



**EURO-MEDITERRANEAN REGULATORS GROUP
EMERG**

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1. INTRODUCTION

In this report, an account and evaluation is given of the work and the progress of the Euro-Mediterranean Regulators Group (EMERG) in the calendar year 2012. In Chapter 2 a description is given of the preparatory activities in 2011 and the Plenary meeting of March 2012. In Chapter 3, an overview is given of the events and activities that were part of the implementation of the work plan. In Chapter 4 an account is given of the work done at the request of the Plenary on improving sustainability and securing future funding of EMERG including the development of a strategy paper. Finally in Chapter 5 some short evaluation remarks are made looking back on the past year.

Although it is not possible to describe this in detail, it is worth mentioning that - apart from the direct achievement of the EMERG Work Plan - the activities of EMERG also have an important spin-off in that it helps experts from regulatory authorities in doing their day to day work. Also, the international cooperation within EMERG leads to a growing sense of collegiality and close networking relations between experts who start to know each other closely. This is an important contribution to approximation in the long term.

Significant progress in 2012

The year 2012 was a special year for EMERG in that it took significant steps forward in creating a stronger and more sustainable internal organization. Also, much progress has been made in formulating a medium term strategy for EMERG and discussing future EU support for its sustainability. Last but not least, EMERG achieved significant results in achieving its primary goal of approximation in the regulatory policies and frameworks of the region, particularly in the fields of licensing and of retail price regulation – these results are described in more detail in the following chapters.

2. THE PREPARATIONS PHASE AND PLENARY ASSEMBLY

Since 2009 the work plan of EMERG is prepared through carrying out a benchmarking which aims to help identify relevant differences in the regulatory frameworks and policies of the member countries, and similarities in their working agendas. This report is used to select subjects for the next work plan, or trigger discussion about new subjects. This takes place in a 'Benchmarking and Planning Conference', bringing together EMERG Contact Network members.

A new grid of benchmarking issues was agreed with the EMERG contact persons, reducing the number of benchmarking questions to enhance the transparency and focus of the exercise to key subjects, and adding special themes to be selected on a case by case basis yearly. The result was an overview of relevant data regarding both the regulatory framework and policies (and their development) and the key performance indicators of the communications networks and services markets in EMERG member countries; as well as a basic exploration of the selected special themes for this year.

The benchmarking data collection started by redefining the subjects on which data would be collected and compared. A proposal was made by the NATP3 team¹, commented upon and finalized. The designated contact persons from EMERG member organizations then provided the necessary data, and the NATP3 team compiled these into a benchmarking report together with data available from public sources. Based on the benchmark comparison, subjects were suggested for further work in 2012.

Benchmarking an Planning conference

Unfortunately due to events in Cairo in December 2011, the Benchmarking and Planning conference – originally planned for December 2011 - had to be postponed and relocated, finally taking place in Amman, Jordan on 18-19 January, 2012. Most of the members were

¹ EMERG is supported by a consultancy team from Regulaid and Jacobs & Associates through the EU funded NATP3 project.

represented (RTR (Austria), OCECPR (Cyprus), NTRA (Egypt), BNetzA (Germany), EETT (Greece), MoC (Israel), AGCOM (Italy), TRC (Jordan), TRA (Lebanon), ANRT (Morocco), MTIT (Palestinian Authority), ANACOM (Portugal), CMT (Spain), INT (Tunisia), as well as a representative of the European Commission (EU Delegation in Amman) and the NATP3 key experts.

The meeting was successful in that

- Based on the benchmarking report and stocktaking of other issues of interest, a selection was made of priority issues for the 2012 Work Plan of EMERG;
- An agreement was reached on the text of a Strategy document drafted at the request of the European Commission, and on a draft Charter for EMERG developed by the EMERG Chair AGCOM to firm up the internal organization and efficiency of EMERG.
- All other necessary preparations for the Plenary were agreed upon.

Based on the discussions, an EMERG Work Plan was drafted and sent to the conference participants for comments. The draft Work Plan, and the benchmarking Report 2011, were then finalized.

