

Summary of Discussions
Special (12th) Meeting of the Regional Power Trade Coordination Committee
(RPTCC-12-A)
Bangkok, Thailand, 28-29 March 2012

Objectives

1. The Special 12th RPTCC meeting (RPTCC-12-A) was held mainly to continue discussions on the inter-governmental MOU to establish the Regional Power Coordination Center (RPCC), which will oversee the evolution of the GMS power market toward a more open, but appropriately regulated competitive market. More specifically the meeting will: (i) firm up and finalize the inter-governmental MOU to establish the RPCC; and (ii) start the process for internal review/endorsement of the MOU by the GMS countries and aiming to sign this MOU/Agreement at the 18th GMS Ministerial Conference (MC) to be held in the 4th quarter of 2012. In addition, the meeting will take up the terms of reference and work plan of the two working groups (WGs) as agreed in the last (RPTCC-11) meeting, namely, the WG on Regulatory Issues and the WG on Performance Standards and the Grid Code. A draft agenda for the meeting is attached for your kind reference (Annex 1).
2. The RPTCC-12-A meeting was held in Bangkok, Thailand on 28-29 March 2012 and co-organized by the Energy Policy and Planning Office (EPPO), Ministry of Energy (MoEN) of Thailand and the Asian Development Bank (ADB). It was attended by RPTCC nominees of the six GMS member countries, as well as by representatives of ADB, Swedish International Development Cooperation Agency (Sida) and the World Bank (WB). Attached is the list of RPTCC-12-A participants (Annex 2).
3. The RPTCC-12-A meeting was co-chaired by Mr. Samerjai Suksumek, Deputy Director General, EPPO of Thailand and Mr. Anthony Jude, Director, Energy Division (SEEN), Southeast Asia Department (SERD), ADB.

Opening Session

4. Mr. Samerjai Suksumek, Deputy Director General, EPPO, MoEN, Thailand, warmly welcomed the participants to the meeting and noted that the special meeting aims to discuss the work of the working groups on addressing regulatory barriers and on promoting performance standards and grid code, and to firm up the proposed MOU to establish the RPCC. He thanked ADB for its support in enhancing sustainable development in the GMS, and wished everyone fruitful deliberations and a pleasant stay in Thailand.
5. Mr. Anthony Jude, Director, SEEN, ADB noted that the meeting will continue discussions on the inter-governmental MOU to establish the RPCC, which has been targeted for signing at the 18th GMS Ministerial Meeting in PRC late this year. He stressed that the RPCC signifies stepped up institutional coordination to manage the development of GMS power trade, and the draft MOU that will be considered contains agreements so far among the countries with respect to the RPCC's objectives, design issues, and governance structure, among others. He explained that institutional strengthening through the RPCC will align GMS energy cooperation with the new GMS strategic framework (SF) which is focused on software to help build connectivity and promote multi-sector coordination. He noted that the MOU may be finalized in subsequent RPTCC meetings prior to the GMS Ministerial Meeting later this year, but that more

work lay ahead before the RPCC is made fully operational. Furthermore, given energy-environment linkages and the effects of climate change, the subregion is required to adopt a more informed approach to balance economic growth with environmental sustainability under the GMS Energy Road Map. This will involve careful consideration of various energy supply as well as demand management options. The RPCC will have a Technical Group on Environment to ensure consistency of energy programs with environmental guidelines.

Set Up of Working Groups on (i) Regulatory Issues and (ii) Establishing Performance Standards/ Grid Code (TORs in Annex 3)

6. Mr. M. Caubet, Consultant, presented the draft terms of reference (TORs) for the two working groups, explaining the WGs' rationale based on earlier GMS agreements and work plan to promote power trade.

7. He discussed the purpose of the WG on regulatory issues, which will mainly ensure compatibility in technical operations of power systems and functioning of new financial mechanisms at the regional level. He detailed the WG's establishment and composition, meetings and minutes, decision and reporting, responsibilities, budget, and indicative work plan. Among the responsibilities include recommending to the RPTCC the market design and steps to create an open, transparent GMS power market, revising the road map towards an integrated power market, and addressing the requirements of the market design, such as unbundling TSOs and DSOs¹ from generation and supply and setting up competitive market structures.

