorities;
- Define the model
- Design a device for regular and accessible online publication of the progress of the project and its results etc

5. Step 5: Find a roadmap agreement for PRIDA over the next two years

To be completed based on discussions with stakeholders in Addis Ababa

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*A summary of AU decisions related to ICT development / digitization / digital transformation is provided in **Annex 1** of document*

Others:

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Annexe 1 Summary of AU Decisions on the Development of ICT / Digitization / Digital Transformation

Initiatives	Date and place	Main points
Reference document for the New Partnership For Africa's Development (NEPAD) - Dated October 2001	Adopted by African leaders at the 37th Summit of the Organization of African Unity (OAU) held in Lusaka, Zambia, in July 2001 Ratified by the African Union in 2002	"**NOUS**, chefs d'Etat et de gouvernement des Etats membres de l'Organisation de l'unité africaine: […] **MANDATONS** le Comité des chefs d'Etat et de gouvernement chargé de la mise en œuvre et le Comité directeur du NEPAD de poursuivre leur tâche vitale d'élaboration du cadre du NEPAD et d'assurer la mise en œuvre du Plan d'action initial du NEPAD, jusqu'à l'évaluation quisera faite par la deuxième session ordinaire de la Conférence de l'Union africaine qui se tiendra en 2003 à Maputo (Mozambique). […]"
High Level Policy and Regulatory Framework for NEPAD's broadband ICT Infrastructure for Eastern and Southern Africa Protocol	***Not found in English***	***Not Found in English***
Resolution of the First Ministerial Meeting of the Intergovernmental Assembly (IGA) on the Implementation of the Kigali Protocol - Decision of Ministers Responsible for ICT and / or Telecommunications on Continuing Collaboration on the Development of Cable Network African submarines	***Not found in English***	Annex to the Protocol on High Level Policy and Regulatory Framework for NEPAD's broadband ICT Infrastructure for Eastern and Southern Africa

EX.CL/Dec.435 (XIII)

Thirteenth Ordinary Council

24 – 28 June 2008

Sharm El-Sheikh, EGYPT

The Executive Council:

1. **ENDORSES** the Reference Framework for the Harmonization of Telecommunications/ICT Policies and Regulations in Africa;

…

5. **URGES** Member States to ensure effective use of the Reference Framework for the Harmonization of Telecommunications/ICT Policies and Regulations and, the implementation of the Strategic Orientation and Action Plan for the Development of Postal Services in Africa**;**

6. **REQUESTS** the Commission to disseminate the Reference Framework for the Harmonization of Telecommunications/ICT Policies and Regulations, and the Strategic Orientation and Action Plan for the Development of Postal Services in Africa to all Member States and other key stakeholders as well as facilitate their application;

7. **FURTHER REQUESTS** the Commission, in collaboration with the Regional Economic Communities (RECs), specialized institutions, Member States and other stakeholders to take the necessary measures to speed up the implementation of the Reference Framework for Telecommunication and ICT, the Strategies and Action Plans for the development of a Postal Sector in Africa, and the ARAPKE with a view to developing a strong, integrated and viable Communications sector in the Continent;

Initiatives	Date and place	Main points
		APPEALS to the United Nations Economic Commission for Africa (UNECA), the African Development Bank (AfDB), the International Telecommunication Union (ITU), the World Bank, the European Union (EU), and relevant development partners to support the implementation of the Reference Framework for Telecommunication and ICT Policies and Regulations in Africa, the Strategies and Action Plans for the Development of the Postal sector in Africa and the African Regional Action plan on Knowledge Economy and its flagship projects;
EX.CL/Dec.545(XVI)	Sixteenth Ordinary Session 25 – 29 January 2010 Addis Ababa, ETHIOPIA	**The Executive Council:** **1.ENDORSES** the recommendations of the Extraordinary conference of Ministers in charge of Communication and Information Technologies **4. STRONGLY SUPPORTS** the integration of ICTs into National Imperative Programs including Education and Training Systems and the public administration with a view to produce a critical mass and increase skilled human capital as well as promote access to and use of ICTs **5. ALSO SUPPORTS** that ICT policies be mainstreamed in other sectors at national, regional and continental levels; **6. REQUESTS** the Commission to promote:

