

Report on
2nd EAST AND SOUTHERN AFRICAN
WATER UTILITIES REGULATORS' MEETING



Hosted by the Energy and Water Utilities Regulatory Authority



Paradise Holiday Hotel, Bagamoyo, TANZANIA

28th – 30th May 2008

TABLE OF CONTENTS

1.	Introduction.....	2
2.	Objectives.....	2
3.	Programme Outline	3
3.1	Official Opening	3
3.2	Updates from Participating Countries.....	3
3.3	Issues of Regulators	8
3.4	Case studies of regulatory best practice.....	9
3.5	Pro-poor Regulation.....	11
3.6	The Relevance of Regulation in Sanitation Provision	12
3.7	Sustainability of Service Provision	13
3.8	Discussion of Topics on Demand	14
3.9	Future Cooperation of Regulators.....	15
3.10	Official Closing.....	16
4.	Action points.....	16
5.	Conclusions and Recommendations.....	17

Annex: List of Participants

INTRODUCTION

The second East and Southern African Water Utilities Regulators' (ESAWUR) Meeting was held in Bagamoyo, Tanzania from 28th to 30th May 2008. The meeting was hosted by the Energy and Water Utilities Regulatory Authority (EWURA) of Tanzania and organised in cooperation with German Development Cooperation.

The three day meeting brought together 35 participants of which the majority hailed from EWURA. The remaining participants were from the National Water Supply and Sanitation Council (NWASCO) in Zambia and the Water Supply Regulatory Council of Mozambique. The Water Services Regulatory Board (WASREB) was unable to send a participant due to internal institutional conflicts between the Board of Directors and the Ministry of Water in decision-making. Therefore WASREB was represented by its GTZ Advisor. Rwanda failed to send any representation because it was unable to get traveling authority. Among the participants were two observers from GTZ in Algeria.

The second ESAWUR meeting was a follow-on to the first meeting held in Lusaka, Zambia in February 2007 as agreed by the Regulators for an informal forum for discussion of common issues to the region.

1. OBJECTIVES

The main objective of the meeting was to share experiences and knowledge on the following issues of common interest:

- Issues of Regulators
- Case Studies of Regulatory Best Practices
- Pro-poor Regulation
- The Relevance of Regulation in Sanitation Provision and
- Sustainability of Service Provision.

The meeting also sought to reach final agreement on the future cooperation of regulators vis-à-vis a Memorandum of Understanding.

2. PROGRAMME OUTLINE

DAY ONE

2.1 Official Opening

The meeting was opened by the Tanzanian Deputy Minister for Water and Irrigation. There was self introduction by each participant, followed by a statement from the Director General of EWURA and a welcome note from the Board Chairman of EWURA. In the speech read by the Deputy Minister he said that Regulator's have a big task ahead. He gave an example of a constituency he recently visited where customers were so unhappy with the water utility there that they asked the D. Minister to remove it. The customers said the utility must provide water before billing them. The D. Minister went on to laud the usefulness of the ESAWUR meeting and reminded participants of the functions of a regulator and that the challenge is to change the mindset of water users and culture paying. "Water is only free when resting at the source; it costs money to bring it to users." In ending his speech, the D. Minister implored the Regulators not to forget the sanitation challenge. He said that he had noticed large pieces of land being used for sewerage ponds and in light of an ever growing population, he called for the exploration of new technologies to treat sewer. Finally a vote of thanks was given by the Chief Inspector of NWASCO.

2.2 Updates from Participating Countries

Each country was asked to give a short description with regard to the developments, achievement and challenges that each country has come across since last meeting.

ZAMBIA - NWASCO

- As part of mandate provide information to public through annual performance sector reports. The latest sector report has been launched within the reporting period for the second year running.
- Most year 1 activities from the strategic plan have been achieved.
- Increased monitoring capacity by increasing number of part time inspectors and water watch groups and strengthening consumer watch groups.
- The Devolution Trust Fund increased access to the poor and 110,000 people are now benefiting with access to clean water.

