Tana High-Level Forum on Security in Africa

2018 TANA PAPERS

A Collection of Policy Briefs

A Wind of Change? The Institutional Reform of the African Union and Africa's Security Provision

INSTITUTE FOR PEACE AND SECURITY STUDIES
ADDIS ABABA UNIVERSITY
Tana Forum Secretariat

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Preface

The Institute for Peace and Security Studies (IPSS) of Addis Ababa University (AAU), which serves as the Secretariat of Tana High-Level Forum on Security in Africa, is pleased to present a collection of policy briefs to inform discussions at the 7th Tana Forum. This year's theme is 'Ownership of Africa's Peace and Security Provision: Financing and Reforming the African Union'. Ownership and responsibility by both the African Union (AU) and Member States needs to happen if the continental body is to remain relevant and capable of addressing Africa's changing security dynamics. The AU also needs to address the endemic issue of heavy dependence on external partners and actors.

This collection of policy briefs seeks to contribute insights with policy implications that can positively inform and influence the ongoing dialogue on the AU's institutional reforms. It provides perspectives on some of the technicalities in the reform process and also considers implications for policy and practice in ensuring the success of the institutional reforms. I hope this publication will serve as a valuable reference for researchers, educators, policymakers and other relevant actors.

I would like to thank the contributors for taking the time to write these briefs and share their insights on the AU's continental plan. I wish to thank our well-wishers, partners and friends who have made it possible for IPSS to serve as the Secretariat of the Tana Forum and coordinate the Forum's overall activities; a big thank you to all for your contributions towards making this year's Tana Forum a success. My thanks also go to the IPSS editorial team for ensuring the timely and successful publication of this collection.

Kidane Kiros (PhD)
Director
Institute for Peace and Security Studies
Addis Ababa University
Ethiopia

Introduction

Michelle Ndiaye

It has been over 50 years since Africa's Organization of African Unity (OAU) was established in 1963, and 2018 marks 16 years since its transformation into the African Union (AU). Yet, Africa's progress towards political and socio-economic integration remains elusive, or at best, a slow work in progress. This challenge combined with the persistence of instability and new forms of insecurity on the continent have been partially attributed to the inefficiency and ineffectiveness of the AU even by its own member states. As President Paul Kagame notes, "we have a dysfunctional organization in which member states see limited value, global partners find little credibility and our citizens have no trust".[1]

Indeed, the AU has been plagued with a number of challenges, the most pressing being a lack of financial autonomy, rendering it unable to address some of Africa's protracted civil conflicts like that in the Democratic Republic of Congo (DRC), South Sudan, Somalia as well as the increasing threat of violent extremism and terrorism by groups such as Boko Haram and al- Qaeda in North and West Africa. Some of the outstanding obstacles to the achievement of fully-fledged ownership of peace and security activities on the continent include; lack of capacity, especially financial resources, hence the AU's dependency on external donations; lack of adequate technical capabilities among most African troop contributing countries to African missions; competition between the AU and its sub-regional organizations on the clear division of roles and responsibilities; and the failure of the AU to speak with one voice as evidenced in responses to the crisis in Libya and Ivory Coast. The over-dependency on international partners for the provision of funding has undermined the AU's legitimacy and leadership in Africa's affairs. It has also allowed for a proliferation of support by various international partners, who are often driven by their own interests. It is therefore imperative and essential that the AU finds durable solutions to address these challenges and to enable full ownership of Africa's security provision.

Ownership and responsibility by the AU is a pre-requisite if the continental body is determined to address the rapidly changing security context in Africa. This means the operationalization and consolidation of the African Peace and Security Architecture (APSA) must remain a priority. At the same time, the AU would have to address the heavy dependence on external partners and actors that has become the norm. For this to effectively happen, the AU needs to put in place measures and systems that support and contribute to a shared understanding of ownership, financing, accountability, evaluation and monitoring of the security provisions in member states and on the continent.

It is against this backdrop that the AU is currently embarking on renewed reforms. These efforts were crystallized during the 28th Ordinary Summit of Heads of State and Government held in Addis Ababa, Ethiopia from 30 to 31 January 2017. The Assembly of Heads of State also designated President Paul Kagame of the Republic of Rwanda, the Chairperson of the AU for 2018, to supervise the implementation of the reforms. It was also decided that President Kagame will work with the Presidents of Chad and Guinea, namely Idris Deby and Alpha Conde respectively. The latter were Chairs of the AU for 2016 and 2017 respectively. The three Heads of State, collectively referred to as the 'Reform

1 "The Imperative to Strengthen Our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union" by President Paul Kagame, 29 January 2017, https://au.int/sites/.../32777-file-report-20institutional20reform20of20the20au-2.pdf accessed on 10 December 2017.

Troika', as well as the adoption of the reform decision by all AU member states, demonstrate the political commitment towards an institutional re-configuration aimed at increasing the likelihood of achieving greater effectiveness of the AU.

This collection of policy briefs seeks to contribute to achieving a homogeneous understanding and to influence ongoing dialogue on the AU's institutional reforms. Despite the relatively recent decision to reform, its ongoing implementation, varied discussions among relevant stakeholders and the eclectic nature of the institutional re-configuration has made it difficult to attain a coherent understanding. Drawing perspectives from practitioners with intimate understanding of the reforms process as well as researchers, academic and civil society, this collection provides a comprehensive account of the diverse layers of the AU's institutional reforms. It also makes important contributions to the debate in ways that could influence a rethinking of some aspects of the reform agenda to advance a crucial and desperately required success of the AU. The scope covered in this collection ranges from the elements of the institutional reform process to actors, partnerships, financing peace and security and compliance to the reforms. This collection does not seek to impose a verdict on whether the reforms will be successful or not. However, it provides compelling analyses on some of the milestones achieved in the ongoing implementation of the agenda as well as the conditions that need to be put in place to guarantee the full implementation of the reforms.

The starting point of this analysis is to understand what the key elements are, and how the AU has defined its institutional reforms. Most of the authors of the various contributions touch upon these important questions, but both Jide Okeke and Ulf Engel dwell in detail on these issues. According to Okeke, successful institutional reforms are best understood in terms of the technical scope as set out by the AU member states. In this regard, five key priorities underpin the reform agenda based on AU official documents. They include: focus on key priorities with continental scope; realign AU institutions to deliver on key priorities; connect AU citizens (including through the delivery of continent-wide public goods); effective and efficient management of the business of the AU at political and operational levels; and promote a more sustainable and predictable financing of the Union mainly through member states. Taking together, these five priorities, if fully implemented, will facilitate the accelerated progress of the AU in the implementation of its Agenda 2063, which is aimed at achieving a "peaceful, prosperous Africa, driven by its own citizens and representing a dynamic force in the global arena".[2]

One component of the AU reform priorities that has continued to receive widespread attention is the quest for financial autonomy. As Ulf Engel argues, this is because financing of the AU and its activities, especially in the sphere of peace and security, has been a major challenge since the organization's establishment. Donor assistance to the AU reached an unprecedented level in 2015, when it accounted for 71.8% of the Union's overall estimated budget. The persistent of security threats, especially those linked to violent extremism and terrorism in the Sahel, the Horn and North Africa, has increased the urgency of sustainable funding. At the same time, Engel suggests that the growing alienation of African countries by the West may have contributed to the mounting pressure to reduce dependence. He also argues that attempts to improve the internal governance structures of the AU Commission, which commenced under the leadership of the former Chairperson, Nkosazana Dlamini-Zuma, including through her appointment of a High Representative on the Peace Fund (Donald

2 See AU Agenda 2063, https://au.int/en/agenda2063 accessed 10 March, 2018

Kaberuka), contributed to a trajectory for the AU's institutional reforms. Irrespective of the validity of these arguments, there is certainly a compelling ethical case argument of improving the lives of citizens through the reform agenda. The political and legal aspects of the institutional reforms are not so clear cut.

At the political level, the adoption of the institutional reforms remains an indicator of consensus, but its implementation has exposed a challenge (whether real or perceived) of inclusivity. There are concerns that have been expressed by some member states such as South Africa and Egypt as well as regional blocs such as the Southern Africa Development Community (SADC) opposing the modalities on the implementation of the reform agenda, especially its aspect on financial autonomy. Both Engel and Okeke respectively alludes to the importance of ensuring the inclusion of the five main financial contributing countries (Algeria, Egypt, Morocco, Nigeria and South Africa) and Angola, who collectively contribute 56% of the Union's budget, as active champions of the reform agenda. A significant gap that may have contributed to this perception of limited inclusion by member states in the implementation of the reform is the need to enhance rather than exclude the role of the Permanent Representative Council (PRC). Ako and Ukeje provide an exposition of the PRC as a statutory organ established under Article 5 of the Constitutive Act, to bear the primary responsibility of "preparing the work of the Executive Council and acting on the Executive Council's instructions". They argue that there is enough justification for the PRC to continue to exist beyond the AU reforms but a right-sized mandate that makes it an effective initial clearing house for policies and decisions will be required.

The AU institutional reforms also have signification legal implications for member states. Wachira and Kilonzo situate these legal responsibilities within the context of the five main priorities of the reforms already mentioned. Evidence suggests that the implementation of the AU's institutional reforms has commenced, particularly through the promotion of continent-wide public goods, such as the adoption of the following decisions: the Single African Air Transport Market (SAATM), a Protocol to the Treaty Establishing the African Economic Community relating to the Free Movement of Persons, Rights to Residence and Right of Establishment (thereafter referred to as the Free Movement Protocol), and the imminent adoption of the Continental Free Trade Agreement (CFTA). However, Wachira and Kilonzo argue that the ratification and implementation of these decisions by member states remains the litmus test for the success of the reforms. In addition, domestic legislations that will facilitate the implementation of the reforms should also be enacted by AU member states. Without national legislations, lofty aspirations, even when supported by political decisions reached by consensus at the AU Summit, will remain difficult to implement. Overall, the inter-related nature of the ethical, political and legal aspects of the AU's institutional reforms remains important drivers for understanding its prospects of success.

Beyond member states, the role of Regional Economic Communities (RECs) is indispensable to the realization of the reforms. Many authors in this collection elaborate on this claim. Raheemat Momodu calls for a more critical reflection on strategic and operational partnership between the AU and RECs as part of the reforms. Beyond the proposed AU-REC consultative meeting, Momodu underscores the necessity for collective participatory decision-making between the leadership of the AU Commission and the Chief Executives of the regional secretariats. Other considerations as part of promoting an effective partnership in the AU's reform agenda is clarity on the division of labour based on results-based rather than political comparative advantages between the AU and RECs, as well as the need for the RECs to align themselves to the collective vision of AU reforms, through pos-

sible re-structuring if and where necessary. Both Momodu and Mutisi are united in their respective assessments that AU institutional reform is unlikely to succeed without the mainstreaming of RECs as part of its full implementation.