Initiatives	Date and place	Main points
		iii) A massive penetration and use of ICTs into local communities using African languages including codification programs to fit into IT standards and encourage the development of African Content-based applications to give them rightful place in the information society. Vi) Research and development in the ICT sector. **7. URGES** Member States, the Commission, United Nations Economic Commission for Africa (UNECA), the International Telecommunication Union (ITU), Regional Economic Communities (RECs) and specialized institutions in coordination with all other African ICT stakeholders to establish appropriate institutional arrangements and mechanisms to interconnect ICT backbones including national and regional Internet Exchange Points within Africa and the rest of the world with objective of lowering the tariffs and providing better quality of service; **8. INVITES** Ministers in charge of Communication and Information Technologies and Ministers of Finance to work in close cooperation at the national level, in order to identify innovative funding mechanisms to enable Member States to increase national budget allocation for mainstreaming ICTs in all sectors and also contribute to the African Union Communication and Information Technologies Fund as established by Executive Council Decision EX.CL/434 (XIII) in Sharm El-Sheikh, in June 2008;

Initiatives	Date and place	Main points
EX.CL/Dec.613(XVIII)	Eighteenth Ordinary Session 24 - 28 January 2011 Addis Ababa, Ethiopia	**The Executive Council** **2. SUPPORTS** the integration of Information and Communication Technologies into the respective National Indicative Programs, the mainstreaming of ICT policies in other sectors at national, regional and continental levels; ……. **6. FURTHER REQUESTS** the Commission to: ii) Promote the implementation of the e-Post program; **8. APPEALS** to the United Nations Economic Commission for Africa (UNECA), the African Development Bank (AfDB), the International Telecommunication Union (ITU), the World Bank, the European Union (EU), The Internet Corporation for Assigned Names and Numbers (ICANN), Internet Society, Specialized Institutions and relevant Agencies, and development partners to support the implementation of this decision;

Initiatives	Date and place	Main points
EX.CL/Dec.739(XXII)	Twenty-Second Ordinary Session 21 – 25 January 2013 Addis Ababa, ETHIOPIA	**The Executive Council,** **6. REQUESTS** the Commission to: iii) develop an updated, integrated and coherent AU strategic Communication and Information Technologies (CIT) framework for Africa in collaboration with NEPAD Planning and Coordination Agency (NPCA), Regional Economic Communities (RECs,) Specialized Institutions (SI), African Development Bank (AfDB) and United Nations Economic Commission for Africa (UNECA), taking into account existing frameworks of all African CIT stakeholders; ……. **8. REQUESTS** the Commission to seek assistance from the UNECA, the AfDB, the International Telecommunication Union, the World Bank, the ICANN, and Internet Society, Specialized Institutions and relevant Agencies and development partners to support the implementation of this Decision.
EX.CL/Dec.835(XXV)	Twenty-Fifth Ordinary Session 20 – 24 June 2014 Malabo, EQUATORIAL GUINEA	**The Executive Council,** **2. TAKES NOTE** of the following Draft Legal Instruments: c) Draft African Union Convention on Cyberspace Security and Protection of Personal Data; ……..

Initiatives	Date and place	Main points
EX.CL/Dec.900(XXVIII)	Twenty-Eighth Ordinary Session 23 - 28 January 2016 Addis Ababa, ETHIOPIA	**The Executive Council,** **3. ENDORSES** the following**:** i) The 2015 Addis Ababa Declaration and updated African Union (AU) Plans and projects of the Communication sub-sector adopted by the sector Ministers in Addis Ababa, Ethiopia; …….. **5. APPEALS** to the United Nations Economic Commission for Africa (UNECA), the African Development Bank (AfDB), the European Union (EU), the World Bank and other development partners to support the implementation of the African Union Plans and projects of the communication and ICT sub-sectors;
EX.CL/Dec.987(XXXII)	Thirty-Second Ordinary Session 25 – 26 January 2018 Addis Ababa, ETHIOPIA	**The Executive Council,** **ENDORSES** the Draft Declaration on Internet Governance that contributes to exemplify and uphold the basic tenets of an open, accessible, resilient, inter-operable Internet which led to its remarkable success today as well as form the foundation for any future engagements of all stakeholders in national, regional and international Internet-related policy making efforts;

Sources : AU