- Commercial utilities regulated increased from 9 to 10 with 2 more under formation in 2 provinces. This will result in over 95% of the urban population served by CUs by the end of 2009.

Challenges:

- On sanitation: coordinating feasible programmes within utilities
- Water supply infrastructures are still poor

Discussion

- ❖ What are Incentives which can push service providers perform better?
- ❖ How are customers involved and is there any conflict with providers?
- ❖ How does NWASCO finance water watch group and are they reflected in NWASCO Acts?
- ❖ Is the movement from WWGs to Consumer WGs an improvement?

TANZANIA – EWURA

- It is the only multi-sectoral regulator in the region. Regulating water and sewerage services (other are electricity, petroleum and gas)
- Regulating approximately 85 utilities (but they are expected to grow further)
- It is still in early stages of institutionalizing its staffing level, capacity building and developments
- Has licensed a total of 17 utilities from the 2 utilities reported in first meeting
- Approval of 16 tariff application reviews from 2 last year
- Reporting from utilities on monthly basis through IT system (i.e. Majis). First reports is due for the 2007/8 financial year.
- Divided the country into five operational zones for close monitoring
- Settle disputes between customers and service providers.
- Established Consumer Consultative Council and Government Consultative Council on decision making regarding tariff application

Targets in coming year:

- Benchmarks will be prepared in 2008/2008
- Public awareness on role of EWURA
- Conducting rapid assessment, currently 17 utilities have already been assessed
- Prepare performance measures and quality of service standards
- Prepare guidelines for multi-year tariff setting

Challenges:

- Increased number of utilities to be regulated, thus increased burden
- Sector legislation is in process that will assist to prepare rules and regulation for monitoring purpose
- Expectations from stakeholder (utilities, government and consumers) to be met
- Utilities in water sector (urban and district level) are at different levels which brings about difficulties in their regulation i.e. setting performance targets

Discussion:

- ❖ How are issues raised by customers considered by EWURA in its decision?

ANS: Public hearing is conducted where all stakeholders are invited; CCC and GCC also give their views. Service providers give explanations on the raised major issues at the public hearing as well as in writing. Analysis is then done by taking into consideration all issue raised and clarifications received. However some raised issues are taken as part of conditions in the approved tariff.

- ❖ What is a disputes settlement process and how is GCC linked to government setup?

ANS: EWURA allows providers to settle complaints amicably, and if not settled the disputes is brought to EWURA which conducts hearing and a decision is reached. If any party disagrees then appeal is made to Fair Competition Tribunal (FCT). So far EWURA has handled only one dispute.

GCC is comprised of members from the government departments from all sectors regulated by EWURA and their appointment is done by respective Ministry.

KENYA – WASREB (through GTZ Kenya participant)

- There were few service providers last year. Now over 125 providers with almost half in urban areas and half from rural areas.
- Started setting guidelines on service provision i.e. tariff, quality of service
- Implementation of IT system for comparison purpose
- Reporting in Kenya was neglected, thus no enough information is available
- Coverage of operational cost for regional water boards / utilities
- Collection efficiency is good although the tariff is high relative to other utilities in the region

Challenges

- Poor governance in the sector. The Boards are spending large amounts of institutional operating costs for allowances -more than 10% of their O&M
- Kenya water sector reforms: Assets are still owned by Local Councils and the service providers are paying lease fees to regional boards. Though the policy is clear that all assets belong to the Water Service Boards, there is no political will to transfer assets from the Councils. Thus clarity of asset holding is needed as the current scenario has negative effect on income of the WSP.

Discussion:

- ❖ What is the setup in rural areas?
- ❖ Governance and independence issues of a regulator, why do decisions go back to the Ministry?
- ❖ Do original water boards still oversee both water supply and water resources management?
- ❖ On lease of assets, how is the fee paid (LGA)?