A fully reformed AU means more constructive engagement rather than isolation from the international community. The 2015 Report of the United Nations (UN) High Level Independent Panel on Peace Operations (HIPPO) recognized the need for a deepened AU-UN partnership including through more predictable financing to AU peace support operations when authorized by the Security Council, even as the AU builds its own capacity and resources for this purpose. Besides, there is a growing consensus amongst regional and international organizations, that no single organization can independently manage the multifaceted and trans-global nature of governance, peace and security as well as developmental challenges. Cedric de Coning provides a mapping of the multiple bilateral engagements between the AU and its partners. Beyond multilateral organizations like the European Union, the League of Arab States and the UN, the AU has developed bilateral partnership arrangements with donor countries such as China, Japan, the Nordic states, Turkey and the United States. De Coning cautions against a 'one-size-fits-all' approach in promoting coherence in the engagement by partners with the AU as part of the reforms. Rather, he maintains that the AU will need to engage with each set of partners, and seek mutually agreed upon outcomes.
An aspect of the AU reforms is the goal of ensuring connection between the AU and its citizens. Unfortunately, as de Coning observes, there is a missed opportunity, which perhaps is not too late to address, to increase the role of African and international civil society organizations as part of the overarching reform agenda.

The final feature of this collection of essays is on promoting compliance in the decisions of the reform agenda. There seems to have been an extensive consultation on the historical challenges of AU member states to translate most of its decisions into effective implementation of the AU's performance. This has sometimes undermined the credibility, relevance and legitimacy of the AU. As a result, Kasaija Apuuli recommends that the AU must do more to impose a timely, robust and effective sanctions regime on member states who fail to meet their financial obligations towards the AU.

Across this collection of essays, five lessons are evident that require some emphasis. The first is the political criterion for a successful reform agenda based on a bottom-up approach. The consensual political decision on the reforms, and its supervision at the level of Heads of State, is laudable. However, an inclusive political consultation of all the main political actors such as the PRC, Ministers, RECs and civil society is indispensable for the success of the AU reform agenda. Consultations may be slow, difficult and sometimes regressive with such a broad-based constituency, yet, in an organization historically defined by the principle of consensus in decision making and implementation, inclusive consultations and engagements are a pre-requisite to the full implementation of the AU reform agenda.

Second, the growing gains in democratic governance in Africa requires that decisions by the AU are scrutinized and considered for adoption by national legislative bodies prior to implementation. As the AU makes progress in the adoption of milestone projects such as the SAATM, Free Movement Protocol and the CTFA, there is a need for dedicated support and ratification from national legislative bodies across AU member states, to ensure effective implementation.

Third, ensuring the internal governance structure of the AU Commission is the bedrock of effective reforms. The outdated systems, business processes and procedures have remained a source of underperformance. Staff retention has been difficult because highly qualified staff have sometimes become disillusioned by the organizational culture and patriarchal governance model associated within the Commission. There are some ongoing attempts for restructuring of the Commission, which commenced from the leadership of Dlamini-Zuma. The ongoing reform of the Commission should be far-reaching enough to address the systemic problem of internal governance.

Fourth, forging strategic and effective technical partnerships with RECs and the international community matter in the discussions, implementation and future of the AU. Partnership should not be construed as giving away ownership of the AU reform agenda. It simply means ensuring participation that will ensure that all relevant stakeholders understand the vision of the AU and plays a meaningful role in supporting the AU to realize its aspirations. Finally, it is important to emphasize that the AU reforms project will not be an easy task. However, it is one that is critical to ensure that the AU is best equipped to meet the contemporary challenges of the continent, and, is able to project a voice as a credible and more legitimate actor as part of international society. A wind of change may be on the horizon.

About the Author

Michelle Ndiaye

Michelle Ndiaye is the Director of the Africa Peace and Security Programme at the Institute for Peace and Security Studies (IPSS) and Head of the Tana Forum Secretariat.

Ambition versus Realism: Evaluating the Prospects of Success of the African Union Institutional Reform Agenda

Jide Martyns Okeke

Summary

The African Union is embarking on its first state-led structural reform, which is actively being implemented by AU member states since the establishment of the continental body over a decade ago. The reform will likely to facilitate the realization of AU's ambitious Agenda 2063 that seeks to achieve an "integrated, prosperous and peaceful Africa, driven by its citizens and representing a dynamic force in the international arena".[1] A political declaration has also been made by AU member states that achieving this aspiration will require: streamlining the priorities of the AU, realignment of its institutions, an increased connection of the continental body to its citizens, improving the quality of AU bureaucrats, and attaining financial autonomy. Indeed, structural reforms of international organizations have historically proved to be a herculean task, quite rare, difficult but not impossible to achieve. The ongoing AU reform is no exception, and in fact, there have been some evidence that the reform is currently being implemented. However, this brief points to four critical issues that should be resolved to fully realize the AU reform agenda. They are:

- First, major financial contributing countries must play a leading role in the implementation of the AU reform agenda. Consideration could be given to establish a mechanism for inclusion of Algeria, Egypt, Morocco, Nigeria and South Africa and Angola, which contribute a combined total of 56% of the Union's budget, as champions rather than mere participants of the reform. The latest decision of an expansion of the Troika[2] to include the Bureau and a 15-member Ministerial Advisory Committee (comprising three from each region) remains inadequate because it does not deliberately consider the role of the main financial contributing countries in the ownership, design and decision-making in the overall reforms.

- Second, the decision on financing of the Union, which remains a pinnacle of the reform should be implemented based on an enforcement principle of AU member states 'obligation to pay' their assessed contributions based on a periodically agreed upwardly revised Scale of Assessment. It will be difficult for a prescriptive derivative formula based on 0.2% levy on all eligible imported goods into the continent to be universally implemented by all AU member states.

- Third, continent-wide public goods as reflected in the AU adoption of the Single African Air Transport Market (SAATM), the AU Protocol to the Treaty Establishing the African Economic Community relating to Free Movement of Persons, Rights of Residence and Right of Establishment, and the likely adoption of the Continental Free Trade Agreement (CFTA) will only be beneficial to citizens if they fully ratified by all AU member states and effectively implemented.

1 See AU Agenda 2063, https://au.int/en/agenda2063 accessed 10 August, 2017

2 "The Imperative to Strengthen Our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union" by President Paul Kagame, 29 January 2017, https://au.int/sites/.../32777-file-report-20institutional-20reform20of20the20au-2.pdf accessed on 10 December 2017.

- Finally, the more deliberate inclusion of Regional Economic Communities/Regional Mechanisms (RECs/RMs) in the AU reform at both political and technical levels remain a priority. A source of concern is the perception by the Southern Africa Development Community (SADC) as well as some member states of limited inclusivity in the consultation process and, variation amongst states on the modalities for the reform implementation agenda... There continued marginal involvement (whether real or imagined) in the reform has delayed aspects of the reform especially the planned AU-RECs Coordination Meeting initially planned for June/July 2018.

Introduction

Structural reforms of international and regional organizations are rare, difficult but not impossible to achieve. It is within this spirit that the African Union (AU) is undertaking its first structural reform since the continental body was established over a decade ago. The AU reform is inspired by the widening breadth of socio-economic, developmental as well as peace and security challenges. At the same time, the rise of regionalism in the wake of changing global political landscape has led to recognition and demand by national, regional and some international stakeholders for the AU to exercise leadership in the affairs of the continent. It is against this backdrop that the AU Assembly of Heads of State and Government decided during its 28th Ordinary Session held in Addis Ababa, from 30 to 31 January 2017, to embark on the institutional reform of the AU.[3] The Assembly also designated President Paul Kagame of the Republic of Rwanda to supervise the implementation of the reform. It was also conceived initially that President Kagame would work with two other Heads of State - President Idriss Deby and President Alpha Conde, the 2016 and 2017 Chairperson of the Union respectively. The reform decision combined with the leadership of these 'Reform Troika' appear to demonstrate a political commitment of AU member states towards an institutional re-configuration aimed at boosting performance.

The eclectic nature of AU's institutional reform, its fluidity and constant evolution of its implementation process makes it difficult to achieve a homogeneous understanding of underlying aspects and evaluate progress. This brief, however, seeks to contribute to an understanding of the AU reform agenda by addressing two questions: first, what will a successful AU reform look like? Second, will the ongoing reform be successful? The success of the AU reform is best understood through the lens of its technical scope of the AU reform as set out by AU member states. Accordingly, they are based on five identified priorities contained in the reports submitted by President Kagame to the AU Assembly as well as other update reports on the reform. These priorities are: focus on key priorities with continental scope; realignment of AU institutions to deliver on key priorities; connecting AU to its citizens including through the delivery of continent-wide public goods; effective and efficient management of the business of the AU at political and operational levels; and promoting a more sustainable and predictable financing of the Union mainly through AU member states. Taken together, these priorities, if implemented, will be the basis for achieving a more prosperous, peaceful Africa in line the ambitious Agenda 2063.

3 See Assembly/AU/Dec.635(XXVIII)

In terms of the prospects of success of the reform agenda, this brief contends that while a conclusive assessment is not possible at this stage, the status of implementation of the reform decisions, and an analysis of some unresolved issues shed some insights on the realization of the reform. There are grounds for optimism based on some progress made in the implementation of some milestones in the reform agenda. However, this brief identifies four unresolved issues that are veritable grounds for a delayed, partially implemented or unimplemented reform agenda. The first issue is the perception by some member states of limited inclusivity in the consultation process and, variation amongst states on the modalities for the reform implementation agenda. Such perception and the need to achieve a shared understanding amongst member states led to an expansion of the Reform Troika to include the Bureau of the Assembly and the nomination of fifteen (15) Ministers of Foreign Affairs, three per region, to play an advisory role to the AU reform implementation process.[4] This representation remains inadequate because except for the coincidence of South Africa as a member of the Bureau, major financial contributing countries (FCCs), remain merely participants rather than champions of the reform process.

Second, the decision on financing of the Union, which remains a pinnacle of the reform would have to be implemented based on the principle of AU member states' 'obligation to pay' their assessed contributions based on a periodically agreed upwardly revised Scale of Assessment. It will be difficult for a prescriptive derivative formula based on 0.2% levy on all eligible imported goods into the continent to be universally implemented by all AU member states. As of February 2018, only 12 out of 55 AU member states have commenced the implementation of the financing of the Union decision.[5] Five additional countries have declared that they are at 'advanced stages' in the national legal requirements for the implementation of the financing decision. However, two countries (namely, Mauritius and Seychelles) have expressed that inherent national economic and legal constraints imply that they are only able to fulfil their financial obligation through an alternative means. Egypt and South Africa have officially expressed that they are unable to implement the financing decision in the current form.[6] There is a need to, at best, implement the 0.2% levy on a voluntary basis while pursuing an obligatory contribution of AU member states to the Union based on a periodically revised AU Scale of Assessment.

