

The African Peer Review Mechanism as an integral part of the New Partnership for Africa's Development

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1 The institutional framework

In September 1999, the Heads of State and Government of member countries of the Organisation of African Unity (OAU) decided to transform the OAU into a new African Union (AU), in which a strong emphasis was to be placed on an African development programme.¹ The Constitutive Act of the new AU, to replace the OAU as a political body for all the countries of the African continent, was accepted in July 2000 at a meeting of the Heads of State and Government held in Lomé, Togo.² The Constitutive Act also incorporated the Treaty of the existing African Economic Community (AEC). A transition period of one year was provided for to enable the existing organisations to give effect to the transformation, and to enable member states, where necessary, to provide in national legislation for the acceptance of the new structure.

The Constitutive Act of the AU provides for the following institutional framework:

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¹ Sirte Declaration, OAU Doc EAHG/Draft/Decl (IV) Rev 1.

² Decision on the Establishment of the African Union and the Pan-African Parliament, OAU Doc AHG/Dec 143 (XXXVI) para 3.

- The Assembly composed of the Heads of State and Government of all the participating countries. The Assembly is the supreme organ of the AU and its annual meetings are referred to as 'Summit Meetings'.
- The Executive Council composed of the Ministers of Foreign Affairs of all participating countries. It is the function of the Executive Council to co-ordinate and take decisions on policies in areas of common interest to the member states. A number of Specialised Technical Committees were formed to assist the Executive Council in areas such as rural economy and agricultural matters; monetary and financial affairs; transport, communication and tourism; health, labour and social affairs; and education, culture and human resources. Ministers of national cabinets responsible for these functions in their own countries would serve as members of these Technical Committees. The top structure of the AU is therefore by definition a truly body politic.
- The Pan-African Parliament (established recently) is provided for.
- The Constitutive Act in addition sanctioned the establishment of a number of other specialised Pan-African institutions, including
 - a Court of Justice;
 - an African Central Bank;
 - the African Monetary Fund;
 - the African Investment Bank; and
 - the Economic, Social and Cultural Council.

The AU Commission was established with a Secretariat to provide administrative services to the various institutions within the structure. The headquarters of the AU was placed in Addis Ababa in Ethiopia.

To justify the importance attached to the development objectives of the AU, the Heads of State of five countries were given a mandate to develop an integrated socio-economic development framework for Africa. These five countries, consisting of Algeria, Egypt, Nigeria, Senegal and South Africa, became known as the 'Initiating Countries'.

2 The creation of the New Partnership for Africa's Development (NEPAD)

As a number of schemes for a new initiative for African development already existed at that time, the Initiating Countries could make quick progress and in July 2001, a draft for a Strategic Policy Framework of the New African Initiative³ and a Programme of Action was presented to a

³ Soon thereafter renamed New Partnership for Africa's Development (NEPAD). See Communiqué Issued at the End of the Meeting of the Implementation Committee of Heads of State and Government of the New Partnership for Africa's Development, Abuja, Nigeria, 23 October 2001, available at <<http://www.nepad.org>> (accessed 31 March 2004).

Heads of State and Government meeting in Lusaka, Zambia. The proposals were accepted and a Heads of State and Government Implementation Committee (HSGIC) was created, consisting of the Heads of State of the five Initiating Countries plus two (subsequently increased to three) Heads of State for each of the five recognised Regional Economic Communities on the continent (development areas such as the Southern African Development Community (SADC)). This HSGIC with its 20 members functions as the controlling body for NEPAD. At this stage, HE Chief Olusegun Obasanjo, President of Nigeria, chairs the HSGIC.

The HSGIC constituted a Steering Committee with a personal representative for each one of its members, and established a Secretariat as support structures for the implementation of the NEPAD objectives. Both the Steering Committee and the Secretariat are headed by Professor Wiseman Nkuhlu and operate from Midrand in South Africa. In the longer term, there is a possibility that the headquarters of NEPAD will be transferred to Addis Ababa to join the rest of the AU administration.