Plenary Assembly

Subsequently the Plenary meeting of EMERG took place in Cairo, Egypt on 13-14 March, 2012. Except Algeria, Cyprus, France, Israel and Morocco, all members were represented mostly at CEO or Board level (RTR Austria, NTRA Egypt, BNetzA Germany, EETT Greece, AGCOM Italy, TRC Jordan, TRA Lebanon, MTIT Palestinian Authority, ANACOM Portugal, CMT Spain, BAKOM Switzerland, INT Tunisia and ICTA Turkey), and representatives took part from the European Commission (DG Info and EU Delegation in Egypt) and the NATP3 key experts.

A major task for the Plenary Assembly was to agree on measures to solidify the internal organization of EMERG, in view of the upcoming expiration of the NATP3 project on September 2012. The end of the current consultancy support is drawing closer, which made it necessary for EMERG to review and strengthen its internal structure. In the new Charter,

details of the structure and process of the work have been agreed, e.g. the establishment of a Secretariat and the identification of the role of Rapporteur NRA, making EMERG less dependent on consultancy support and enabling the NATP3 extension within the framework of the same budget. Secondly, following an invitation from the European Commission, EMERG established a strategy paper for the medium and long term, which also plays an important role in the ongoing discussion with the Commission about funding of future assistance to EMERG (see also Chapter 4).

The discussion on these subjects in the presence of the representatives of the European Commission (EU Delegation in Egypt/Project Manager of NATP3, and DG Information Society) enabled a useful exchange of opinions and broad agreement on the outlook on future activities, and expectations from the part of the Commission as primary sponsor of EMERG.

It also enabled to achieve further clarity on next steps in the decision making process about future funding. The Commission and the NATP3 contractor confirmed that they were likely to agree on an extension of the ongoing NATP3 project within the framework of its existing budget but with a new deadline, of February 2014². However this is subject to austerity measures, the most important of which is the transfer of logistical work in the preparation of EMERG events from the NATP-3 team to the hosting NRA and the new Permanent Secretariat, as well as expense cuts. In addition, the Commission confirmed that the sum of 200.000 Euros set aside to support the Euro-Mediterranean cooperation in the sector, is still available and that ideas are firming up on how to deploy it.

For the first time, the Plenary assembly discussed the results of the workshops related to approximation of regulatory frameworks and policies, notably on two key issues namely:

- Licensing and open access to markets; and
- Retail price regulation of non-dominant operators.

² This extension was formalized in September 2012

The Plenary endorsed the principles for approximation that were tabled in the discussion papers resulting from the 2011 Workshops on these issues. It was agreed to include follow-up activities in 2012 and for those EMERG members that depend on other empowered authorities in their countries to cooperate with legal approximation, to try and bring representatives of these authorities to the table in those follow up activities.

The Plenary furthermore fulfilled its tasks by

- Appointing NTRA of Egypt as Chair for 2012 and ANACOM of Portugal as Vice-Chair for 2012.
- Approving the Annual report 2011
- Taking note of the Benchmarking report and approving the draft Work Plan 2012
- Deciding on a way forward for the EMERG website – the management of which was taken over from NATP3 by the new Secretariat.

3. IMPLEMENTATION OF THE WORK PLAN 2012

3.1 WORKSHOPS IN 2012

Based on the work plan endorsed by the Plenary, the following events were organized in 2012:

- May: a workshop on Net Neutrality in Barcelona, Spain (rapporteur: AGCOM of Italy).
- June: a workshop on ‘Network Security’ in Biel, Switzerland (rapporteur: NTRA of Egypt).
- July: a workshop on ‘International roaming regulation’ in Berlin, Germany (rapporteur: BNetzA of Germany).
- September: a workshop on ‘Licensing and open access to markets’ (follow-up from the one in 2011) (rapporteur: TRC Jordan/AGCOM, Italy).
- October: a workshop on ‘Universal Service funding’ in Athens, Greece (rapporteur: ANACOM of Portugal).
- November: a workshop on ‘Retail price regulation of non-SMP operators’ in Istanbul, Turkey (rapporteur: TRA of Lebanon).