ANS: According to the laws any place with 200 households can have/form water supply provider (they have a simplified setup). Ministry just advises the regulator on policies and Government plans. Two regulators are in place now, one for water supply and the other for water resources. Assets are owned by Local Councils and they receive the fees.

MOZAMBIQUE – WATER REGULATORY COUNCIL

- Government have opened up for “Water Regulatory Council” to be a national regulator. They are now preparing to undertake sanitation issues
- Management contracts do exist with operators management staff
- Tariff reviews, reporting etc is still a problem to the council. They plan to work with lowest level of governing bodies termed as “secretariats”
- Piloting some areas by delegating some powers (Delegation System) to Municipalities
- Sanitation was in the hands of Municipalities and water supply was governed by Central government, this brings about a need to replan the setup
- Have started benchmarking between different providers ability
- Investment is now being made to give more value to the service
- Small scale providers who were existing have to be taken on board by bigger utilities as they can't be neglected (which in some areas has raised conflicts)
- There is need to revise the powers of the regulator to sanction or punish non-performing providers

Challenges

- Setting of tariff and reviewing powers to asset holders
- Peri-urban areas is a new challenge : thus new policies are being set to accommodate these new challenging issues

Discussion

- ❖ What structures are in plan to accommodate new towns and what plans are on sanitation issues?

ANS: Plan is to have “Delegation of powers” to have small scale providers for effective management; Currently Local authorities and Government do own assets, they are now revising so as to have a room for new investment to become “independent” and be able to operate and accommodate all operational issues for a while and later these investments can be handed over to the Local authorities

ALGERIA – GTZ Consultants

Actual state on ground:

- Population 32million people; 80% are in northern part of the country; gets 5mm of rainfall; 90% of households are not served on daily basis; 50 – 60% of water supplied is lost (UfW); 2 – 5% of wastewater is treated; 50% of the bills are not paid; demand in rehabilitation is high; there is high public awareness because media do report a lot of issues that do happen in relation to water

Measures taken by the sector:

- Need for new investment in water sector
- Need for regulation in the sector
- Decentralization of system service provision (Through PPP)
- Working with ministry to develop regulation in existing context and cope with emerging conflicts
- Development of regulation measures have started

Challenges:

- There is conflicting future in water service provision, thus need for revised laws
- Creation of independent service providers
- Qualification / experience in personnel has to be developed (increase capacity within water sector staff)

Discussion

- ❖ What are the strategies for unpaid bills? Who are the main debtors (government or private individual?)
- ❖ How long have private companies have been in place

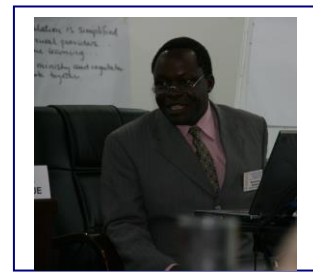
ANS: Government departments are main debtors, Rationing affects the bills payment from the customers and the solution is to increase water supply (but it needs new investment)

Private companies have been operating since 2005, but there is no major change to-date. Most have 5year contracts to operate but there is no transfer of knowledge to the local people.

2.3 Issues of Regulators by Eng. Mutegeki, EWURA

The presentation focused on

- What EWURA does
- Definition of Regulation
- Division of Responsibilities in Regulation
 - *Government takes responsibility for deciding policy and supervision of its overall implementation.*
 - *Regulator has responsibility for implementing policy by applying established regulatory and competition principles, and has substantial autonomy.*
 - *Operators have the responsibility for providing service to customers on terms permitted by law and regulation.*
- Six measures of regulation
 - *Clarity of roles and objectives*
 - *Autonomy and Independency of a regulator*
 - *Accountability of regulator*
 - *Participation by public*
 - *Transparency of process and*
 - *Predictability of outcome*



Discussion:

- ❖ Is 1% levy enough to cover operation costs?
- ❖ Is Multi-sectoral regulation an obstacle?