Third, the promotion of continent-wide public goods as reflected in the AU adopted of the Single African Air Transport Market (SAATM), the AU Protocol to the Treaty Establishing the African Economic Community relating to Free Movement of Persons, Rights of Residence and Right of Establishment (hereafter referred to as 'Protocol on Free Movement), and the likely adoption of the Continental Free Trade Agreement (CFTA) are significant milestones. Without their effective implementation, the reform process will not be different from more than a thousand decisions that have been adopted by the AU Assembly but have been mostly partially implemented or unimplemented. Finally, the division of labour and clear delineation of roles and responsibilities between the AU and RECs/RMs have not been resolved, thus far. The resolution of these issues will define the prospects of success of the AU's reform aspiration.

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4 See Assembly/AU/Draft/Dec.24(XXX)

5 See African Union, "Revised Report on the Implementation of the Kigali Decision on Financing of the African Union", January 2018, Unpublished.

6 Ibid.

What will Success of the AU Reform look like?

"we have a dysfunctional organization in which member states see limited value, global partners find little credibility and our citizens have no trust" – President Paul Kagame[7]

The breadth of the challenges confronting Africa is widening. Modern slavery, conflicts, terrorism, resource contestations and localized strife including those associated with herdsmen versus farmers over grazing land, rising inequality and poverty are some of the most notable manifestations of Africa's governance, development, peace and security challenges. At the same time, Africa is also witnessing growing recognition from diverse international actors, through its roles, influence and visibility in global dialogue. The AU is responsible for advancing a united continental agenda and has developed an ambitious plan as reflected in Agenda 2063, which is expected to lead to an "integrated, prosperous and peaceful Africa, driven by its citizens and representing a dynamic force in the international arena".[8] Yet, the continental body has remained unfit for purpose because of insufficient political will, a mismatch between its ambition and realistic technical capacities; and overwhelming dependence on voluntary donor support for the implementation of its decisions, programmes and overall mandate. Such, is the context of the decision on the Institutional Reform of the African Union that was adopted during the 27th Ordinary Session of Assembly of Heads of States held from 17 to 18 July in Kigali, Rwanda. President Paul Kagame of Rwanda is supervising the implementation of the reform.

The ongoing reform of the African Union is eclectic and thus geared towards an institutional-wide transformation. As a result, there are several and not necessarily mutually reinforcing aspects to the reform, which sometimes make it difficult to articulate homogeneously. The 2017 Report by President Paul Kagame on institutional reform of the African Union provides a useful foundation for understanding, in broad terms, the scope and main elements of the institutional reform. There have been subsequent reports and decisions made on the institutional reform.[9] These documents are consistent in presenting five critical areas of the ongoing institutional reform of the AU.

The first imperative of the reform is to reduce and deepen the focus of the AU to key priorities with a continental scope. Accordingly, the institutional reform agenda posits that the AU should focus on four main strategic priorities namely: political affairs, peace and security, economic integration and Africa's global representation and voice. As presently constituted, the AU is seeking to implement an impossible mandate by attempting to take the lead in the seven aspirational goals contained in Agenda 2063 namely: promoting a prosperous Africa based on inclusive growth and development; an integrated continent, politically united and based on the ideals of pan-Africanism and the vision of Africa's renaissance; an African of good governance, democracy, respect for human rights, justice

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7 See "The Imperative to Strengthen Our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union" by President Paul Kagame, 29 January 2017, https://au.int/sites/.../32777-file-report-20institutional20reform20of20the20au-2.pdf accessed on 10 December 2017.

8 See AU Agenda 2063

9 There are several AU official documents that have been developed since the adoption of the AU reform decision. Examples include: AU Assembly decision on Scale of Assessment and Alternative Sources of Financing the African Union, Doc.Assembly/AU/Dec.578(XXV), 25th Ordinary Session of AU Heads of State and Government, held from 14 to 15 July 2015 in Johannesburg, South Africa; Report on the Implementation of the Decision on the Institutional Reform of the African Union, Assembly/AU/2(XXIX), Assembly of the Union, 29th Ordinary Session, 3 to 4 July 2017, Addis Ababa, Ethiopia;

and the rule of law; a peaceful and secure Africa; and Africa with a strong cultural identity, common heritage, shared values and ethics; an Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children; and Africa as a strong, united and influential global player and partner. Even though these aspirational goals are important to the continent, the AU does not have the comparative advantage to achieve them on its own effectively. The continental body has, for example, struggled to respond to humanitarian crises, implement long-term post-conflict reconstruction and development or in fact promote a blue economy through the development and implementation of Africa's Integrated Maritime Strategy.

An important subset of re-focusing the AU priorities, therefore, is the need to promote, enhance and sustain partnerships. RECs/RMs, member states, research institutions, civil society and other continental institutions, are also central to reprioritization of the AU's focus in line with the principle of subsidiarity and comparative advantage. UN system, international financial institutions, bilateral partners could also play essential and necessary roles. However, AU's leadership and clarity of ambition and needs will be vital in harnessing the resources of these varied actors in complementing the advancement of its main four priorities under the reform plan but also in meeting those that transcends them but are consistent with Agenda 2063.

The second aspect of the reform is to realign AU's institutions. Currently, the AU institutions comprising of the Commission, organs, agencies and committees are a complex web of broad, sometimes vaguely understood and in fact disjointed organizational structures. The ongoing reform process has revealed that there are currently eight Commission directorates, thirty-one departments and offices alongside eleven African Union organs, thirty-one Specialized Technical Agencies (STAs) and, twenty high-level committees. The fragmented nature of these institutions has led to duplication of efforts, waste of resources and, limited optimization of staff capacities, in an institution that is constantly characterized by a shortage of qualified staff. The AU's reform process is seeking to increase organizational performance through an audit of institutional bottlenecks and inefficiencies as well as re-evaluate the size and capabilities of AU Commission structures.

In addition, AU organs, and agencies such as the New Partnership for African Development, the African Peer Review Mechanism, the Pan-African Parliament, Peace and Security Council and judicial institutions are to be reviewed and strengthened. Except for NEPAD and APRM, the ongoing reforms are yet to fully articulate that are expected across these institutions. NEPAD is expected to be fully integrated into the Commission as the African Union development agency responsible for delivering development solutions to Africa's governance, peace and security challenges. The failure to effectively monitor the implementation of key decisions made by AU Heads of State and Government remains a critical gap in achieving organizational effectiveness. As a result, the APRM will be strengthened to track implementation and oversee monitoring and evaluation in key governance areas on the continent.

The third priority of the AU institutional reform agenda is the imperative of connecting the AU to its citizens: this is expected to be achieved through the promotion of women and youth quotas in the recruitments, electoral processes and appointment across the AU system. It also involves encouraging the participation of the private sector to support the AU actively. Other progressive agenda has been proposed, aimed at promoting continent-wide public goods and services such as rolling out of the African passport to citizens, as well as the realization of free movement of persons

as well as the establishment of a free trade area across Africa. These aspects are further discussed in the subsequent section of this brief.

The fourth priority relates to the need to manage the business of the AU efficiently at both political and operational levels. Politically, there is a growing emphasis by the AU Assembly on improving its working methods including through streamlining its agenda and through the recognition of improved coordination with the RECs. In addition, the role of the plethora of partners will continue to be required in achieving AU's aspirational goals. However, there is a political consensus amongst AU member states that the roles of partners would need to be better coordinated, limited and more aligned with AU's needs. At the operational level, the internal governance structures of the AU Commission require rethinking. In this respect, the call to embrace a more rigorous merit-based nomination process for the election of the AU Commission Chairperson, Deputy Chairperson and the Commissioners pre-dates the current reform.[10] Of course, there are several other promising organizational cultures characterized by some highly proficient, overstretched and under-remunerated staff within the AU Commission. However, the overall system remains weak in its bureaucracy, experiences limited staffing and has been criticized by its member states for deficient performance across all levels of the Commission.[11]

The final and the most important priority is the quest for promoting the financial autonomy of the AU. The aspiration for predictable and increased funding to the AU from its member states was a critical driver to the broader reform agenda of the Union. In 2016, Dr. Donald Kaberuka was appointed by the Chairperson of the AU Commission as the AU High Representative on the Peace Fund, which is a supporting structure of the African Peace and Security Architecture but have for so long been funded by external partners. Dr. Kaberuka's quest for the full operationalization of the Peace Fund exposed a more systemic problem: without real confidence by member states in the business of managing the affairs of the Union, there will be no incentive for them to increase or make timely payments of their statutory financial obligation.

Of course, the financial over-dependence of the AU on external donors is not a new discourse. The multiplicity of Africa's challenges means that the AU alone may not always have the financial resources to address them solely. However, the over-dependence on external donors have created an institution that lacks accountability to its member states, is exposed to the divergent and sometimes contradictory interests from donor states/partners and, may have made the institution vulnerable to the risk of negative consequences including but not limited to possible espionage.[12] In 2016, the AU Assembly of Heads of State and Government made a key decision on financing the Union. AU member states agreed to institute a 0.2% levy on all eligible imported goods into the continent.[13] The decision was preceded by, inter alia, a Summit decision in January 2015 where member states pledged to contribute 100% of the Union's budget; 75% of the Union's programme budget and 25%

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10 See Maru, Mehari, "Rethinking and Reforming the African Union Commission elections", Africa Security Review, Vol. 21(4):64-78, 2012

11 "The Imperative to Strengthen Our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union" by President Paul Kagame, 29 January 2017, https://au.int/sites/.../32777-file-report-20institutional20reform20of20the20au-2.pdf accessed on 10 December 2017.

12 Allison, Simon, "How China spied on African Union's computers" Mail & Guardian, 28 January 2018 https://mg.co.za/article/2018-01-29-how-china-spied-on-the-african-unions-computers accessed on 30 January 2018.

13 Assembly/AU/Dec.635(XXVIII)

of the Union's budget towards peace support operations.[14] The AU Summits of July 2015 and January 2016 respectively, also reiterated this decision on the financing of the Union.[15]

It seems the scope of the ongoing reform is to structurally transform the AU into an organization that is: built on relevant institutional design, made of efficient bureaucrats, firmly connected to its citizens, and able to independently finance most of its activities. Above all, the institution will be expected to achieve political consensus and support from its member states.