8. He discussed the purpose of the WG on establishing performance standards and grid codes, which will mainly implement common standards for operational security, reliability and quality of supply of the GMS interconnected system, encourage integrated planning of power system expansion and ensure non-discriminatory access to the interconnected system for users. He also detailed the WG's establishment and composition, meetings and minutes, decision and reporting, responsibilities, budget, and indicative work plan. Among the responsibilities include recommending to the RPTCC, the performance standards and components of the regional grid code, review the code's scope and structure², and monitor its implementation and enforcement.

9. **Discussions/Finalization of TOR.** Mr. Kim (ADB) stressed that the creation of the WGs is an interim arrangement, whose functions would be transferred to the RPCC when the latter is established. He proposed that the term of the Chair of each WG be extended until such time the WGs' function is taken over by the RPCC. Thailand noted that while it supports in principle the WG initiative, a number of provisions of the TOR would need further discussions among the countries given their obligatory nature and sensitivity to GMS members' other international commitments. ADB recognized these concerns and agreed that the TORs would need to be further refined and simplified, but stressed that the WGs were needed prior to full RPCC operation.

10. **Updates of Countries' Nominations, Selection of Chair/ Co Chair.** It was proposed that Thailand chair the WG on Performance Standards and Grid Code and Viet Nam chair the WG on Regulatory Issues; the Secretariat for each WG would be the utility where the chair comes from. ADB would continue to provide technical support to the WGs and would finance

¹ Transmission System Operators (TSOs) and Distribution System Operators (DSOs)

² Includes codes on Planning, Connection, Operation, Interchange Scheduling and Balancing, Data Exchange, Metering, and System Operator Training

government officials' participation in WG meetings as necessary. ADB requested the power utilities to consider self-financing their representatives to WG meetings.

11. The GMS countries agreed in principle to the creation of the two WGs. Cambodia and Myanmar reiterated the need for ADB financing of WG activities given internal budget constraints. PRC noted that the proposed WG TORs were rather broad and some overlapped with the functions of power utilities. PRC suggested that ADB act as Secretariat to continue its honest broker role. The following key points were agreed upon:

- a. Thailand to chair the WG on Performance Standards/ Grid Code, with PRC as co-chair; however Thailand would need to consult EGAT on the WG arrangements.
- b. PRC to chair the WG on Regulatory Issues, with Viet Nam as co-chair.
- c. The organization where the chair comes from would act as the Secretariat for each WG, with ADB providing technical and financial support if needed.
- d. Power utility representatives to self-finance their participation in the WG meetings.

Review of Work Plan/ Timetable of WG on Regulatory Issues

12. **Measures and Institutional Arrangements.** Mr. Caubet presented the work plan and activities (2012-2015) of the WG on regulatory issues, which were based on the milestones set under MOU-2 and RETA 6440. The milestone under MOU-2 included completing the study identifying regulatory barriers to power trade and consider for adoption measures and institutional arrangements to address these barriers. Another MOU-2 milestone was to complete the study on stage 2 transmission regulations to allow third party access in interconnections, giving priority to contracts/PPAs and dispute resolution mechanism. Priority activities included a review of proposed market design for the GMS, review of the updated road map towards an integrated market and consider steps to achieve national and regional wholesale power market.

13. **Discussions.** PRC suggested that functions of WGs should be clearly defined to avoid overlaps and duplication in work. The GMS countries suggested a review and update of the study on regulatory barriers. ADB requested information from the countries on the changes since the study was completed. PRC suggested that ADB draft a questionnaire for the countries to supply the needed information. Mr. Caubet stressed that such updating could be done by the WG since its members have the access to the information required, and they have with them the findings of the study under RETA 6440, which was only recently completed.

