African energy transition policies and regulatory developments - Part 2

African countries are gearing up for the energy transition by implementing policy and legislative frameworks that take into account the energy crisis and the need for a renewable, decarbonised, decentralised energy supply that addresses climate change and the commitments made under the Paris Agreement. Ahead of COP27 in Egypt in November, lawyers across Africa have outlined the efforts taken by the governments in their countries to address this urgent need to harness renewable power. In part two, we hear from lawyers in Nigeria, South Africa, Tanzania and Uganda.

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Nigeria

Oludare Senbore, Partner at Aluko & Oyebode in Nigeria:

Following the decisions taken during COP26, the President of Nigeria announced the intention for Nigeria to achieve a net zero emission target by 2060.In order to achieve this objective, the Federal Government of Nigeria on 24 August 2022, launched its Energy Transition Plan (ETP). The ETP, which was launched by the Vice President on behalf of the Federal Government of Nigeria, has a double-pronged objective of achieving universal access to energy by 2030 and a net-zero emission target by 2060.

The foregoing actions support Nigeria's energy transition drive, which includes an updated Nationally Determined Contribution (NDC) under the Paris Agreement that was submitted in May 2021, and which highlights the country's commitment to reduce greenhouse gas emissions by 20% unconditionally, and a conditional reduction target of 47% by 2030. This was followed up with the enactment of the Climate Change Act 2021 in November 2021, which provides a framework for achieving low greenhouse gas emissions (GHG), inclusive green growth and sustainable economic development in Nigeria.

An additional legislative action by the Federal Government of Nigeria is the Petroleum Industry Act of 2021, that empowers the Nigerian National Petroleum Limited (a state-owned oil company) to engage in the business of renewables. This further

confirms the country's drive for energy transition, as do proposed amendments to the Electric Power Sector Reform Act, which provide that distribution companies must ensure that a portion of the electric power that they purchase must be from renewable sources. This is supposed to provide support for the growth of renewable power projects.

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South Africa

Kieran Whyte, Partner and Head of the Energy, Mining & Infrastructure Industry Group at Baker McKenzie in Johannesburg:

South Africa is in dire need of a clean, reliable and secure energy supply to get out of its negative growth spiral. As a result, the country is moving forward towards just energy transition and the increased utilisation of renewable energy.

At COP26 in November 2021, it was announced that the governments of France, Germany, the United Kingdom, the United States and the European Union had pledged $8.5bn in first round financing to assist South Africa with energy transition projects. On 20 October 2022, the South African cabinet approved an investment plan for the $8.5bn package, the details of which are expected to be announced at COP27. The South African government said the plan outlined the investments required to achieve the country's decarbonisation commitments, while promoting sustainable development, and ensuring a just transition for affected workers and communities.

A just transition takes into account the requirement to balance the reduction of carbon emissions with the impact of this transition on employment and the need to develop long-term green energy jobs, especially in communities that have a current heavy reliance on fossil fuels. Coal remains the primary source of energy for the country, but in order for South Africa to reach its reduction in carbon emission targets, this must change. South Africa updated its NDC under the Paris Agreement in 2021 and now has a proposed revised target range of 398 to 510Mt CO2-eq for 2025, and 398 to 440Mt CO2-eq for 2030.

The National Development Plan (NDP), the draft Integrated Energy Plan (IEP) and the Renewable Energy White Paper outline the policy foundation for energy transition in South Africa and the move away from carbon-fuelled energy. The Integrated Resource Plan (IRP) 2019 covers the government's plans for power until 2030 and outlines a decreased reliance on coal-powered energy and an increased focus on a diversified energy mix that includes renewable energy, distributed generation and battery storage.

The Renewable Energy Independent Power Producer Procurement Programme (REIPPPP), introduced in 2011, outlined the procurement of renewable energy in the country. The sixth round of the REIPPP kicked off in 2022 and this round aims

to procure 2.6GW of solar and wind power. To incentivise the self-generation of renewable energy, the South African government has also indicated that it proposes to scrap the threshold for distributed energy generation of 100MW, meaning that large scale power plants in excess of 100MW could be built without a licence, to meet their own demand and to sell to the grid.