The AU Commission, operating from Addis Ababa in Ethiopia, therefore functions as the Secretariat and supportive organisation for the *political* activities of the AU, and NEPAD with its Steering Committee and Secretariat in South Africa represents the *development* arm of the AU.

3 Objectives of and programmes for NEPAD

In a 'Declaration on Democracy, Political, Economic and Corporate Governance' issued in Durban on 8 July 2002 (the inaugural meeting of the new AU Assembly),⁴ all African countries committed themselves to the NEPAD objectives by endorsing a wide-ranging pledge to eradicate poverty and to place their countries on a path of sustainable growth and development. This must be pursued within a framework of active participation in the world economy and the global body politic.

To achieve its objectives, the AU identified the following priorities for NEPAD:

Establishing conditions for sustainable development by ensuring:

- peace and security;
- democracy and good political, economic and corporate governance;
- regional co-operation and integration; and
- capacity building.

NEPAD further aims at policy reforms and increased investment in the following priority sectors:

⁴ AHG/235 (XXXVIII) Annex I.

- agriculture;
- human development with a focus on health, education, science and technology and skills development;
- building and improving infrastructure, including information and communication technology (ICT), energy, transport, water and sanitation;
- promoting diversification of production and exports, particularly with respect to agro-industries, manufacturing, mining, mineral beneficiation and tourism;
- accelerating intra-African trade and improving access to markets of developed countries; and
- the environment.

Under NEPAD, mobilising resources is to be achieved by:

- increasing domestic savings and investments;
- improving management of public revenue and expenditure;
- improving Africa's share in global trade;
- attracting foreign direct investment; and
- increasing capital flows through further debt reduction (and increased Official Development Assistance (ODA) flows).

In support of these objectives and programmes, the Steering Committee of NEPAD and its Secretariat are at this juncture actively involved in a great number of projects, particularly of a trans-boundary nature and involving the co-operation of Regional Development Communities. These include:

- a Comprehensive Africa Agriculture Development Programme;
- an Action Plan for the Environment Initiative of NEPAD;
- a Comprehensive Health Strategy;
- an Education programme (Education for All); and
- a number of trans-boundary infrastructure projects in energy, transport, ICT, water, sanitation and tourism.

4 The African Peer Review Mechanism (APRM)

In the 'Declaration on Democracy, Political, Economic and Corporate Governance', agreed to by members of the AU at the Summit Meeting held in Durban in July 2002, provision was also made for the introduction of the African Peer Review Mechanism (APRM). Through the APRM, progress made by individual countries with the implementation of the NEPAD programme should be assessed from time to time. An 'APRM Base Document' was attached to the Declaration in which the APRM is defined as 'an instrument voluntarily acceded to by member states of the African Union as an African self-monitoring mechanism'.⁵

⁵ The New Partnership for Africa's Development (NEPAD) — The African Peer Review Mechanism, AHG/235 (XXXVIII) Annex II.

In the 'Base Document', the purpose of the APRM is defined as follows:

The primary purpose of the APRM is to foster the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration through sharing of experiences and reinforcement of successful and best practice, including identifying deficiencies and assessing the needs for capacity building.

It was also decided that participation in the APRM would not be obligatory for all members of NEPAD, but would be subject to a voluntary participation agreement signed by the Head of State of a country (the Memorandum of Understanding on the APRM). Initially, 16 countries agreed to participate, two more have since taken the decision to join and there are indications of a few more that may shortly come on board.⁶

After the Durban Summit Meeting in July 2002, further documents were prepared by the NEPAD Steering Committee on the 'Organisation and Processes of the APRM', and on 'Objectives, Standards, Criteria and Indicators for the APRM'. These documents were approved by the NEPAD Heads of State and Government Implementation Committee in Abuja, Nigeria in March 2003, and the stage was now set for the introduction of a monitoring system of progress made by individual countries with the implementation of the NEPAD programme.⁷

5 The Panel of Eminent Persons

The task for doing the reviews is delegated to a Panel of Eminent Persons, consisting of five to seven members, to be selected and appointed by the Heads of State of countries participating in the Review Mechanism (the Forum). In the 'Base Document', the required qualifications for members of the Panel are described as follows:

The members of the Panel must be Africans who have distinguished themselves in careers that are considered relevant to the work of the APRM. In addition, members of the Panel must be persons of high moral stature and demonstrated commitment to the ideals of Pan-Africanism.