14. It was noted that some milestones scheduled for 2012-2013 can be realistically achieved within a relatively short time period, and which can be worked on in advance of RPTCC meetings. Thailand proposed studying carefully the proposed activities under the WG especially their timing and links to the proposed RPCC MOU. Given these points, it was agreed to revise the proposed work plan of the WG to reflect the fact that the study findings under RETA 6440 would need to be reviewed and endorsed to the RPTCC for adoption, with revised timetables.

Review of Work Plan/ Timetable of WG on Performance Standards and Grid Code

15. **Transition Arrangements for Achieving GMS Performance Standards, Study on GMS Grid Code, Etc.** Mr. Caubet presented the work plan and activities (2012-2014 and onwards) of the WG performance standards and grid code, which were based on the MOU-2 milestones, which included reviewing and completing studies on performance standards, transmission regulation and GMS grid code, and consider their adoption by the RPTCC.

Coordinated in-depth network studies would be undertaken to validate proposed performance standards. Proposed policies for consideration under transmission regulation covered policies on scheduling/ accounting, coordinated operational planning, communication infrastructure and data exchanges. For the grid code, RPTCC adoption of study findings included performance standards, coordination procedures to schedule/ control cross border flows, metering/ communications and sharing power reserves and emergency support; originally scheduled in 2010-2012, this was re-set to 2014 and onwards.

16. **Discussions.** It was clarified that the GMS members all generally agreed in principle on the need to work toward the milestones specified in MOU-2. However, detailed review of the proposed work plan of the WGs would be needed in order to come up with the agreed TORs for the WGs. WB, SiDA and ADB agreed to work with the GMS members in further refining the TORs.

Country Presentation on ADB Concept to Establish the RPCC (Annex 3)

17. **Cambodia.** The presentation by the Ministry of Industry, Mines and Energy (MIME) briefed on Cambodia's position on the draft MOU, which generally posed no objection to various sections of the draft. It noted that the ratification process would take 6 months and that the Technical Group on Environment (TGE) may not be needed since environmental issues could be addressed by individual country laws/institutions. It suggested combining planning and operation groups and adding "Commercial" to the "Market Development" group. Contribution to the RPCC should be proportional to installed capacity of the country.

18. ADB noted however that power development would have significant transboundary environmental impacts that would require regional action that the TGE could handle. Also the TGE could be tasked to harmonize environmental regulations that vary widely across countries.

19. **PRC.** The presentation by the National Energy Administration (NEA) reiterated its support for establishment of the RPCC and briefed on NEA's role in energy management in PRC. It suggested that in the title, "MOU" be changed to "Agreement" since an international organization would be established. It briefed on the internal government processes and time frame for signing MOUs which would generally take 2-3 months. For ratification, this would go through parliament (Peoples' Congress) which would take about 6 months. It noted only inter-governmental organizations could enjoy privileges and immunities, which should be a problem for the RPCC if its members are private enterprises.

20. **Lao PDR.** The presentation by Ministry of Foreign Affairs (MoFA) informed on the legal framework for Lao PDR's conclusion and accession to international treaties. It discussed types of treaties requiring ratification and briefed on procedures for conclusion of treaties, the length of time of which would vary widely. It proposed that the title be changed from MOU to agreement. It indicated possibility of granting privileges and immunities to RPCC staff based on precedents. It would take about 5-6 months for an agency assigned to negotiate an agreement to obtain internal approval for signing the agreement.

21. **Myanmar.** The presentation by Ministry of Electric Power-2 (MOEP-2) briefed on its position on the title of the draft MOU and the processes to get government approval to sign the MOU, which would entail inter-ministry comments, review by the President's office and other steps. The time frame for each step was indicated in the presentation and a total of 14 weeks will be required.