In February 2022, the South African Hydrogen Society Roadmap (HSRM) was published by the South African government. The Roadmap is considered to be an important marker on its path towards implementing hydrogen development, which is envisaged to be at the centre of South Africa's strategy for economic growth and mitigating climate change. Further, the Climate Change Bill was introduced into South African Parliament in 2022 and outlines steps for climate change mitigation and the move towards a climate resilient economy. Other tools in the just transition toolbox include the introduction of a carbon tax and carbon offsetting schemes, designed to tax/incentivise the reduction in carbon emissions.

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Further policies such as the National Energy Efficiency Strategy and the Green Transport Strategy also have a role to play in ensuring the country meets its climate change targets and reduces its carbon emissions. Trading in carbon offsets in the carbon market, where companies can pay other entities to offset their emissions for them, is growing in popularity in emerging markets. In August 2022, the Johannesburg Stock Exchange announced that it was investigating the possibility of introducing a carbon trading market in South Africa.

As part of a diversified energy mix strategy, Eskom recently identified eighteen independent power producer bids in terms of an auction relating to the use of vacant land it owned in Mpumalanga, situated in proximity to its coal-fired power stations, with direct access to the national transmission network and the enabling of wheeling. The projects will add approximately 1,800MW of renewable power to the South African grid.

The Department of Minerals Resources and Energy (DMRE) is proposing a number of amendments to the Electricity Regulation Act, which came into effect in 2006. The amendments are likely to address, inter alia, the electricity supply deficit, the vertical structure of the market and the lack of competition, the introduction of a multi-market including independent power producers (IPPs) and the formation of a central purchasing agency. The amendments will also address the introduction of a day-ahead market to accommodate hourly supply and demand, the direct procurement of power by municipalities, the increase in the threshold pertaining to self-generation, the need to accommodate low carbon-emitting generation technologies, the timing of licensing applications, changes in transmission system operation including power trading ,and the creation of additional regulatory capability.

The lack of access to power has had a significant impact on the private sector in South Africa for some time, and the country's energy policy developments, which are aligned with the global energy transition towards a clean and decentralised energy system, have been welcomed as a means to improve access to decarbonised, affordable renewable energy that takes into account the country's carbon reduction commitments and economic growth requirements.

African energy transition policies and regulatory developments - Part 1

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Tanzania

Shemane Amin, Partner at A&K Tanzania:

Tanzania has refocused its attention on the energy future, with the Ministry of Energy actively pursuing investment opportunities in renewables to improve the country's energy mix. This is specifically in relation to solar, wind and geothermal opportunities - and to add more renewable energy sources to the national grid to meet the country's growing demand for power.

The Government of Tanzania is targeting an electrification rate for the entire country of 75% by 2035 and in the next six to seven years is striving to add 2 GW of renewables to the grid. In order to attract these investments, the government is striving to create a more conducive business environment in which such power projects can be sustainable, this includes providing investment incentives. In the 2022 budget speech, the Ministry of Energy highlighted, among other things, the establishment of the Renewable Energy Strategy and Roadmap. In a nutshell, the refocus on the energy future and the momentum behind renewables in Tanzania make this a key area to watch for investors.

Uganda

Arnold Lule Sekiwano, Partner at Engoru, Mutebi Advocates in Uganda:

There are a number of policy initiatives which have been passed purposely to facilitate energy transition in Uganda. Such policies include the Climate Change Policy 2015, which focuses on the use of alternative renewable energy sources such as solar, biomass, mini-hydro, geothermal and wind; and the Renewable Energy Policy (2007), which forms the basis of the underlying framework for renewable energy.

Furthermore, Uganda's Vision 2040 has also emphasised clean sources of energy to avert climate change. These policy initiatives have culminated into the recent enactment of the Climate Change Act, 2021. The Act governs the national response to climate change. One of the stated purposes of the Act is to give effect to the UN Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement. Generally, there is an increased focus on the utilisation of renewable energy resources and technologies in Uganda and a regulatory focus that supports energy transition.

Read Part 1 of this article here.