ANS: EWURA experience: 1% levy is not enough if only water is considered, thus multisectoral regulation does help to subsidize the operating costs and currently it covers 60 – 70% of the costs. Some Donors are currently funding EWURA in its operations

NWASCO experience: Changed from 1% to 2% levy (**of billed amount**). Some funds are available from other sources as well

CRA experience: Charging 2% levy (**of billed amount**). But providers are requesting to revise the 2% levy to be from the collected amount and not billed amount

WASREB experience: Charging 1% levy from billed amount which covers 75% of the costs and the remaining 25% is covered by Ministry.

Regarding appeals and in the independence of the Regulator: In Mozambique, once the board has decided, the decision is published in the gazette and there is no room for appeal. If there is a need of appeal they have to go to the Arbitration Court. And they have to cover their appeal costs

3.4 Regulatory Best Practices –Incentives to Improve Performance of WSPs. by Yvonne Magawa, NWASCO

The presentation focused on

- Benchmarking and ranking to induce comparative competition
- Incentives are provided in terms of:
 - *High reputation – best performer*
 - *High publicity – to stakeholder, consumers etc*
 - *Increase in morale - by cash award, trophy etc*
 - *Media awards – to publishers and reporter that publicize the sector activities*
- “Performance Oriented Incentive System POIS” which targeted staff of WSPs with two fold objectives
 - *Introduce essential management instruments for performance management and HRD*
 - *Link financial and non-financial rewards to performance*



Discussion:

Mozambique experience: Maputo is difficult to start benchmarking, they are planning to start at south and later come to the North

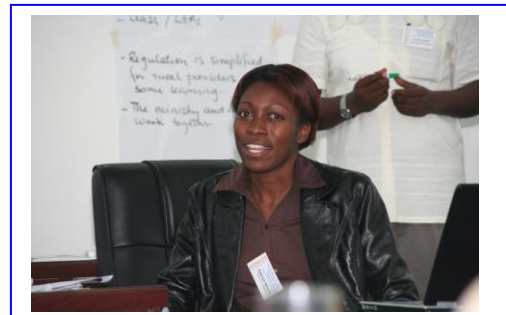
Kenya experience: Have grouped service providers into 4 categories with similar nature and experience. Similar sized providers are compared and regional averages are then found. Competition between board/providers is held i.e. on number of connections. This approach is similar to Zambia. Information tools are used to publicize the rewards. Few selected indicators are used and evaluation is set to reflect in tariff i.e. 5% increase for 3 years can easily be adjusted if provider performs better

- ❖ In Tanzania some providers are cheating just to win a trophy. How is it checked in other areas? In Zambia, submitted data is verified against inspections by part-time inspectors and analysis of data done on regular basis.
- ❖ Remuneration to provider's staff (as incentive) is micromanaging the providers!!!

3.4(b) Regulatory Best Practice: Consumer Participation in WSS Provision by Katendi Wandu, NWASCO

The presentation focused on:

- Role and functions of Water Watch Groups (WWGs)
- The use of Part time inspectors (PTIs) in monitoring service and
- Implementation of a Communication strategy to create awareness on sector developments



Discussion:

- ❖ Are WWGs working for NWASCO as employees? How is it budgeted?
- ❖ How is Part time inspector's credibility checked?

The NWASCO part-time inspector gave a short description of the concept.

- ❖ Setup of Consumer watch groups – how is it agreed upon between different regulators (water, electricity and telecommunication)
- ❖ Do WWG / CWGs participate in tariff review?
- ❖ Illegal connections is a big problem (i.e. Mozambique), does WWG or CWG assist in combating the problem.

DAY TWO

3.5 Pro-poor Regulation, by Clara Santos, CRA

CRA focused its presentation on peri-urban regulation and highlighted the following:

- Institutional organization and responsibilities
- Current Legal framework for low income people
- Regulation to the peri-urban areas
 - ✓ Yard tap water resale
 - ✓ Standpipes
 - ✓ Small Scale Independent Providers (SSIPs).