22. **Thailand.** The presentation by the Electricity Generating Authority of Thailand (EGAT) provided the country's perspective on GMS power trade, which is characterized by various MOUs with neighbors on power cooperation (including bilateral power purchase with Lao PDR). It provided Thailand's views on the draft MOU, suggesting that the MOU's provisions should not be too detailed and specific, given that substantial preparation is needed to put in place the policy framework and infrastructure for power trade. It said initially GMS countries should focus on development of planning and operation, with capacity building focused on power generation planning and transmission expansion planning.

23. It clarified that length of time for internal government clearance of the proposed MOU would depend on the TOR of the proposed organization, ranging from 3 months to over 6 months. Renaming of the title to "agreement" from "MOU" would result to an even longer internal clearance process time, especially given that the agreement would contain provisions for establishing a regional institution with privileges and immunities, binding provisions and budget implications.

24. **Viet Nam.** The presentation by Electricity Regulatory Authority of Viet Nam (ERAV) detailed the internal consultation process for the MOU's ratification, and showed a diagram of activities flows in terms of signing MOU. It discussed its views on the issues of the draft MOU such as on chairperson's appointment and communication focal point, with Electricity of Viet Nam (EVN) currently representing the country in the RPTCC, but will change given the power restructuring process currently taking place.

Follow up of Day 1 Agreements

25. **Revised WG TORs.** Based on the comments in day 1, revised TORs were developed and presented for consideration of the GMS countries (Annex 4). Their salient features are:

- a. WG on Regulatory Issues. Included reference to ASEAN Economic Community aims by 2015; specified PRC as chair and Viet Nam as co-chair, with CSG as Secretariat; provided for decisions by consensus; provided for self-financing of WG participation by national utilities and TSOs; contained the agreed milestones, proposed activities and schedule as discussed in day 1.
- b. WG on Performance Standards. Included reference to ASEAN Economic Community aims by 2015; specified Thailand as chair and PRC as co-chair, with EGAT as Secretariat; provided for decisions by consensus; provided for self-financing of WG participation by national utilities and TSOs; contained the agreed milestones, proposed activities and schedule as discussed in day 1.

26. **Discussions.** It was agreed that the revised TORs would be circulated to the GMS countries, and would be discussed further in the next RPTCC meeting, particularly the scope of work and work plan. Each country was requested to nominate three representatives for each WG by 30 April 2012.

Discussions on Specific Articles of Draft MOU

27. Mr. Caubet explained the rationale for key revisions of the MOU, e.g., ensure independence of the RPCC as legal entity and ensure privileges and immunities for its staff. The shift (from inter-utility MOU to inter-governmental MOU) caused changes in the MOU such as revision of articles covering RPCC membership, Board, Technical Groups, Executive Director's role, and signatories. A new annex 1 was added identifying list of electricity entities. Thailand

proposed however to go back to the basic objectives, functions and structure of the RPCC before proceeding to the provisions on finance and dispute resolution (Article 16 and 19). PRC felt however that said articles may be discussed even on an initial basis, given that the basic structure of the RPCC has been discussed in the previous RPTCC meetings. It stressed that the 4th Leaders' Summit declaration called for establishment of the RPCC to coordinate power trade development. The PRC position was supported by Lao PDR, Myanmar, and Viet Nam.

28. **Articles 16 and 19.** In view of these discussions, the presentation by the consultant on the two articles highlighted only the principles of financing and dispute resolution. On Article 16 (Financing), the consultant discussed the provisions on voluntary contributions, half-year assessment, allocation between members, and audit. On Article 19 (Dispute Resolution) the presentation described the process of dispute administration, defined the eligibility and roles of mediator/ arbitrator, and discussed the registration/ recording of dispute cases, and mechanism for dispute resolution (from mediation to arbitration). The arbitration process was briefly discussed.