Will the AU Institutional Reforms be successful?

Due to its early stage, it will be impossible to determine whether the AU's institutional reform has been successful. Sufficient evidence exists to determine the potential for success. In this respect, this section posits that the AU's institutional reform has received a political endorsement from the member states of the continental body, at least based on existing decisions and statements made by the AU Assembly of Heads of States and Government. The process of implementing the reform continues to face political difficulties and, if not resolved will lead to an untenable or at best partially implemented reform aspiration. Unpacking this assertion further requires addressing three critical questions: why have previous institutional reforms of the AU failed or not been fully implemented? What has been done and, what needs to be done to realize the AU reform fully?

'Old' and 'New' AU Institutional Reforms

Since its establishment in 2002, the AU has attempted to implement two reforms. The first was an audit review of the AU commissioned at the request of the Assembly of Heads of State and Government as contained in the Accra Declaration of July 2007. This audit was conducted by a High-Level Panel led by Professor Adebayo Adedeji and appointed by the then Chairperson of the African Union, John Kufuor, who was at the time the President of Ghana.[16] The audit review remains one of the most robust interrogations of AU institutions and organs with concrete proposals, most of which are not different from Kagame's proposals. The adoption of Agenda 2063 inspired the second reform ambition by the AU and its 10-year Implementation Plan, which created the imperative to restructure the Commission and other Organs of the Union to deliver better results.[17] The AU Commission championed this restructuring effort under the leadership of Dr. Nkosazana Dlamini-Zuma, former Chairperson of the AU Commission, including by contracting the consultancy firm, Bain and Company. Some aspects of the restructuring proposals especially those relating to the revision of AU staffing rules and regulations as well as a review of compensation packages are being implemented. However, the radical recommendations relating to the restructuring of institutions and organs have been left unimplemented. Both reforms attempt and their proposals are not qualitatively different from the ongoing Kagame's agenda leading to sceptical views about whether this most

14 AU Assembly decision on Scale of Assessment and Alternative Sources of Financing the African Union, Doc. Assembly/AU/Dec.578 (XXV), 25th Ordinary Session of AU Heads of State and Government, held from 14 to 15 July 2015 in Johannesburg, South Africa.

15 AU Assembly decision on Scale of Assessment and Alternative Sources of Financing the African Union, Doc. Assembly/AU/Dec.578 (XXV), 25th Ordinary Session of AU Heads of State and Government, held from 14 to 15 July 2015 in Johannesburg, South Africa. See also: Assembly/AU/Dec.602(XXVI)

16 See Report of the High Level Panel on the Audit of the African Union, Addis Ababa, Ethiopia, 18 December 2007.

17 See "Report of the Permanent Representative Council Sub-Committee on AU Structural Reform, Executive Council", 28th Ordinary Session of the AU Executive Council, Addis Ababa, Ethiopia, 23 to 28 January 2016.

recent effort will succeed.

Previous reform ambitions underestimated the extent to which the historical institutional design of the AU could have impacted on its performance. In this regard, scholars interested in the growth of regionalism took for granted the resilience of the state or at least were too quick to predict its demise.[18] On the contrary, states acting on self-interested reasons design institutions purposefully to advance their joint or sometimes promote their interests.[19] In other words, the collective ambition and shared security culture, especially amongst influential states within a multilateral organization, could prove to be instrumental in reforming the organization. A decisive factor, which led to the establishment of the AU, was the request for reform of the Organization of African Union (OAU), in line with the foreign policy interests of Nigeria and South Africa.[20] Indeed, state cooperation and the promotion of collective ambition and shared security culture of a few dominant states have often laid important foundations for the reform of multilateral organizations.

The ongoing reform is different from previous limited attempts because it recognizes the primacy of the state in the implementation of a successful reform process. In this respect, the prevailing AU reform agenda was initiated through a Troika arrangement composed of AU Chairpersons for 2016, 2017, and 2018. These troikas are President Idriss Itno Déby, President Alpha Condé and President Paul Kagame respectively.[21] The troika arrangement is a unique feature of the ongoing AU reform and has proved to be one of the critical indicators that led to the political endorsement of this drive for an institutional re-configuration.

On the other hand, the AU reform agenda is being implemented within the context of the absence of collective leadership amongst influential states, and heterogeneity in the nature of state cooperation. The main financial contributing countries have been consulted but are not driving the reform agenda. These countries include Algeria, Egypt, Morocco, Nigeria and South Africa. They contribute 9.6% each towards the Union's budget, while Angola currently contributes 8%. These six countries, therefore, contribute a combined estimate of 56% towards the overall budget of the Union.[22] The absence of political consensus and in fact rivalries amongst some of these countries may explain why they may not be leading the AU reform agenda but, their leadership remain vital for its success. It also does not help that the character of the states that constitute the Troika does not necessarily reflect the progress that Africa's has made in the promotion of democratic governance over more than two decades. Besides, there is still a perception of limited consultations amongst some member states in the implementation of the reform process: this is discussed further in the subsequent section.

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18 See Acharya, A and Johnston, A. "Comparing Regional Institutions: an introduction" in Acharya, A and Johnston, A (eds) Crafting Cooperation: Regional Institutions in Comparative Perspective London: Cambridge University Press, 2007

19 See Ibid.

20 See Tieku, T.K, "Explaining the Clash and Accommodation of Interests of Major Actors in the Creation of the African Union" African Affairs Vol. 103: 249-267, 2004

21 Okeke, J.M, "Is the AU's aspiration for Financial Autonomy Achievable?" IPSS Policy Brief, August 2017.

22 See African Union, "Revised Report on the Implementation of the Kigali Decision on Financing of the African Union", January 2018, Unpublished.

AU Institutional Reforms: What has been done, and what needs to be resolved?

There are promising indications that the AU institutional reforms are being implemented. It is however unlikely that the AU will achieve full implementation status by January 2019, which is the timeline that has been set for the finalization of the reform agenda. Table 1 below provides an overview of the current implementation status of the reforms priorities, which reflects some progress made, and some unresolved issues.

Table 1: Overview of AU Reform Implementation Status

	Implementation Priorities	Timeline for Implementation	Status of Implementation	Observations
1	Supervise the implementation of Head of State level	January 2017 to January 2019	Ongoing	Reform is led by President Kagame with the support of the, Reform Technical Team of Experts, AU Commission and the Bureau of the Union
2	Fully implement the Kigali financing decision	January 2017 to January 2019	Ongoing	Committee of Ten Ministers of Finance (F10+) have commenced the process of implementation of the financing decision including through the AU Assembly endorsed expansion of F10+ to 15-member states based on equal regional representation.
3	Establish the Reform Implementation Unit (RIU)	July 2017	Implemented	RIU has been established under the supervision of the Chairperson of the AU Commission. It is currently being headed by Professor Pierre Moukoko Mbonjo who was appointed in October 2017.

4	Limit Summit agenda and participation of external parties	From January 2019	Ongoing	The introduction of a "Closed Closed Session" during the Summit allow for discussion of a few highly politically sensitive and substantive issues usually held in the morning of the first day of the Summit before the Opening session has proved to be very productive
5	Review Partnership Summit framework	From January 2018	Ongoing	Conceptual thinking on how to harmonize the current fragmented partnerships between Africa and the rest of the world is still ongoing as demonstrated in the review of multilateral partnerships in the run up to the AU-EU Summit held in Abidjan from 29 to 30 November 2017.
6	AU to Focus on fewer priority areas	From July 2017	Ongoing	There seems to be evidence of a shrinking number of priorities based on the Summits agenda of July 2017 and January 2018. In addition to the proposal of division of labour between AU and the RECs and the Mid-Year summit to be focused on AU/RECs and Economic Integration.
7	Adopt complementary measures to reinforce Financing decision	From July 2017	Ongoing	Establishment of the F15 and the development of 'golden rules' on credible budgeting and effective financial management.

8	Hold one Summit per year with AU-REC Coordination meeting in July	From January 2018	Not yet decided	Outcome of the 30th Summit held in January 2018, suggests a 'business-as-usual' approach with the 31st Ordinary Summit scheduled to take place in June/July 2018 in Nouakchott. It is likely that the AU-RECs will begin implementing in 2019.
9	Establish Troika by electing Chairperson one year in advance	From January 2018	Done	The President of Egypt was announced as the Chair of AU for 2019.
10	Adopt mechanism to ensure respect of legally binding decisions	July 2017 to January 2018	Ongoing	It was discussed in 30th Ordinary Session of the Assembly. Also proposed as part of reforms to strengthen capacity of Office of the Legal Counsel and have additional capacity at BCP by States by designating National Focal points.
11	Complete professional audit of bureaucratic inefficiencies	July 2017 to January 2018	Not commenced	There are sufficient data that can be derived on such audit from the 2007 AU Audit review, and more recently from the 2016 Restructuring project. External auditors commissioned by the new commission to take stock of what they inherited.
12	Clarify division of labour among AU, RECs, and other institutions	July 2017 to July 2018	Not commenced	Early consultations have commenced but all the RECs still feel not sufficiently involved in the decision-making process of the AU institutional reforms process.

13	Strengthen and reinforce current sanction mechanism	July 2017 to January 2018	Ongoing	No decision has been made by the AU Summit on this issue. The Member States have merely been urged to review and tighten sanctions on defaulting members including those that fail to comply with the decisions and policies of the Union
14	Establish women and youth quota; ensure private sector participation	July 2017 to January 2018	On going	The AU's ambitious plan to increase the representation of youth to 35% by 2025 has not received any serious internalization and decision by member states. Increasing the role of the private sector has been anchored on the Annual Economic Platform (one of the flagship projects of Agenda 2063) with the 1st edition in March 2017 and the 2nd edition to hold in October 2018, both in Mauritius. This is in addition to existing work of the AU Department of Economic Affairs.
15	Review mandates and strengthen functioning of key organs	July 2017 to January 2019	Ongoing	NEPAD and APRM have received some strategic direction in terms of their future as a development agency and monitoring mechanism respectively. Other AU institutions still need to be reviewed.