Eventually, in May 2003, the following seven persons were appointed to the Panel:

⁶ Participating countries as of April 2004 are Algeria, Angola, Burkina Faso, Cameroon, Congo (Brazzaville), Ethiopia, Gabon, Ghana, Kenya, Mali, Mauritius, Mozambique, Nigeria, Rwanda, Senegal, South Africa and Uganda.

⁷ African Peer Review Mechanism — Organisation and Processes, NEPAD/HSGIC/03-2003/APRM/Guidelines/O&P; Objectives, Standards, Criteria and Indicators for the African Peer Review Mechanism, NEPAD/HSGIC/03-2003/APRM/Guidelines/OSCI, 6th Summit of NEPAD Heads of State and Government Implementation Committee, 9 March 2003, Abuja, Nigeria, available at <<http://www.nepad.org>> (accessed 31 March 2004).

- Ms Marié-Angélique Savané (Senegal) — Chairperson
- Prof Adebayo Adedeji (Nigeria)
- Ambassador Bethuel Abdu Kiplagat (Kenya)
- Dr Graça Simbine Machel (Mozambique)
- Mr Mourad Medelci (Algeria)
- Dr Dorothy L Njeuma (Cameroon)
- Dr Chris Stals (South Africa)

Panel members do not represent countries or national governments or any other vested interests. Members of the panel are elected in light of their individual backgrounds and experience. Care was apparently taken to select persons from each one of the five Regional Economic Communities, and also to include members with experience in all the basic disciplines of policies that the Panel will have to review.

During the past nine months, the Panel held six meetings to orientate itself and to work out a practical programme for the implementation of its mandate. Not all of the objectives and programmes of NEPAD will be covered by the APRM process. The Peace and Security Initiative, for example, is being pursued in a separate structure more aligned to the political arm of the AU. Many of the more specific programmes, which are run and managed by NEPAD on a multi-country, cross-border, regional or continent basis will not be reviewed by the Panel. These programmes are of vital importance for the work of the Panel. Peace and Security is, for example, a precondition for sustainable growth and development, and the successful implementation of the priority projects of NEPAD will provide the indispensable vehicles for the development process. In the APRM, constant notice will be taken of progress with these projects, but no detailed overviews will be made.

After deliberation and consideration, the Panel came to the conclusion that overviews of countries should cover the following four basic policy disciplines:

- the democratisation process and good governance at the political level;
- socio-economic development providing in the basic needs of people, such as education, shelter and health care;
- macro-economic policies including fiscal, monetary, trade and labour policies; and
- corporate governance including licensing, regulation, competition policy, ownership protection, solvency and liquidation rules and good corporate governance.

The Panel appointed its own Secretariat with Dr Kerfalla Yansané, a former governor of the Central Bank of Guinea, as Chief Executive Officer, and four co-ordinators with a research assistant for each one of the four basic disciplines.

The Panel had to ask itself what kind of policies a country should apply in each one of the four basic disciplines in order to put it on the right

course for the ultimate attainment of the goals of NEPAD. Standards and norms had to be set, taking account of the ideal of best practice and, of course, of the realities of Africa. Objective criteria and nominal indicators had to be defined to ensure that comparable and consistent assessments will be made for different countries.

The Panel also entered into extensive negotiations with a number of multinational institutions, such as the United Nations (UN), and a number of its agencies, the Economic Commission for Africa (ECA) and the United Nations Development Programme (UNDP), the African Development Bank, the International Monetary Fund and the World Bank, to seek their assistance for the APRM process. The Panel does not want to become just another hassle for countries by collecting basic information that is already available within some other institution.

A programme has now been worked out with the participating countries for procedures that will be followed with the reviews. The Panel approaches the APRM basically as a self-assessment process where each country should in the first instance decide for itself whether it is on the right track and what adjustments would be necessary in the implementation of its own national policies to ensure that it will be moving in harmony with other African countries on the defined path to a common destiny.