In addition, the 2011 Benchmarking and Planning Conference took place in December 2012 in Lisbon, Portugal.

The format of organizing workshops has changed significantly as a result of changes decided upon in the 2012 Plenary Assembly. First of all, a much larger part of the preparatory logistical work (selecting a venue, invitations and registrations etc.) has been taken over by the hosting NRA (while the NATP3 team still remains responsible for any formal contracting and payment procedures of collective costs). Secondly, for every workshop a 'rapporteur NRA' is appointed who will take the lead in developing the workshop program. Every workshop is prepared by some data collection refining the available data from the benchmarking report for the subject at hand. Finally, the rapporteur together with the EMERG Secretariat and with support from the NATP3 expert, will produce a report with the results of the workshop and recommendations for a follow up, if any. This mechanism has been applied for the first time in 2012 and has proved to be quite effective.

In addition, an approach has developed for work plan issues aiming for approximation that are particularly sensitive and tied to political level approval. In the first year, an initial workshop is organized to explore the issue and leading to the production of a discussion paper. This discussion paper is then used by individual EMERG members to organize an internal debate in their country, exploring the support that can be mustered for approximation changes. In a second workshop the next year, the results of these internal debates are then harvested. This approach has been applied in 2012:

- on two themes that were in the second stage following initial workshops of 2011 (on Licensing and on Retail price regulation for non-SMP players).
- on one theme that was in the initial stage (USO funding).

The results of 2012 show that this approach is quite successful and should be continued. In this chapter, a short description is given of the results of the 2012 events. For more detail, please refer to the workshops' reports.

3.1.1 Workshop on 'Net Neutrality', Barcelona, Spain

The workshop took place on 15-16 May, 2012 in Barcelona, Spain with the cooperation of the Spanish regulatory authority CMT. There were some 15 participants from 10 EMERG countries (RTR of Austria, NTRA of Egypt, MoC of Israel, AGCOM of Italy, TRA of Lebanon, ANRT of Morocco, MTIT of the Palestinian Authority, ANACOM of Portugal, CMT of Spain, INT of Tunisia) plus independent expert speakers and NATP experts.

At this stage, the objective of the workshop was just to explore the issue and achieve a common understanding and knowledge level of what is going on. Net Neutrality is a relatively new and extremely sensitive issue, related to the freedom of internet users to use their connection for whatever purpose they require independently from the commercial interests and preferences of their internet provider. So far the principle of internet access is that the end user buys a connection and connectivity is provided on an equal and non-discriminatory basis for any content or application. But initiatives are being taken by providers to differentiate price or speed of connections according to the type of usage, or to filter certain appliances. In part this is caused by the loss of revenues from calls and sms's that have been replaced by 'free' online connections through e.g. Skype, Whatsapp or other applications. Another driver for intervention is the filtering of peer-to-peer traffic that is so burdensome to network capacity that it crowds out other traffic.

The workshop was very successful in that a wealth of information was shared on what the participating organizations know about the state of play with regard to

- infringements on the principle of net neutrality, their frequency and severity;
- the policy development and regulatory interventions of regulatory authorities both in individual countries and on the European level (BEREC).

Exceptionally, a number of external speakers from the communications industry were invited to the workshop to share their views. Also, experts from OECD and WIK Germany gave input.

As it is early days for the application of regulation, there was no attempt to reach a conclusion on what is the best approach. The general message from the more experienced regulators and from the industry was to be prepared, monitor the developments closely and see how the different approaches tried by leading edge countries turn out to work.

A detailed draft report made by the workshop rapporteur AGCOM of Italy (with support of the NATP3 team) is provided to the Plenary separately.

3.1.2 Workshop on 'Network Security' in Biel, Switzerland

The workshop took place on 19-20 June, 2012 in Biel, Switzerland with the cooperation of the Swiss regulatory authority BAKOM. There were some 10 participants from 9 EMERG countries (NTRA of Egypt, AGCOM of Italy, TRC of Jordan, TRA of Lebanon, ANRT of Morocco, MTIT of the Palestinian Authority, ANACOM of Portugal, BAKOM/OFCOM of Switzerland and INT of Tunisia), plus external speakers particularly from Swiss federal authorities involved in network security, and NATP3 experts.