In Maputo there are about 300 SSIPs supplying around 200.000 households; CRA recognises the relevance of the SSIPs and is preparing to regulate them as soon as they have been integrated/formalized in the national water supply framework;

- Partners of CRA in peri-urban areas that include Municipalities, Water Aid, Care Intl etc.

Discussion

- ❖ How to make sure the poor are catered for since there is no distinction in the peri-urban areas?
- ❖ Does CRA regulate the SSIPs?
- ❖ How to handle the resale policy?
- ❖ What is the strategy to ensure sustainability if private operator is gone?

Ans: In Mozambique it is difficult to separate the poor from the not so poor. Whereas in Tanzania the community identifies who is poor and the users manage the system and cross-subsidize among themselves. In Mozambique only people from the standpipes benefit from cross subsidization. CRA regulates SSIPs indirectly and are still looking for a partner to reverse or legalise the resale of water in order to regulate it. Further, the cost of the resold water is much higher than the

domestic. According to the definition of MDGs, resale is not considered access to water but in Mozambique over 26% of the population in Maputo is served by resale and this cannot be ignored as a reality. An alternative would be to subsidize or give free household connection to the poor as done in Uganda so that the customers can enjoy the cheaper domestic service.

3.6 The Relevance of Regulation in Sanitation Provision, by Andre Lammerding representing WASREB



This guided work session focused on how Regulators can contribute to improve access to basic sanitation. The following suggestions were made through group work:

- ❖ Make sanitation part of tariff condition for adjustment approval- ensure consumers are connected to sewer network
- ❖ Sanitation must be part of business and investment plan
- ❖ Regulator defines level of Sanitation/Sewer surcharge and is included as part of water bill
- ❖ Direct utilities to Ring-fence funds (~ 3%) from water collections/billing towards sanitation
- ❖ Establish tariffs for public facilities with delegated management from regulated provider
- ❖ Allow utilities to create budget for awareness creation under heading 'environmental protection of sources'
- ❖ Utilities can subsidize sewer connections- allow for cross subsidization between sewer and water
- ❖ Explore regulation of charges for emptying pit latrines and septic tanks –disposal into stabilisation ponds
- ❖ Establish standards for on-site sanitation facilities/technologies
- ❖ Force or influence law to compel those near sewer networks to connect.

3.7 Sustainability of Service Provision, by Felix Ngamlagosi, EWURA

This work session focussed on what the Regulator's perceived as important to sustainability of service provision. The following were points made through Zope work:

i). Tariff Reviews

- ❖ Full cost recover including depreciation
- ❖ Prudently incurred costs allowed in tariff
- ❖ Fair tariff in relation to quality of service
- ❖ Mutli-year tariff
- ❖ Link tariff to performance targets



ii). Autonomy of Providers

- ❖ Governing structure should be well defined with legal mandate and evaluation criteria for appointment of board members
- ❖ Legal framework should be free or have limited political interference/influence
- ❖ Providers should not enjoy complete autonomy
- ❖ Asset ownership

iii). Financing of Service Providers

- ❖ National Investment Plan
- ❖ Subsidising of small operators
- ❖ Government should assist in initial investment
- ❖ Establish appropriate investment mechanism
- ❖ Regulator must approve investment plans
- ❖ Prioritisation of investment

iv). Awareness

- ❖ Demand awareness programme and follow-up implementation
- ❖ Advocate budget for activities
- ❖ Formulate regional awareness groups

v). Monitoring Indicators

- ❖ Regular inflow of information/periodic reporting
- ❖ Define key performance indicators and input parameters
- ❖ Information management system
- ❖ Qualified feedback on reports
- ❖ Performance evaluation

DAY THREE

3.8 Discussion of Topics on Demand

The observers from Algeria requested discussion on minimum service standards that have been defined by the various countries and whether metering is included in these as well as what relationship exists between service providers and local government authorities.