Review of ADB-Drafted MOU to Establish RPCC: Its Rationale

29. **Previous Discussions on Background, Objectives, Institution, Etc.** Mr. Kim discussed the plan for review of the various provisions of the MOU. Mr. Caubet presented the latest version of the draft MOU and pointed out the changes in various articles since the November 2011 RPTCC meeting. Among the points raised were:

- a. Article 2: Principles and Objectives. The GMS representatives proposed simplifying the items under principles and objectives, formulating them in more general terms, and reflect enhancing investment as an objective. Thailand proposed another section which defines the roles of the RPCC in the short term (e.g., build capacity, facilitate investments) and long term (e.g. coordinate power trade operations). The principle that the RPCC will not interfere with the national regulations of member countries should be included.
- b. Article 5: RPCC Membership. The relevant paragraph for the membership to be open to electricity entities of member states had to be deleted.
- c. Article 8: Interconnected Transmission Facilities. It was proposed to delete this, possibly for inclusion later in the operating rules for RPCC.
- d. Article 9: Governance Structure of RPCC. In a power pool situation, it should be stated that the TSO is an independent entity. The indication of interim and final stages in the structure addresses Thailand's concern to prescribe short and long term functions of the RPCC.
- e. Articles 11, 12, 13, and 14. The Board would decide on which technical groups (TGs) would be established during the interim stage. In the final stage the four TGs would be established, whose functions and duties would then be listed in the annex.
- f. Article 10: Board of RPCC. GMS countries provided their views on the functions and duties of the Board of RPCC (clause 10.5). They noted that some functions are too specific and should be listed under the TGs and not under the RPCC Board. The meeting agreed to re-group/ consolidate some of the listed functions. Discussions took place on whether decisions of the Board would be made binding on all members.
- g. Article 15: RPCC. GMS members expressed reservations on Section 15.5 (Privileges and Immunities), which would thus be re-drafted based on a model to be provided by PRC. Some details of this section could be specified in a separate host country agreement. Section 15.8 (Functions of the RPCC) would be reviewed, and the list would be reduced, with some items to be combined with others or to be re-grouped.

- h. Article 16: Finance. The countries were requested to submit suggestions on the financing mechanism.
- i. Article 19: Dispute Resolution. The details of this article would be transferred to the annex.

Closing Session

30. **Synthesis of Discussions/ Agreements by RPTCC Chair.** Mr. Kim announced that a revised draft MOU would be submitted to the GMS countries within a week based on the discussions. The countries were requested to submit comments on this revised draft by the end of April 2012. These comments would be incorporated further in a revised draft to be taken up in the next RPTCC meeting. The next meeting would be held in Vientiane, Lao PDR, and the proposed dates are 17-18 May 2012. The Lao PDR delegation would later confirm the Lao Government's concurrence to host the meeting on the proposed dates.

31. **Consideration and Adoption of Proceedings/ Agreements on Next Meeting.** The Chair announced the distribution of the draft summary of proceedings for review by the participants. After the RPTCC members have reviewed the draft summary of proceedings, and after incorporation of suggested changes, the body therefore approved the minutes of the RPTCC-12-A meeting *ad referendum*.

**Greater Mekong Subregion
Special Meeting of the Regional Power Trade Coordination Committee (RPTCC-12A)
Sheraton Grande Sukhumvit, Bangkok, Thailand, 28-29 March 2012**