The workshop was included in the 2012 work plan of EMERG at the initiative of Egypt, where experiences during the Arab spring revolution have triggered a re-evaluation of the legislative framework for the government's powers to intervene in communications networks' operations. The objective was to facilitate an exchange of best practice examples that enables individual countries such as Egypt to benefit from the experience of other countries in reviewing their national arrangements. This includes powers of network shut down, legal interception but also prevention and reduction of malware and spam.

As expected these legal frameworks widely diverge, and also within the European Union this subject is much less coordinated than other parts of the regulatory framework for communications. Tasks of NRAs not always include these aspects, and sometimes courts of justice play a role. This explains the limited participation from EU side. Nevertheless, the workshop succeeded in exchanging a fairly comprehensive overview of various approaches in network security regulation in the various fields that were investigated. European regulations with regard to network security turn out to be directed less to the interests of

government security tasks and more to protecting citizens against privacy breaches and service interruption, guaranteeing system continuity and free access to information for the end user.

In the area of legal interception, the legal frameworks of EU and non-EU countries are similar in that the law must provide a basis for the rights of public authorities (mostly police and security forces) to impose the obligation on operators to provide interception facilities and to use them in specific cases, usually after going through approval procedures by a judicial authority. More variation exists in the practical organization and cost structure of legal interception, for which various approaches were compared.

Much of the discussions in the workshop were directed towards how legal frameworks can provide a secure set of criteria and mechanisms to ensure that government interventions in the operation of communications networks are strictly regulated and subject to clear criteria. In most European countries legislation contains vague texts on the rights of governments to intervene in networks e.g. for complete switch-off of connections in case of a threat to national security. As was discussed it is hard to define the rights of government to intervene based on very specific criteria as threats to national security can take any form and shape. More vague criteria introduce the risk of abuse. In the end, a balance must be struck between specificity and flexibility; at the end of the day, the assessment of any usage of government intervention powers will either take place in advance by independent judicial authorities, or afterwards on a more political basis.

A detailed report made by the workshop rapporteur NTRA of Egypt (with support of the NATP3 team) is provided to the Plenary separately.

3.1.3 Workshop on 'International roaming regulation', Berlin, Germany

The workshop took place on 11-12 July, 2012 in Berlin, Germany with the cooperation of the German regulatory authority BNetzA. The meeting took place back-to-back with an internal meeting of the European regulators group BNetzA on the same subject, and special approval was given for the participants of that meeting to also take part in the EMERG workshop. Also

a number of external experts were invited to give input. There were some 20 participants from 13 EMERG countries (RTR of Austria, NTRA of Egypt, ARCEP of France, BNetzA of Germany, MoC of Israel, AGCOM of Italy, TRC of Jordan, TRA of Lebanon, MTIT of the Palestinian Authority, ANACOM of Portugal, CMT of Spain, BAKOM/OFCOM of Switzerland, INT of Tunisia) , plus participants from a number of other EU member states (Netherlands, Poland, UK) and other countries (FYROM), BEREC representatives, independent experts and NATP3 experts.

The objective of the workshop was to explore if possibilities exist to make agreements between the EU (or individual member states) and non-EU countries to regulate international roaming prices and if so, which of the countries want to pursue this. The European Union has been regulating charges made by mobile network operators based in EU countries for their customers who make calls or SMS messages when they are travelling in other EU countries since 2007. Non-EU countries in the past have explored if a reciprocal regulation between the EU and their country would be feasible, but so far this was thwarted by legal limitations in the EU Treaty.

As a first step the workshop explored the content and practical implications of international roaming price controls as they are now in place in Europe. Secondly, it was explored to what extent a legal basis exists for the European Union or individual member states to enter into a roaming regulation agreement with neighbouring, non-member countries. According to the European Commission representative there seems to be no possibility to do this. However the Polish representative demonstrated that a bilateral agreement exists between Poland and Russia with certain specific limitations that avoid a clash with the EU legal framework.