Feedback from AFUR

Member countries gave the following feedback on the recently held AFUR meeting in Ghana:

- ❖ Water was given a low profile and it seems the issue is largely ignored by AFUR. This has made water regulators reluctant to pay membership fees when there is no corresponding value. Furthermore, the paying of US\$5,000 subscription fee by each regulator in a member country was questioned and felt should be looked into.
- ❖ On the positive side, AFUR is promoting regional groupings and the recently approved budgets includes a component for supporting such.

3.9 Future Cooperation of Regulators

The meeting reached the following agreements regarding the following components of the draft MoU from July 2007:

- ❖ **Define relationship with AFUR**
- ❖ **1.0 Parties:** Establish a formal regional association of East and Southern African Water Utilities Regulators
- ❖ **2.0 Legal Effect:** ESAWUR shall have a legal personality and each member shall register the association in their respective country
- ❖ **3.0 Objectives:** No changes yet. These will be commented on after the amendments.
- ❖ **4.0 Membership:** Each member shall pay an initial membership fee and thereafter an annual subscription fee approved by the AGM. The criteria used to determine the fees shall be approved by the AGM. New members will apply through the Coordinator and circulated to all members for approval at the AGM.
- ❖ **6.0 Administration:** The organs established are:
 - **Coordinator**-to be the same as the hosting country for a period of one year
 - **Secretariat**- that will be responsible for coordination and management of the association. The secretariat will be centrally hosted for continuity and accountability purposes in one member country to agreed upon by the AGM. The secretariat will be composed of one representative from each member country. The host country will be responsible for administration of ESAWUR funds.
- ❖ **The following components were also added to the MoU:**
 - **Guiding principles**
 - **Dissolution of ESAWUR**

The next ESAWUR meeting is scheduled for May 2009 in Maputo, Mozambique to be hosted by CRA. Thus CRA is the Coordinator for the next 12 months.



3.10 Official Closing

The meeting was officially closed by the Chairman of the EWURA Board. The newly appointed coordinator - the CEO of CRA gave a speech summing up the discussions of the three-day meeting. CRA then invited the GTZ head of the water programme in Tanzania to also give a speech after which the Director General of EWURA invited the Chairman to declare the meeting officially closed.



4. ACTION POINTS

The following need to be followed up before the next ESAWUR meeting:

Task	Responsible	Deadline
Invite a member of the AFUR secretariat to the next meeting	Coordinator	April 2009
Draft amended MoU with agreed components and circulate to drafting committee and El Iza Mohammedou from AFUR	EWURA - legal counsel	16 th June 2008
Circulate draft MoU to member countries for comments	NWASCO-IT Specialist	24 th June 2008
Finalise comments from member countries	EWURA - legal counsel	18 th July 2008
Circulate Final MoU for ratification in Member Countries	NWASCO-IT Specialist	21 st July 2008
Agree on signing modalities among member countries	CRA-legal counsel	24 th October 2008

5. CONCLUSIONS AND RECOMMENDATIONS

The three day meeting yielded very fruitful discussions in the issues common to the regulators. In the round of feedback from participants, most cited the discussion of sanitation as highly educational. The objectives of the meeting were well achieved with very active participation from all in attendance.

What was important to note is that though the issues of Regulation are common, the various regulators operate in different environments and this must be taken into consideration in such a forum. Mozambique only regulates water and not sanitation and the presence of SSIPs is very prominent and a challenge to the regulator. Tanzania with a recently established regulator just over a year old has made great strides in water and sanitation drawing largely from the Zambian experience and adapting to their own situation. Kenya is struggling with issues of good governance and hope that an appropriate guideline will redress this situation to allow the sector move faster. The discussion must therefore endeavour to propose options that to an extent encompass various situations in order to benefit as many member countries as is feasible.