Tentative Agenda and Program

<u>Mar 28 (Wed)</u>	<i>RPTCC-12A Meeting</i>
08:30am-09:00am	Registration Ballroom 2, level 2
09:00am-09:30am	Opening Session <ul style="list-style-type: none">• Opening Address by <i>RPTCC Chair</i> (for 2011-2012), <i>Mr. Nguyen Vu Quang</i>, Deputy Director, ERAV, Viet Nam• Welcome Address by <i>Mr. Samerjai Suksumek</i>, Deputy Director General of Power Policy Bureau, <i>Energy Policy and Planning Office</i>, Ministry of Energy, Thailand• Welcome Address by <i>Mr. Anthony Jude</i>, Director, Energy Division (SEEN), Southeast Asia Department, ADB Group Photo
09:30am-10:30am	Set Up of Working Groups on (i) <i>Addressing Regulatory Barriers to Regional Power Market Development</i> and (ii) <i>Establishing Performance Standards and Grid Code</i> <ul style="list-style-type: none">• Discussion/ Finalization of Terms of Reference• Updates on Countries' Nominations/ Selection of Chair and Co-Chair Consultant, ADB
10:30am-11:00am	Coffee Break
11:00am-12:30pm	Review of Work Plan/Timetable of WG on <i>Addressing Regulatory Barriers</i> : <ul style="list-style-type: none">• Measures and Institutional Arrangements to Address Regulatory Barriers• Discussions<ul style="list-style-type: none">• Consultant, Jong-Inn Kim, ADB
12:30pm-02:00pm	Lunch Basil Thai Restaurant, level 1
02:00pm-03:15pm	Review of Work Plan/ Timetable of WG on <i>Performance Standards and Grid Code</i> <ul style="list-style-type: none">• Transition Arrangements for Achieving GMS Performance Standards• Study on a GMS Grid Code and Adoption of Study Findings• Discussions<ul style="list-style-type: none">- Consultant, Jong-Inn Kim, ADB
03:15pm-03:45pm	Coffee Break
03:45pm-05:15pm	Presentation on GMS Country Views on newly proposed MOU Concept (<i>10 minutes for each country</i>). Country presentations to focus on the following: <ul style="list-style-type: none">• Acceptance of new proposed title " Inter-Governmental MOU for the establishment of RPCC" or any different proposed title• Necessary legal processes and approximate time frame for obtaining internal government clearances for signing the Inter-Governmental MOU

- Need for ratification processes with expected time taken for completing ratification processes (Article 23)
- Views on Article 15.5 - Privileges and Immunities
- Complete address for Article 22.1 - Communications
- Discussions
 - Chair, GMS Power Focal Persons

05:15pm-05:45pm Summary of country presentations and Preview of Day 2 Agenda

06:30pm-08:30pm Dinner hosted by ADB
Asoke 1, level 2

Mar 29 (Thurs) RPTCC-12A Meeting (continued)

09:00am-09:15am Recap of Previous Day's Discussion

- Chair, ADB, GMS Participants

09:15am-10:30am Discussions on Specific Articles of Draft MOU:

- Article 16: Finance (Including operating budget, contributions)
- Article 19: Dispute Resolution (Covering dispute administration, and processes of negotiation, arbitration and mediation)
- Discussions
 - Consultant, GMS members

10:30am-10:45am Coffee Break

10:45am-12:00pm Review of *ADB-Drafted MOU* to Establish the Regional Power Coordination Center (RPCC): *Rationale*

- Previous Discussions on Background, Objectives, Institution and Legal Framework, Governances Structure, Duties and Responsibilities, Staffing and Phasing
- Discussions / Comments
 - Consultant, GMS members

12:00pm-01:30pm Lunch
Orchid Café, lobby floor

01:30pm-03:00pm Country's Views on necessary Legal requirement and Time Line for Internal Clearance Process for considering an MOU and Discussions on *ADB-Drafted MOU* (and/or any newly-proposed MOU Concept) to establish RPCC

- GMS Comments on Internal Clearance Process
- GMS Comments on Technical Aspects of MOU
- Updates on GMS Consultations
- Discussions
 - Consultant; Jong-Inn Kim, Lead Energy Specialist, ADB and GMS Participants

03:00pm-03:15pm Coffee Break

03:15pm-04:15pm Continuation of Discussions on *ADB-Drafted MOU* (and/or any newly-proposed MOU Concept) to establish the RPCC

- Revision of Current Institutional Framework, RPTCC Guidelines
- Timetable for-MOU
- Further Reactions/ Views of GMS Participants

- Discussions
 - Consultant; Jong-Inn Kim, Lead Energy Specialist, ADB; and GMS Participants

04:15pm-04:30pm Coffee Break

04:30pm-05:00pm Closing Session

- Synthesis of Discussions/ Agreements by *RPTCC Chair*
- Consideration and Adoption of Proceedings/ Next Meeting
- Closing Remarks by RPTCC Chair, *Mr. Dinh The Phuc*

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