In the stocktaking of positions, it occurred that representatives of the non-EU countries often do not have a clear perspective on whether their country would enter into a roaming agreement and if this would be considered to be in their national interest.

The meeting ended in a procedural agreement to do more homework. The European Commission was requested to do the utmost to explore if legal options exist or could be

created. The non-EU participants committed to discuss internally within their countries whether, if a possibility exists or is created, their country would pursue this.

A detailed report made by the workshop rapporteur BNetzA of Germany (with support of the NATP3 team) is provided to the Plenary separately.

3.1.4 Workshop on 'Licensing and open access to markets', Rome, Italy

The workshop took place on 12-13 September, 2012 in Rome, Italy with the cooperation of the Italian regulatory authority AGCOM. There were some 14 participants from 11 EMERG countries (OCECPR of Cyprus, NTRA of Egypt, BNetzA of Germany, MoC of Israel, AGCOM of Italy, TRC of Jordan, TRA of Lebanon, MTIT of the Palestinian Authority, ANACOM of Portugal, INT and MICT of Tunisia) , plus NATP3 experts.

Under the EU regulatory framework, member states can no longer require individual licenses for market entry unless this involves the usage of scarce (spectrum or numbering) resources. Other new entrants only have to register or apply for a class license. The objective of the workshop was to get commitment from non-EU countries that have diverging practices in this field, to approximate their legal framework to that of the EU. In 2011 a workshop was organized to discuss this and to produce a document describing the advantages of further approximation, with a view to enabling individual NRA's to debate the issue on a national level. In this follow up workshop the aim was to organize a process in which conclusions and commitments can be reached on bringing the licensing policies and frameworks of the participating countries closer to international best practice.

The workshop results were very positive. Several countries are moving towards a system of licensing that resembles that of the European Union, in that

- a general authorizations mechanism has been introduced or is being introduced that no longer requires companies to apply for an individual market entry approval
- where a system of individual approvals is still needed, in most countries this approval is granted automatically without further requirements.

- such requirements do not include the assessment by the government if the market can still absorb another market entrant (except possibly in the case of Morocco).

Several countries are currently preparing or implementing significant changes in their licensing system to achieve this. Therefore it can be said that in the area of licensing, notwithstanding limited formal differences between legal frameworks, the access to markets in the participating countries is close to being fully harmonized. The following exceptions were reported:

Morocco did not participate in the meeting. In Morocco an internal debate is ongoing with regard to the licensing system. Morocco is one of the few if not the only country to keep open the possibility of limiting the number of market entrants on the basis of a government assessment of the absorption capacity of the market.

In Tunisia, individual licenses are still required in the new system, but the number of market entrants is not limited on the grounds of absorption capacity and the application assessment is limited to ensuring that the applicant will be technically and financially capable of providing the services it plans to provide.

In the Palestinian Authority case, due to the political situation the legislative mechanism is paralyzed, making it impossible to adapt the legal framework for licensing. This means that individual licenses are still required but in its policies the MTIT has decided to follow the European Union approach in allowing every and any market entrant to access the market, granting a license for purely formal reasons (except in the case of the usage of scarce resources).

This workshop concluded that the regulatory frameworks of most of the countries in the Euro-Mediterranean region appear to be converging towards the EU approach. Apart from the exceptions, most non-EU countries have or are moving towards a system of licensing that resembles that of the European Union, moving rapidly towards full harmonization. If a Ministerial conference is organized for the Euro-Mediterranean region (as is being contemplated by the European Commission, in the near future), there will be merit in tabling the subject of licensing on its agenda.

A detailed report made by the workshop rapporteur TRC of Jordan (with support of the Italian regulator AGCOM and the NATP3 team) is provided to the Plenary separately.

3.1.5 Workshop on 'Universal Service Funding', Athens, Greece

The workshop took place on 10-11 October, 2012 in Athens, Greece with the cooperation of the Greek regulatory authority EETT. There were some 15 participants from 10 EMERG countries (NTRA of Egypt, EETT of Greece, MoC of Israel, AGCOM of Italy, TRC of Jordan, TRA of Lebanon, ANRT of Morocco, ANACOM of Portugal, BAKOM/OFCOM of Switzerland and INT of Tunisia), plus a speaker from the European Commission, and NATP3 experts.