16	Identify and provide new continent-wide public goods and services	July 2017 to January 2019	On going	The proposal for an African Continental Free Trade Area (CFTA), which could be adopted during an Extraordinary Summit in Kigali on 19 March 2018 and, the recently adopted AU Protocol to the Treaty Establishing the African Economic Community relating to Free Movement of Persons, Rights of Residence and Right of Establishment (Free Movement Protocol) are some concrete steps that could achieve continent-wide public goods and services if implemented. In addition, the realization of a Single African Air Transport Market (SAATM) will bring about enhanced connectivity across the continent leading to sustainable development of the aviation and tourism industry with immense contribution to economic growth, job creation, prosperity and integration of Africa
17	Complete review of AUC staffing needs and condition of service. A re-evaluation of the size and capabilities of the AUC structures is also expected.	January 2018 to July 2018	Ongoing	Terms of Reference and modalities on this review is yet to be developed
18	Establish African Youth corps; facilitate cultural and sports exchange	January 2018 to January 2019	Not commenced	No decision has been made thus far, on the establishment of an African Youth corps
19	Enhance process for selecting AUC Executive leadership	July 2018 to January 2019	Not commenced	No political deliberations have commenced.

Source: Developed by the author but adapted from the Report on the Implementation of the Decision on the Institutional Reform Assembly/AU/2(XXIX)" Submitted by President Paul Kagame to the 29th Ordinary Session of the AU Assembly of Heads of State and Government, held in Addis Ababa, Ethiopia from 3 to 4 July 2016.

From the above checklist, it appears that the AU has made some progress in the implementation of its reform agenda. A political framework has been crystallized through the decision on the institutional reform, which has allowed for the establishment of structures that will facilitate and sustain continuity in the implementation of the reform of the Union. Concrete examples such as the establishment of the Troika and its expansion to include the Bureau of the Union, the election of a Chairperson of the Union in advance, establishment of the RIU and the promotion of a continent-wide public goods and services (CFTA, SAATM and the Protocol on Free Movement of Persons) represent important milestones in a positive direction. At the same time, there are some grey areas that must be addressed to realize the reform agenda fully.

The first has to do with the perception by some member states of limited inclusivity in the consultation process and, disagreement amongst states on the modalities for the reform implementation agenda. On 24 January 2018, the Southern African Development Community (SADC) Ministerial level meeting expressed reservation over the Progress Report of the Chairperson of the AU on the Implementation of Assembly decision 635 on AU Institutional Reforms. Their reservation stemmed from (a) the process of the implementation of the reforms (b) late submission of the report, which contains many options and recommendations on issues related to the reform which require consultation, interrogation and discussion (c) the need for further consultations with like-minded regions and countries will be required.[23] During the 'closed closed' meeting of AU Heads of State and Government held on 29 January 2018, some of these SADC countries re-iterated their concerns on the reforms implementation trajectory; although the SADC member states remain the most united in their common position on the implementation of the reforms. Other countries such as Egypt have been consistent in their hesitation to embrace aspects of the reforms process especially the financing of the Union decision.

The general sense of lack of sufficient outreach by, and consultations from, the Reform Troika was reflected in the decision made during its 30th Ordinary Session of the AU Assembly of Heads of State and Government held on 29 January 2018, to expand the Reform Troika to include the Bureau of the Union namely: Rwanda (Chair), Libya (1st Vice Chair), South Africa (2nd Vice Chair), Republic of Congo (3rd Vice Chair) and Republic of Guinea (4th Vice Chair). In addition, it was also decided to nominate fifteen Ministers of Foreign Affairs (three per region), to play an advisory role to the AU reform implementation process.[24] Besides, the Reform Troika arrangement may have benefited from the inclusion of some of the five-main financial contributing countries of the AU and Angola. Even though these countries are consulted, in varying degrees, and involved in the implementation of the reforms, putting them in the driver's seat would have increased the prospects of success of the reforms.

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23 See Speaking Note Meeting of Ministers of the Southern African Development Community (SADC) on Institutional Reform of the African Union, held on 24 January 2018, Addis Ababa, Ethiopia, Unpublished.

24 See Assembly decision on the Report on the implementation of decision 635 on the Institutional Reform of the African Union, Assembly/AU/Draft/Dec.24(XXX), 30th Ordinary Session of the Assembly of Heads of State and Government, Addis Ababa, Ethiopia, 28 to 29 January 2018.

Second, the decision on financing of the Union, which remains a pinnacle of the reform would have to be implemented based on the principle of 'obligation to pay' their assessed contributions based on an upwardly revised Scale of Assessment. It is unlikely that there will be a political consensus on the implementation of a prescriptive derivative formula based on 0.2% levy on all eligible imported goods into the continent. As at January 2018, twelve AU member states had indicated that they have commenced with the implementation of the financing decision, namely: Cameroon, Chad, Congo Brazzaville, Cote d'Ivoire, Djibouti, Gabon, Gambia, Guinea, Kenya, Rwanda, Sierra Leone and Sudan.[25] In addition, five countries have indicated that they are at 'advanced stages' of internal legal processes aimed at implementing the financing decision, namely Benin, Ethiopia, Ghana, Mauritania and Senegal. Mauritius and Seychelles have indicated that they are unable to implement the decision due to national economic and legal constraints but will continue to meet their financial obligation through an alternative means in line with the spirit of the financing of the Union decision.

Influential financial contributing countries such as Egypt and South Africa have officially expressed their opposition to the implementation of the Kigali decision in its current form. It calls for deep worries that the five-main financial contributing countries along with Angola have either rejected or not provided an update on the status of implementation of the Kigali decision. Except there is increased funding from those countries that have commenced or are likely to commence implementation, the failure of the main financial contributing countries to contribute to the AU in line with the Kigali decision will mean that the AU will continue to face serious financial handicaps that would potentially put the entire reform agenda at risk or outright in jeopardy. A technical compromise could, therefore, be made that states will periodically agree on the AU Scale of Assessment, and member states shall be obligated to make timely payments irrespective of whether it is derived from the 0.2% levy.

Third, the adoption of the SAATM, the Protocol on Free Movement, and the imminent endorsement of the CFTA in March 2018 are significant milestones but their effective implementation remains uncertain. As President Kagame rightly alludes, one of the failures of the AU has been its inability to move from decisions to effective implementation.[26] There are at least 1500 decisions that have been made since the establishment of the AU, but there has been little accountability in the determination of how effective these decisions were implemented or not. The implementation of the SAATM will be subject to the safety and security concerns of member states, the development of a Roadmap by the AU Commission and, resource mobilization by the African Development Bank and other partners for the establishment of the Executing Agency of the SAATM. The same Roadmap should be developed on the implementation of the Protocol on Free Movement and the CFTA when adopted. The aspirational nature of the Roadmaps and the extent to which they are at variance with national legislation will likely impact on the successful implementation of continent-wide public goods.
Finally, the division of labour and clear delineation of roles and responsibilities between the AU and RECs/RMs have not been resolved, thus far. Working visits were organized by the AU Commission to ECOWAS and ECCAS Secretariats in Abuja and Libreville, respectively, ostensibly to exchange views on the implementation of the financing decision. Since the establishment of the Reform Implementation Unit, there have been some consultations of the RECs through the heads of their liaison offices in

25 See African Union, "Revised Report on the Implementation of the Kigali Decision on Financing of the African Union", January 2018, Unpublished.

26 See "The Imperative to Strengthen Our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union" by President Paul Kagame, 29 January 2017, https://au.int/sites/.../32777-file-report-20institutional20reform20of20the20au-2.pdf accessed on 10 December 2017.

Addis Ababa. However, there is still no concrete political framework for engaging the RECs in a structured and predictable manner under the present reform regime. It is not surprising that the planning AU-RECs Coordination Meeting, which was initially planned for July 2018, has now been deferred possibly to 2019.

Conclusion

There is room for cautious optimism in the AU reform, which has achieved some progress within a short period. This optimism would have to be balanced with significant, sustained and more inclusive political commitments from AU member states to realize the AU's ambitious reform agenda fully. In the absence of collective hegemonic influences within the AU, the need for coalescing of both influential financing contributing countries and, committed member states such as Rwanda, Chad and Guinea cannot be ignored. Unfortunately, the expansion of the Troika to include the representatives of the Bureau of the Union, which is usually for a one-year term and coincidentally includes on South Africa as the only major financial contributor falls short of the political representation that is desired. The inclusion of other major financial contributors including Angola as part of a dedicated political framework for the pursuit of an effective reform process is a necessity. Beyond addressing the politics of the reform, this brief argues that the eclectic implementation of the financing decision based the principle of 'obligation to pay' assessed contributions rather than aspiring to a uniform derivation formula of 0.2% levy remains a more realistic option. The onus of the historic adoption of the SAATM, Protocol on Free Movement and the hopeful endorsement of the CFTA in March 2018, remain in their effective implementation. Finally, without addressing the existing gaps in political coherent and technical cooperation between the AU and RECs/RMs, the objective that has been set in this area, will be futile.

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i See AU Agenda 2063, https://au.int/en/agenda2063 accessed 10 August, 2017

ii "The Imperative to Strengthen Our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union" by President Paul Kagame, 29 January 2017, https://au.int/sites/.../32777-file-report-20institutional20refor- m20of20the20au-2.pdf accessed on 10 December 2017.

iii See Assembly/AU/Dec.635 (XXVIII) vSee Assembly/AU/Draft/Dec.24 (XXX)

iv See African Union, "Revised Report on the Implementation of the Kigali Decision on Financing of the African Union", January 2018, Unpublished.

v Ibid.

vi See "The Imperative to Strengthen Our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union" by President Paul Kagame, 29 January 2017, https://au.int/sites/.../32777-file-report-20institutional20refor- m20of20the20au-2.pdf accessed on 10 December 2017.

vii See AU Agenda 2063

viii There are several AU official documents that have been developed since the adoption of the AU reform decision. Examples include: AU Assembly decision on Scale of Assessment and Alternative Sources of Financing the African Union, Doc. Assembly/AU/ Dec.578 (XXV), 25th Ordinary Session of AU Heads of State and Government, held from 14 to 15 July 2015 in Johannesburg, South Africa; Report on the Implementation of the Decision on the Institutional Reform of the African Union, Assembly/AU/2(XXIX), Assembly of the Union, 29th Ordinary Session, 3 to 4 July 2017, Addis Ababa, Ethiopia;

ix See Maru, Mehari, "Rethinking and Reforming the African Union Commission elections", Africa Security Review, Vol. 21(4):64-78, 2012

x "The Imperative to Strengthen Our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union" by President Paul Kagame, 29 January 2017, https://au.int/sites/.../32777-file-report-20institutional20refor- m20of20the20au-2.pdf accessed on 10 December 2017.

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xii Assembly/AU/Dec.635 (XXVIII)

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xiv AU Assembly decision on Scale of Assessment and Alternative Sources of Financing the African Union, Doc. Assembly/AU/Dec. 578(XXV), 25th Ordinary Session of AU Heads of State and Government, held from 14 to 15 July 2015 in Johannesburg, South Africa. See also: Assembly/AU/Dec.602(XXVI)

xv See Report of the High Level Panel on the Audit of the African Union, Addis Ababa, Ethiopia, 18 December 2007.

xvi See "Report of the Permanent Representative Council Sub-Committee on AU Structural Reform, Executive Council", 28th Ordinary Session of the AU Executive Council, Addis Ababa, Ethiopia, 23 to 28 January 2016.