For this reason, the Panel has issued a document entitled 'Guidelines for Countries to Prepare for and to Participate in The African Peer Review Mechanism'.⁸ Furthermore, the Panel drafted a very comprehensive document now being referred to as the 'Questionnaire', which contains a more detailed statement of the objectives of NEPAD, and of the standards, norms, criteria and nominal indicators for each of the four identified disciplines to be used in the assessment process. A great number of examples of questions to be asked by the Panel have been included to enable countries, even before review missions will visit with them, to proceed with the self-assessment process.

The Panel places a high premium on a very broad and general participation in the review process by all stakeholders within a country. Not only ruling governments but also opposition parties, government officials, non-governmental organisations, private sector business representatives and civil communities must be given the opportunity to express their views. This requires the creation of a well-structured institutional framework within each country to involve as many stakeholders as will be possible.

In the end, however, the Panel of the seven Eminent Persons will be responsible for drafting the final report on their views of the country's policies, deficiencies and need for assistance, for example in capacity

⁸ NEPAD/APRM/Panel3/guidelines/11-2003/Doc8, available at <<http://www.nepad.org>> (accessed 31 March 2004).

building. In the execution of its functions, the Panel will have to remain objective and independent, free of any political pressures or outside intervention.

6 The APRM report of the Panel

The final report of the Panel will be submitted to the Heads of State and Government of the countries participating in the APRM (the Forum). It is not required of the Panel to do any follow-up work on the review. The APRM is after all a *peer* review mechanism — peers, that is, Heads of State and Government of participating countries must talk to their peer, that is the Head of State of the country concerned. The APRM ends where it begins — as part of the political process of the AU. It is a requirement, however, that at some stage reports of the Panel will be released to the public, for example by tabling them in the Pan-African Parliament. This may only take place after the Forum has dealt with the recommendations, but not later than six months after they have been finalised by the Panel.

Available documentation provides for no penalties or sanctions against countries that do not, in terms of Panel opinion, apply acceptable policies. The 'Base Document', however, contains the following clear instruction for the follow-up procedure:

If the government of the country in question shows a demonstrable will to rectify the identified shortcomings, then it will be incumbent upon participating governments to provide what assistance they can, as well as to urge donor governments and agencies also to come to the assistance of the country reviewed. However, if the necessary political will is not forthcoming from the government, the participating states should first do everything practicable to engage it in constructive dialogue, offering in the process technical and other appropriate assistance. If dialogue proves unavailing, the participating Heads of State and Government may wish to put the government on notice of their collective intention to proceed with appropriate measures by a given date. The interval should concentrate the mind of the government and provide a further opportunity for addressing the identified shortcomings under a process of constructive dialogue. All considered, such measures should always be utilised as a last resort.

It is indeed the intention of the APRM and therefore of the Panel to act as a catalyst for African countries to discover for themselves best policies and practices that will lead them on a collective basis to the longer-term objectives of NEPAD. Countries that do get good reports from the Panel will automatically attract the attention of the international donor community, potential international investors and foreign governments.

7 Present status of the APRM

Members of the Panel and its Secretariat are now proceeding to the implementation stage. Information is being collected for a supportive database for each one of the 16 original participating countries and for the few subsequent late joiners. Members of the Secretariat recently visited some of the countries that have made good progress with the implementation of their internal APRM programmes. On the basis of their findings and recommendations, the following four countries were selected by the Panel for the first APRM reviews: Ghana, Kenya, Mauritius and Rwanda.

A Panel member has been designated to lead the Review Team for each one of these four countries. It is planned to finalise reports for these pioneers by the end of this year, and at the same time also to proceed to other countries as soon as they make satisfactory progress with their own internal activation programmes.

At this stage, it is a challenging learning process, both for the Panel and for the participating countries. In the process, procedures, standards and norms, criteria and indicators will undoubtedly be adjusted, in the light of our experiences and of our efforts to establish more appropriate formulae for our vast continent with all its poverty, backlogs and desperate needs. The established best practices and policies of other parts of the globe, and particularly of advanced industrial countries, do not always fit the needs of and circumstances prevailing in African countries.