From the European side, the intention for the Workshop was that the representative of the European Commission and participating NRAs would explain the legal requirements of the EU regulatory framework for the implementation of Universal Service Obligations (USO) and the way USO financing systems can be set up with the least distortive effects on competition. From the non-EU side, the aim was that participating NRAs would provide details at the Workshop on how USO financing is organized within their countries and provide information on any other financial levies and taxes that specifically apply to their electronic communications sectors with the formal/legal purpose of financing the universal service. The intention was that Workshop participants would be able to compare and contrast the various national regulatory approaches to finance the USO. This would then enable participants to discuss how these different approaches might best be adapted to ensure a level of approximation between the different countries on this issue, in particular to minimize market distortions and to ensure a level playing field for all market participants.

The European USO framework is one that aims to act as an effective 'safety net' to ensure that uneconomic regions and customer groups do not remain unserved while at the same time ensuring that market distortions are minimized. The workshop showed that a number of countries operate USO frameworks that are very different to the ones that have been implemented within EU Member states, pursuant to the Universal Service Directive; and that some of these frameworks have the potential to be highly distortive. Not only are these programmes not delivering universal service, they are also in danger of resulting in unintended negative outcomes by hampering new market entry and limiting the

development of competition for basic and value-added services. Examples of shortcomings identified by the Workshop in the various USO frameworks included the following:

- Universal Service Funds being used as an investment fund for public projects, with inflated charges for funding NRAs added to these funds (Egypt, Morocco);
- USO programmes targeted explicitly at operators and not at customers and services (Israel);
- Unbalanced retail charges being used as a means of funding inexpensive local access and calls (Tunisia);
- No specific programme for USO provision in place given absence of competition for fixed and mobile services (Lebanon).

At the same time, it was acknowledged at the Workshop that the certain aspects of the approaches used for USO provision in non-EU countries could help to inform possible improvements in the EU framework. In particular, the framework in Jordan – whereby the net cost of USO provision may be established on an *ex ante* basis through market mechanisms – could facilitate the net cost calculation process. If it were, it could result in a lowering of the net cost of USOs across the EU and it would also avoid time-consuming and complicated outcomes to USO funding, such as that in Italy.

In conclusion, the Workshop participants took the view that the significant divergence in approaches and in outcomes relating to USO provision across the EMERG group of countries is not a desirable situation and that there is merit in exploring how national frameworks might best be adapted to ensure that these divergences are minimized. The Workshop agreed that this should be done, namely, by the circulation of the workshop report with the aim of stimulating internal debate within the EMERG countries themselves. A follow-up workshop to be held in 2013 can obtain feedback from the internal debate in the individual countries and take stock of plans and willingness to commit to make improvements and approximations with the EU framework and sound practices among the EMERG members. If a Ministerial conference is organized for the Euro-Mediterranean region then this could be one of the subjects on the agenda aiming to mobilize the political will and international political commitment to make the desirable changes.

The detailed report made by the workshop rapporteur ANACOM of Portugal (with support of the NATP3 team) is provided to the Plenary separately.

3.1.6 Workshop on ‘Retail price regulation of non-SMP players’, Istanbul, Turkey

The workshop took place on 7-8 November, 2012 in Istanbul, Turkey with the cooperation of the Turkish regulatory authority ICTA. There were some 13 participants from 9 EMERG countries (NTRA of Egypt, BNetzA of Germany, AGCOM of Italy, TRC of Jordan, TRA of Lebanon, ANRT of Morocco, MTIT of the Palestinian Authority, INT of Tunisia and ICTA of Turkey), plus an independent speaker and NATP3 experts.

The 2012 Benchmarking report has identified that a number of EMERG countries maintain some form of retail price regulation on non-dominant operators. This approach would be every unusual within the EU. Following the workshop on this topic in July 2011, a further workshop was conducted in Istanbul in November 2012. The basic objective of this second workshop was to identify which NRAs still impose any such controls, the purpose of the control and the possibility of approximation with the norm in the EU and other EMERG countries.