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xxiv See African Union, "Revised Report on the Implementation of the Kigali Decision on Financing of the African Union", January 2018, Unpublished.

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About the author

Jide Okeke

Dr. Jide Martyns Okeke is currently a Senior Research Advisor on preventing violent extremism at the UNDP Oslo Governance Centre. Prior to that he was engaged as Head of Policy Development at the Peace Support Operations Division, Peace and Security Department of the African Union (AU) Commission. Prior to joining the AUC, Dr. Okeke has worked in research and analytical capacities at the Institute for Peace and Security Studies, Institute for Security Studies and the Stockholm International Peace Research Institute. He has a Master of Arts degree in Conflict Resolution and a Doctor of Philosophy from the University of Bradford and the University of Leeds respectively.

The Road to Kigali: The AU finances between dependence and increasing ownership

Ulf Engel

Executive Summary

Financing the African Union and her activities in the field of peace and security has been a major challenge right from the start. Over the years, the Union has become highly dependent on international partners. Since she has moved to an active policy of trying to regain ownership of her affairs, culminating in decisions adopted at the AU Assembly held in July 2016 in Kigali, Rwanda. However, although by January 2018 21 Member States have already started implementing the new funding formula, the continental body's financial situation remains somewhat fragile.

Key Points

- In the financial year (FY) 2015, the African Union's dependence on international partners reached an all-time high: Donor assistance accounted for 71.8% of the Union's overall estimated budget (excluding AU peace support operations, PSOs). In the current 2018 budget, donor contributions amount to 37.98% of overall funding (however, if including PSOs – mainly in Somalia – the share increases to 58.63%, though this is still a substantial reduction against FY 2015).

- Dependence used to be particularly high on the programme budget, i.e. everything "politics" and "implementation" (see AU Commission 2017a: 3). In FY 2015, international partners only shouldered 4.53% of the (estimated) operational budget, but 92.49% of the programme budget (in contrast, with recent reforms in FY 2018 they will account for zero per cent of the operational budget and 39% of the programme budget, respectively).

- With the earnest search for alternative sources of finance that started in 2011, the Union has embarked on a substantial financial and institutional reform process, the outcome of which, however, is uncertain – despite the AU Assembly decisions adopted in Kigali in July 2016. By the time of the 2018 January Assembly, some 22 member states are said to have started implementing the Kigali decisions (Kagame 2018a). However, there remains resistance, particularly by those countries that so far have shouldered the biggest part of funding the Union – i.e. Algeria, Egypt, Morocco, Nigeria and South Africa (RFI 2018).

- The need for a more transparent budgeting process, as well as a more consistent application of existing compliance mechanisms, is obvious. The AU Reform Implementation Unit has also reiterated this (see Kagame 2018a; AUC Chairperson 2018).

Introduction

After more than a decade of slipping into heavy dependence on their international partners, AU Member States have recently started redressing this situation. The 27th AU Assembly of Heads of State and Government held in Kigali, Rwanda, on 17-18 July 2016, decided to introduce a 0.2% levy on all eligible imported goods into the continent (AU Assembly 2016). Already in January 2015, the Union had decided that Member States should fund the AU's operational budget at 100%, the programme budget at 75% and African peace support operations at 25% (AU Assembly 2015).

With its focus on peace and security challenges, the African Union is, of course, dealing with a staggering agenda. Last summer the AU Peace and Security Council (PSC) highlighted the following situations the Union was encountering during the previous six months: (1) on-going violent conflicts such as in Abyei, Djibouti/Eritrea, the Democratic Republic of Congo (DRC), Libya, Somalia, South Sudan; (2) peace-support operations in Darfur and Somalia; (3) post-conflict situations in Côte d'Ivoire, Gambia, Guinea-Bissau and Liberia; (4) unconstitutional changes of government in Burundi, the Central African Republic (CAR), and Mali; as well as (5) "terrorism and violent extremism" linked to al-Qaida in the Maghreb, Boko Haram, the Lord's Resistance Army (LRA), and others. In addition, the Union is addressing "non-traditional security topics", including effects of El Niño and illicit financial flows (AU Assembly 2017a).

High levels of dependence on external finance in combination with this demanding peace and security agenda have raised the question of who, in the end, is owning and driving the African Union. And how sustainable can an integration project be that is supported by its members only so faintly? But astonishingly, both in political and in academic debates, the finances of the Union (or its predecessor, the Organization of African Unity, OAU, that was established in 1963) have never really been an issue until fairly recently (Engel 2015). While some attention has been paid to the financial side of international peace-keeping in Africa (Ambrosetti & Esmenjaud 2014; Coleman 2014; Jentzsch 2014; Rettig 2016; De Coning 2018), more widespread interest into the general finances of the Union was only triggered by the 2016 Kigali summit (see Connolly 2016; Miyandazi 2016; Apiko & Aggad 2017; Okeke 2017) – but, again, mainly with a view to peace support operations.

This paper proceeds as follows: In the next section, firstly, the core principles of the budgeting process of the African Union will be summarized. Secondly, the publicly available data on the Union's finances and the issue of data transparency will be discussed. Thirdly, the development of financial dependence of the Union on international partners and its effects will be re-assessed. Fourthly, responses by a group of AU Member States that shouldered a bigger burden of the responsibility will be recalled. And, fifthly, the discussion about alternative ways of financing the African Union will be scrutinized, including a reflection of why the breakthrough on the Union's finances came about in 2016 (and not earlier, or later): this followed by conclusions and six concrete policy recommendations.

Discussion

Budgeting

The 2007 External Audit of the AU Commission (AUC) summarizes the AU's finances accurately as follows:

The budget of the Union is drawn up by the Chairperson of the Commission, who is the Accounting Officer, and adopted by the Assembly [of Heads of State and Government] after consideration by the Executive Council upon recommendation of the PRC [Permanent Representatives' Committee]. The financial year of the Union runs from January 1 to December 31. There have been three main sources of revenue for the African Union; namely, contributions by Member States according to a scale of assessment approved by the Executive Council; additional voluntary contributions also by Member States to the Solidarity Fund; and, thirdly, funds made available by external partners (African Union 2007: § 405).

The Constitutive Act of the African Union does not deal in detail with the budget of the Union; it only sets out the principal roles of some of the institutions. Thus, the budget is adopted by the AU Assembly of Heads of State and Government (OAU 2000: § 9[1] f), and prepared by the Executive Council of Foreign Ministers (AU Council) which in turn appoints a Specialized Technical Committee on monetary and financial affairs (ibid.: §14[1] b; for more detail see Engel 2015: 6-7).

Some OAU regulations have remained valid for the African Union. Amongst others, this refers to the formula that regulates Member States' contributions to the budget. In principle, the budget "shall be provided by contribution from Member States in accordance with the scale of assessment of the United Nations [UN]" (OAU 1963, § 23). The UN scale of assessment represents a weighted basket, applying specific criteria. In addition, the OAU Charter stipulates that no Member State should pay more than 20% of the budget. And the Charter also notes that Member States "agree to pay their respective contributions regularly" [sic!] (ibid.).[1]

Transparency

Data published by the African Union on the continental body's budget notoriously lacks detail. Firstly, only in 2007, the Union has started to publish some budget figures. Secondly, all figures released thus far relate to budget estimates – as opposed to real expenditure. There is no annual finance report that is published (and audited financial statements are not released; Engel 2015: 13). Thirdly, the breakdown of figures shared is not particularly detailed. So, for instance, expenditure on personnel was published for the first time only for FY 2018, many organs and specialized offices only came in step-by-step, etc. Fourthly, concrete contributions by Member States are not disclosed – nor are, fifthly, detailed donations by international partners. Partly, this reflects sub-standard accounting and budgeting practices (see Engel 2015: 12). It was only for FY 2014 that a more detailed, though not comprehensive, "Financial Report and Audited Financial Statements" for the AU Commission was published (AU Commission 2015).

1 The OAU/African Union also has detailed a compliance mechanism for those Member States that do not pay their contributions on time (see Engel 2015: 8-9).

Dependency

The operational part of the budget has constantly decreased in relative terms from 58.2% of the overall estimated budget in 2009 to 27.3% in 2015. At the same time, the programme budget has become more prominent, with a relative share growing from 41.8% (2009) to 72.7% (2015): this reflects a substantial increase in activities the Union has embarked on in recent years (Engel 2015: 16).

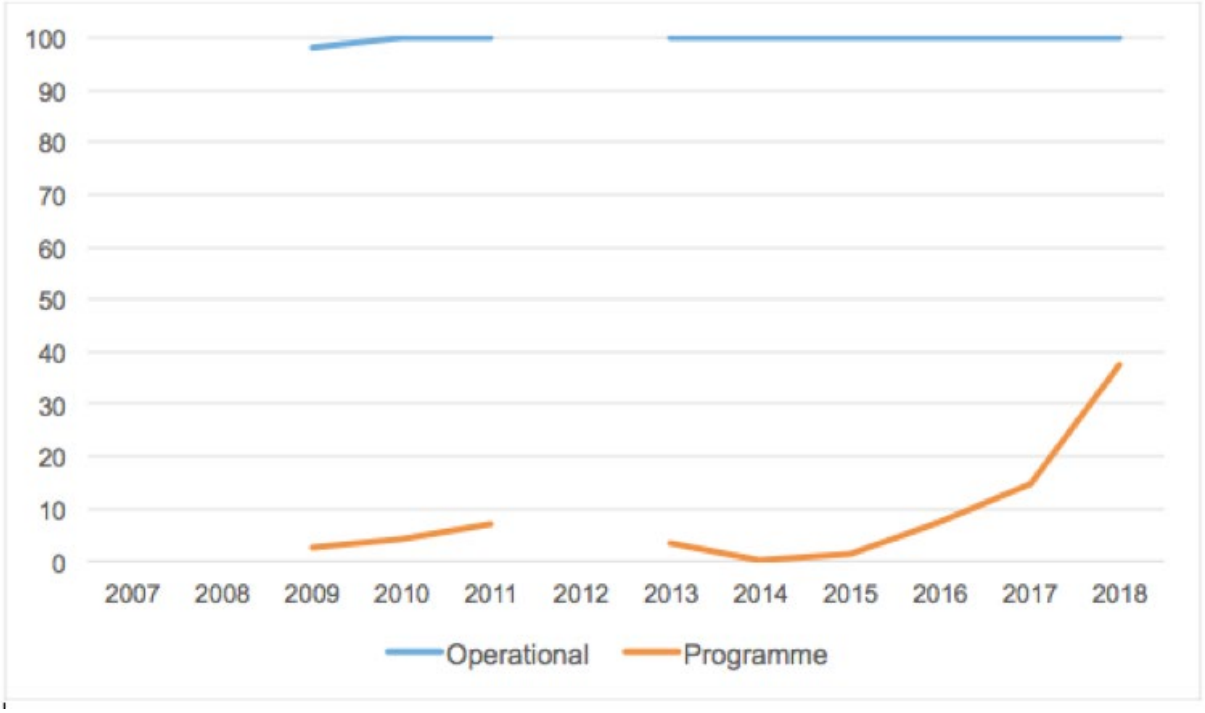
During this period, the African Union's dependence on contributions from international partners has sharply increased (see tab. 1). In 2007, when the first figures of the Union's budget were published, international partners were supposed to contribute 27.3% to the AU budget estimates. In 2010 it was already 53.4 percent. And in 2015 donor contributions peaked at 71.8% (ibid.: 17): this was mainly in the area of the programme budget for concrete activities of the Union (as opposed to maintenance and salaries that fall under the operational budget line). At the same time, the contribution of AU Member States to the continental body's finances has decreased from 72.7% in 2007 to 28.2% in 2015 (ibid.).