The additional workshop demonstrated that NRAs in EU countries do not impose price regulation on non-SMP operators, and that market evolution has shown that vibrant competitive markets can flourish under these conditions. Price regulation is gradually removed from retail markets, and is now predominantly a wholesale issue (except for examination of margin squeeze). Many EMERG countries already limit direct retail price regulation to SMP operators. All NRAs continue to apply certain retail conditions, especially price transparency for consumers, limits on contract conditions, and processes to facilitate choice and easy switching. These consumer protection measures may be necessary for a long time, but actual retail price setting is left to operators in competitive markets.

At the same time, the workshop resulted in a much more detailed insight in the remaining regulation of non-SMP retail prices in non-EU countries. It became clear that these are more

lenient than SMP regulation. There is clear evidence that actual practice is converging towards the EU concept, but formal legislation is lagging behind in some cases.

In the four main cases of divergence from EU practice, moves towards approximation are under consideration:

- In Egypt, the move towards notification (rather than requiring approval) for non-SMP operators
- In Morocco, the expectation that ex-ante Retail regulation will be relaxed as markets become more competitive
- In Palestine, new laws and draft regulations will more closely approximate EU practice, but these are not yet implemented yet
- In Tunisia, the new Digital code will be more closely aligned with best practice than the current rules

In conclusion, the situation is much less diverse than was initially believed. However, there is an opportunity for those countries currently applying retail regulations to non-SMP operators to consider progressive relaxation or removal of the controls over time, as rules are reviewed and as markets become more competitive.

The detailed report made by the workshop rapporteur TRA of Lebanon (with support of the NATP3 team) is provided to the Plenary separately.

3.1.7 Benchmarking and Planning Conference/Contact network meeting, Lisbon, Portugal

In the final months of 2012, preparations have started for the 2012 Benchmarking Report, as a basis for the Work Plan of 2013. The data framework was again reviewed and special themes were selected for the 2012 benchmarking work. A draft report was distributed to the Contact Network members in December 2012 and tabled in the Benchmarking and Planning conference, to which the members of the Contact Network were invited. Some 17 representatives participated from 13 EMERG countries (RTR of Austria, NTRA of Egypt, ARCEP of France, BNetzA of Germany, AGCOM of Italy, TRC of Jordan, TRA of Lebanon, ANRT of Morocco, MTIT of the Palestinian Authority, ANACOM of Portugal, CMT of Spain, BAKOM/OFCOM of Switzerland, INT of Tunisia and MoC of Israel).

The meeting took place in Lisbon on 10-11 December, 2012 in cooperation with the Portuguese regulatory authority ANACOM. As the 'day to day management group' of EMERG, the Contact network looked back on the activities of 2012, agreed on internal working procedures and document handling, and was updated on the activities of the Chair and Vice-Chair and the Secretariat. It then proceeded to:

- prepare the Plenary Assembly of 2013. Preferred dates were selected and the draft agenda was set up.
- make, based on the benchmarking report and stocktaking of other issues of interest, a selection of priority issues for the 2013 Work Plan of EMERG.

In addition, the meeting discussed the state of play with regard to the future of EMERG and the contacts between the EMERG Chair and Secretariat and the European Commission on this issue (please see Chapter 4). Particularly, it was discussed what role EMERG should play if the European Commission launches the so-called 'NATP-Plus' project on which informal contacts between the Commission and the EMERG Chair have taken place.

Last but not least, a discussion took place with the representative of the BEREC Chair about strengthening of the relationship between BEREC and EMERG, leading to proposals to be discussed in the Plenary Assembly.

3.2 NEIGHBOURLY ASSISTANCE

Contrary to NATP-2, NATP-3 does not have the resources to provide bilateral assistance to individual beneficiary countries as this is believed to be sufficiently covered by other programs (ENPI, Taiex, twinning). However, the Terms of reference of NATP-3 include that the project can play a role in organizing mutual assistance between the regulators within EMERG, as well as assisting the regulatory authorities to identify and use the existing bilateral assistance funding instruments. The EMERG secretariat (with support of the NATP-3 team) on request acts as a broker between demand and supply.

In 2012, no requests for neighbourly assistance were made. However, requests were made by the Tunisian regulatory authority INT to assist in enabling the INT to apply for EU support

as, following the Arab spring revolution, it is going through substantial changes in its regulatory framework. Prior to providing such support, the EU Delegation in Tunis was consulted. According to the Tunis Delegation a major twinning project is under preparation that will cover the issues for which INT requires assistance.

3.3 WEBSITE

In the 2012 Plenary meeting of EMERG it was concluded, as part of the agreed set-up of the Permanent Secretariat of EMERG, that this Secretariat will gradually take over the editorial responsibility from the NATP3 team in 2012. This transfer has been completed. The Secretariat proceeded to enhance the uploading of news items and schedule pilot projects to use the forum function of the website. The NATP3 team will remain available to provide technical support as appropriate but the initiative is left to the Secretariat.

4. SUSTAINABILITY, STRUCTURE AND FUTURE FUNDING OF EMERG

During the EMERG Plenary meeting in January 2011 in Rome, the European Commission announced plans for very limited future support of EMERG (and for communications sector development in the region) with a relatively small budget, after the current support by the NATP-3 project expires. In view of this the Plenary has asked its 2011 Chair, the Italian regulatory authority AGCOM, to explore options for future organization and funding of EMERG. Following up on this, AGCOM as well as the 2012 Chair NTRA have been in close discussions with the European Commission.

As a first spin-off, the 2012 Plenary has adopted its new Charter strengthening the internal organization and procedures; in previous Chapters of this report, the impact of this is clearly visible. In addition the Strategy document was adopted which sets out the various activity levels that EMERG expects to be able to undertake depending on the availability of external support.

In the months following the Plenary, attempts were made to organize a follow-up meeting with the European Commission to present the progress made by EMERG and understand the thinking of the Commission about future support to EMERG. As a specific topic it was foreseen to discuss how the Commission envisages to launch the 'NATP-Plus' project in a way that allows coordination with the current EMERG structures and activities.

Unfortunately to date, the Commission has not been able to set up the requested meeting. However, in a number of informal contacts with the Commission at expert level, representatives of the Chair have been able to bring across the views of the EMERG members (collected through the Contact network) on NATP-Plus.

It is foreseen that contacts with the European Commission will continue to follow, aiming at clarifying what are the European Commission's ideas towards EMERG, at what level does it wants to maintain its support. This also takes special relevance in view of the so called NATP Plus program and the possible organization of a Ministerial Conference for the Euro-Mediterranean region, in the near future.

5. LOOKING BACK ON 2012

As in 2011, the Euro-Mediterranean region has experienced an extremely eventful year 2012. In the Middle East and North Africa, the impact of the Arab Spring revolutions is still ongoing. In the Mediterranean member states of the European Union, economic crisis has dominated the agenda throughout the year. Despite a late start, EMERG has nevertheless succeeded in implementing its work plan to the full. This year, an encouraging measure of progress was achieved in the area of approximation efforts particularly in the fields of Licensing and Retail price regulations. The work of EMERG has made it possible to assess in more detail the differences that really exist and shows, that the regulatory approach of the various EMERG countries is not as widely varied as may have been believed, and converging. As remarked in earlier annual reports, compared to the development of regulatory cooperation in the early years of liberalization in the European Union, EMERG is developing equally fast, if not faster – and without binding treaties or directives to force it ahead.

Participation numbers in EMERG workshops generally remain to be good and participants report that the discussions are becoming more intense, more frank and thereby more useful. This must be the effect of a sustained effort, which over the years builds on a network of personal acquaintance between NRA staff that is of the highest value in the work of EMERG and its members.

However, notably the financial pressure on governments notably and unmistakably has an impact on the participation level particularly from EU Member State side. Decreasing travel budget and increasing work pressure are starting to have a negative impact on participation levels.

This enhances the need to reach clarity about the future funding of support to EMERG. In 2011 and 2012, EMERG has done its homework to show what it can and can not do within various scenarios of external support. It is now for the European Commission to take a position on this.