This trend has been reversed since and currently, AU Member States are contributing 61% to the FY 2018 budget estimates (excluding peace support operations), including 37.4% to programmes (see tab. 2).

Tab. 1: AU Member States' vs international partner contributions to the AU estimated budget, 2007-2018 (in %)

Source: © U. Engel 2018, based on AU Executive Council (various years). Note: No breakdown given for FY 2012; figures refer to estimated expenditures and are excluding peace support operations.

Tab. 2: Share of AU Member States' contributions to the estimated operational and programme budget, 2007-2018 (in %)



Source: © U. Engel 2018, based on AU Executive Council (various years). Note: No breakdown given for FYs 2007, 2008 and 2012; figures refer to estimated expenditures and are excluding peace support operations.

Apart from the direct budget support, the most obvious form of dependence can be found in the area of peacekeeping. The United Nations (UN) is spending more than 85% of its related resources on African conflicts (see Engel 2018; Rettig 2016). The peacekeeping budget for Africa grew from US$ 3.760 million in UN FY 2006/2007 to US$ 6.8 million in FY 2017/2018. After a recent escalation of conflicts, the most expensive missions are currently the ones in Cote d'Ivoire (MONUSCO at US$ 1,142 million), South Sudan (UNMISS at US$ 1.071 million), Darfur/Sudan (UNAMID at US$ 486 million), Mali (MINUSMA at US$ 1,048 million) and CAR (MINUSCA at US$ 882 million – see UN 2017). The African contribution to these missions is calculated according to a separate scale of assessment; the combined contribution of African UN members for the period 2016-2018 1.215% of total costs – which is less of what the Netherlands are paying (UN 2015).

Since February 2007 the AU is running one peace support operation (PSO) of its own, the African Union Mission in Somalia (AMISOM). In FY 2018, 95% of the mission's US$ 250 million budget was to come from international partners (AU Executive Council 2017). In the past, the European Union's African Peace Facility (AFP), established in 2003, has been a major source of funding for AMISOM. So far, some EUR 1.2 billion has been contributed by Brussels (EU Commission 2017: 15).

At the same time underspending remains a problem at the African Union. In 2007 an External Audit noted that in most departments under-spending amounted to 70 to 90% of existing funding (African Union 2007: §409). By now, the absorption capacity seems to have increased, but still, in 2014, the

AUC was only able to execute 84% of the estimated budget (AU Commission 2016: 22).

The effects of the African Union's high levels of dependence on its international partners are far from being clear. Vreeland and Dreher (2014) have made a compelling argument about how powerful countries in the UN Security Council (UNSC), such as the United States, France, Britain, Germany and Japan, are trading UNSC votes for development assistance which is distributed through the World Bank and the International Monetary Fund (IMF). They offer broad empirical evidence for a culture of punishments, threats and rewards.

In the academic literature on the African Union, it is assumed that dependence on donors has an impact on policy outcomes. Either these are negative consequences in terms of losing sovereignty, or positive ones because the African Union is assumed to be more receptive to democratic values – depending on perspective. So Apuuli (2016: 150) affirmatively quotes Okumu (2009: 105) who states that "the donors are the ones who have drawn up roadmaps for setting up key institutions and determined which aspects of the peace and security agenda are implemented". Whereas Leininger (2015: 66) posits that "the AU's high financial dependence on external support and direct and indirect political conditionality of financial support fostered democratic norm-building." At the same time, Okeke reckons that the Union's financial dependence "has sometimes undermined the AU's political legitimacy and credibility" (Okeke 2017: 1).

In which areas international partners have really tried to influence Union policies cannot be answered in this paper. Though it seems that at least some key people in the AUC and among the Member States indeed, first and foremost, consider this to be an issue of the Union's dignity and firm convictions.

Burden-sharing

Because of some AU Member States are not paying in time – sometimes, but not always, because they were not able to do so due to periods of sustained violent conflict –, a group of AU Member States decided to shoulder a bigger burden of the budget. Currently, on average,

67% of assessed contribution is collected annually from member states. About 30 Member States default either partially or completely on average, annually (AU Commission 2017a: 1).

In 2005, Algeria, Egypt, Libya, Nigeria and South Africa decided to collectively contribute 75% to the Union's budget (effective 1 January 2006). This formula had to be changed in 2011 because of the popular uprisings in North Africa which particularly affected Algeria, Libya and Egypt. In 2013, the combined contribution of the "Big 5" was fixed at 65.49% and in 2014 at 64.52%, respectively (Engel 2015: 17f.).

In January 2016 the Union introduced a three-tier financing system with Algeria, Egypt, Nigeria and South Africa – but no longer Libya – each contributing 12% to the AU's budget (AU Executive Council 2016). The second tier of 13 countries then accounted for 33.9796% of the budget, and the third tier of the remaining 37 Member States added the last 18.0204%. When Morocco re-joined the Union in January 2017, some adjustments were made. Now the first tier of the scale of assessment is made up of Algeria, Egypt, Morocco, Nigeria and South Africa – each contributing 9.6% (or US$ 36.79 million) to a total of 48% of the budget. The second tier of 13 Member States accounts for 36.821% and the

third tier of the remaining 37 Member States for 15.179% of the budget (AUC & NZMFAT 2018: 196f.). The highest contributions in the second tier are coming from Angola (8.000% or US$30.66 million) and Ethiopia (4.000%, or US$15.33 million) – and the lowest in the third tier from the Comoros (0.037%, or US$ 141,812) and São Tomé and Príncipe (0.017%, or US$65,157), respectively (ibid.).

The Obasanjo panel and its limits

The discussion on so-called alternative sources of finances started in 2011. A first attempt to define common ground on alternative finances failed: A report prepared by a High-Level Panel led by former Nigerian President Olusegun Obasanjo in 2013 came up with two proposals to generate additional funding for the Union: a "hospitality levy" to be paid by tourists of US$2 per stay in a hotel in Africa and US$10 levy on flight tickets to/from Africa. However, an alternative funding of the Union based on these proposals would have lacked transparency, equity among the Member States, efficiency, and predictability of income. Thus, in 2015 a third proposal was added, a US$0.005 tax on text messages (AU Assembly 2013, 2015). But although the AU Assembly in July 2013 had accepted "in principle", the proposal was finally vetoed by a number of Member States in June 2015 because they feared losses for their tourism industry. It was against this background that the AU had to look for an alternative approach that it finally found in Kigali in July 2016.

Paving the road to Kigali

So what has changed since the refusal of the Obasanjo panel's proposals? It was a combination of factors related to overall geo-strategic challenges and their perception by African leaders as well as individual initiatives (see Engel 2018, forthcoming).

Firstly, for many states, the neighbourhood has changed considerably. Following the popular uprisings in North Africa and the NATO intervention in Libya in 2011, al-Qaeda in the Islamic Maghreb (AQIM), the Islamic State and other Jihadist groups have risen to dubious prominence in the Sahel region. Simultaneously, al- Shabaab in the Horn of Africa and Boko Haram in northern Nigeria and neighbouring countries have gained ground. Thus, the need to find sustainable means of countering terrorism and violent extremism has increased.

Secondly, in response to the NATO intervention, but also following the more and more controversial debate on the International Criminal Court's (ICC) indictment of sitting African presidents, many African governments have had a re-reading of the "West" and its intentions vis-à-vis Africa. The growing alienation of African countries by the West contributed to the mounting pressure to reduce dependence and, at least a felt, liability to extortion.
Thirdly, after the AU failed on some accounting standards, the European Union (EU) froze its disbursements – leading to the acceptance by the AU in January 2013 of the International Public Sector Accounting Standards: this also reinforced the sense for a need of greater financial autonomy.

Fourthly, as of October 2012, the incoming AUC chairperson Nkosazana Dlamini-Zuma had introduced a series of new governance standards at the Commission. Irrespective of how her term of office at the helm of the Union may be judged in more general terms, this has contributed to a greater sense of responsibility for the Union's long-term affairs among top officials.
And, finally, hands-on leadership was exercised in a situation where the Union was almost bankrupt

in early 2016 when the newly appointed High Representative on the Peace Fund, Donald Kaberuka (the former president of the African Development Bank), and the then Executive Secretary of the UN Economic Commission for Africa (UNECA), Carlos Lopes, suggested the finance formula that was finally adopted at a pre-summit meeting in July 2016. Against this background, Rwandan President Paul Kagame developed a far-reaching proposal for the "Institutional Reform of the African Union" (AU Assembly 2017).

And the rest, as they say, was history (see Kagame 2018b; AUC Chairperson 2018).

Conclusions

Financing the African Union and her activities in the field of peace and security has been a major challenge right from the start. In FY 2015, the African Union's dependence on international partners reached an all-time high when donor assistance accounted for 71.8% of the Union's overall estimated budget. Dependence used to be particularly high on the programme budget (92.49% in FY 2015). With the earnest search for alternative sources of finance since 2011, the Union has embarked on a substantial financial and institutional reform process and is also trying to regain ownership of her affairs. The newly introduced formula of collective financing Union activities in this field remains fairly fragile.

At present, it is reported, 21 out of 55 states have signed up to this mechanism: "Ghana and Rwanda are the only ones to have signed it into law, while Chad, Ethiopia, Kenya and the Democratic Republic of Congo have taken steps to implement it" (RFI 2018; see also Kagame 2018a). Yet at the same time, it seems that those countries that so far have shouldered the biggest part of funding the Union – i.e. Algeria, Egypt, Morocco, Nigeria and South Africa – are somewhat reluctant to implement the Kigali decisions (RFI 2018). A particularly blunt rejection of the Kigali decisions was articulated by South Africa's then-President Jacob G. Zuma ahead of the 30th AU Assembly in January 2018 who seemingly also spoke on behalf of the Southern African Development Community (du Plessis 2018). It remains to see what position the new administration of President M. Cyril Ramaphosa, who became the country's president on 15 February, will adopt.

Against this background, a number of procedural changes are suggested to the Union's budgeting process.

Policy Recommendations

- In its regular summit decisions, the AU Assembly of Heads of State and Government should not only publish detailed estimated expenditures for the forthcoming financial year but also a statement on real expenditure for the respective previous financial year.
- In line with the United Nation's 5th Committee practice, individual AU Member States' contributions to the Union's budget should be made fully transparent on an annual basis (including information on when during the financial year Member States have paid their contribution).

- Also, additional voluntary contributions by AU Member States should be published in the respective decision of the AU Assembly, or in a separate financial statement to be prepared by the Committee of Ministers of Finance (F10) from Member States.

- The same goes for all external contributions to the Union's budget (by source).

- AU budgetary compliance mechanisms, as detailed in the Constitutive Act (OAU 2000, §23[1-2]) and the Rules of Procedure of the Assembly of the Union (African Union 2002, § 35[2-3]), should be applied consistently.[2] All additional measures subsequently adopted, including the quarterly report on the budget execution, should be published on the Union's website.

- And, finally, in the long run, and because of the African Union's ambition to develop a people's union (OAU 2000, §3[a] and 4[c]), and also in order to move beyond the bemoaned disconnect between the Union project and the African people, the Pan-African Parliament (PAP) should be involved in the decision-making process on the Union's budget as well as its annual review.

2 In detail the 2002 Rules of Procedure (§ 35[2-3]) stipulate the following sanctions: „[2] a) when in arrears of payments amounting to two (2) years but not exceeding five (5) years of its assessed contributions, suspension of the Member State's right to i) speak, vote and receive documentation at meetings of the Union; ii) offer to host sessions of the Assembly or of the Executive Council or any other meetings of the Union; and iii) present a candidate for any position or post within the Union;
b) when in arrears of payment of contributions amounting to five (5) years or more, in addition to the sanctions in paragraph 2 (a) of this Rule, suspension of the Member State's right to: i) have the contracts of employment of its nationals renewed; and ii) provision, by the Union, of funds for new projects in the Member State.
3) When a Member State is under sanctions for non-payment of its contributions as described in the preceding paragraphs, the sanctions may be lifted temporarily if the Member State pays at least 50% of its outstanding arrears, provided that such payment is made thirty (30) days before the commencement of the session of the Executive Council preceding that of the Assembly."

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About the author

Ulf Engel

Trained as a political scientist, Dr. phil. habil. Ulf Engel is a professor of "Politics in Africa" at the Institute of African Studies in Leipzig, Germany. He is also co-director of the DFG Special Research Programme 1448 "Adaptation and Creativity in Africa" (2011-2018) as well as the PhD Graduate School of the Collaborative Research Group 1199 "Processes of Spatialization under the Global Condition" (2016-2019).

Engel is a Visiting Professor at the Institute for Peace and Security Studies (IPSS) at Addis Ababa University, Ethiopia, a professor extraordinary in the Department of Political Science at Stellenbosch University and a fellow at the Stellenbosch Institute of Advanced Studies (STIAS), South Africa. Since 2006 Engel has been working as an adviser to the AU Peace and Security Department (PSD), in particular on the Continental Early Warning System (CEWS) and the Panel of the Wise.

Reforming the AU's Permanent Representatives Committee

Charles Ukeje and Rhuks Ako

Executive Summary

The Permanent Representatives Committee (PRC) is not only an important organ of the African Union; it is equally central to the organization's optimal performance and success, but also potentially its albatross. Despite its centrality, however, it is relatively less known; sometimes confused with another organ, the Peace and Security Council (PSC). Several factors limit its potential, including the overburdening of the Committee with responsibilities amidst its limited administrative, human and financial capacity; the occasional frosty working relationship with the AU Commission (AUC); the cloak of secrecy that shrouds most of its operations; a long list of policy, administrative and financial issues; and, its unwarranted disposition to meddle in the affairs of virtually all other organs of the AU, including the Commission, Executive Council and the Assembly.

The institutional-wide reform that is currently underway has provided the opportunity to rethink the position of the PRC in the organizational structure of the African Union; with strong arguments for and against maintaining the status quo. However, given the pivotal role the PRC plays now – and potentially would in the future – propositions for its reform requires deep, rather than arm-chair, reflections on technical as well as political imperatives in accordance with the Constitutive Act of the AU as well as the expectations of Member States going forward.

Key Points

- The PRC's considerably expanded mandate imposes a corresponding burden on its ability to perform optimally.
- Despite its deep and pivotal role in the affairs of the AU, very little is known about the PRC in comparison to other organs of the AU, partly because it is statutorily barred from conducting its affairs in the open.
- There is a clear mismatch between the all-encompassing mandates bestowed on the PRC and the varying administrative, human, financial capacities available to individual Members States through their respective embassies and delegations to the AU.
- Much of the criticisms levelled against the PRC are directly or otherwise traceable to the very nature of inter-governmental institutions, and the active endorsement by Member States of the actions taken by their delegations to the AU.
- Focus needs to be placed on improving the working relationship between the AUC and PRC to build trust, cordiality and optimize their output.

Introduction

The PRC is one out of the nine key policy organs of the African Union expressly recognized in Article 5 of the African Union Constitutive Act (AUCA 2000, §5).[1] Composed of all permanent representatives to the Union and other Plenipotentiaries of Member States, the PRC bears the primary responsibility of "preparing the work of the Executive Council and acting on the Executive Council's instructions" (AUCA 2000, §21).

While the old Committees that the PRC tried to mirror were not even specifically mentioned or provided for in Treaty of the Organization of African Unity (OAU), they nonetheless existed under different names throughout its existence; first, as the Advisory Committee on Administrative, Budgetary and Financial Matters, and later as the Committee of Ambassadors and other Plenipotentiaries (Lisakufa 2016, p. 228-229). Apart from carrying the responsibility of preparing for the meetings of the Council of Ministers (OAU 1995, para. 5), the body basically provided administrative oversights in terms of the budgetary and financial proposals emanating from the OAU with a view to advising the OAU Council of Ministers (OAU 1977, §3).

The PRC continues to perform basically the same functions as its precursors even though its mandates have, either by design or default, expanded considerably under the AU: this has happened despite the frequently expressed concern that the PRC is capable of usurping the statutory powers of the Executive Council. It must be recalled, also, that a succession of OAU Secretaries-General had expressed the desire to whittle down the powers and functions of the PRC because they detest the organ's undue prying into and excessive interference in the day-to-day workings of the organization. It was therefore not surprising that the PRC was conspicuously missing on the list of new organs in the first draft of the legal instruments of the AU in 1999 as some Member States vehemently opposed its institutionalization under the new arrangement (Khamis 2008; Lisakafu 2016). While such concerns are not entirely unfounded, the growing salience and prominence of the PRC in the affairs of the AU and its Commission have been kept alive.

For an organ that plays such a deep and pivotal role in the affairs of the AU, however, very little is known about the PRC in the public domain precisely because it is statutorily barred from conducting its affairs in the open. One of the key points of emphasis in this briefing note, as would become evident shortly, is that the PRC presents us with a major paradox in the context of the ongoing reform of the AU. The paradox results not just out of how deeply embedded, and intrusive, the organ has become but also how it manages to exercise considerable back-door influence within the Commission and across the AU system while escaping public glare and scrutiny. Given these circumstances, it would be right to tentatively conclude that the PRC may have become much like the grumpy old man, or woman, that routinely, and sometimes annoyingly, appears in every family photograph but no younger member of the family can complain openly about their intrusiveness and excesses.

This brief posits that amidst the ongoing reforms of the AU, what is required is to scale-up the capacity of the PRC, and not decapitate it. It argues that despite the negative public criticisms against

1 The other organs are: (a) the Assembly of the Heads of State and Government; (b) the Executive Council; (c) the Commission; (d) the Pan-African Parliament; (e) the Court of Justice; (f) the specialized technical committees; (g) the Economic, Social and Cultural Council; and (h) the financial institutions. See CAAU 2000, § 5(1) (a–i).

the Committee, it will continue to play important roles that contribute to the effective functioning of the AU in the long run.

Discussion

The mandates and rules of procedure of the PRC

The expanded power and functions of the PRC evolved from the core responsibilities borne by its progenies, and more. These essentially derive from two complementary sources; first, the Constitutive Act of the African Union, and second, the Rules of Procedure of the PRC adopted at the First Ordinary Session of the AU Assembly of Heads of States and Governments (AHSG) in Durban, South Africa, in July 2002. Under Article 21 of the Constitutive Act, the PRC shall be "charged with the responsibility of preparing the work of the Executive Council and acting on the Executive Council's instructions. It may set up such sub-committees or working groups as it may deem necessary." The PRC Rule of Procedure further identified powers and functions that may be categorized into four: (a) liaison between the Member States and the AU Commission; (b) oversight and advisory body of the Commission; (c) support to the Executive Council in executing its powers and functions; and, (d) assisting the preparation of the Union's programme of activities (Lisakafu, 2016, p. 231; Osiwa and Oxfam, 2009: 12).

The PRC has powers, finally, to establish sub-committees to advise and support it on a wide range of specialized issues ranging from administrative, budgetary and financial matters to programmes and conferences, refugees, emergency assistance fund for drought and famine, structural reforms, headquarters and host agreements, economic and trade matters, multilateral cooperation, and NEPAD. It must be noted that oversight on peace and security issues were excluded probably to avoid putting the PRC on any collision course with the more visible PSC, although overlapping membership of the two organs would have made doing so redundant (OSIWA and Oxfam, 2009)

The table below categorizes, in more specific terms, the powers and functions of the PRC on the basis of Rule 4 of the AU PRC Rules of Procedure mentioned above.

Tab. 1: Powers and functions of the PRC

Areas	Power and Functions
A	• Facilitate communication between the AU Commission and Member States' capitals
B	• Monitor the implementation of the AU budget • Monitor the implementation of policies, decisions and agreements adopted by the Executive Council
C	• Act as an advisory body to the AU Executive Council • Prepare its Rules of Procedure and submit them to the Executive Council • Prepare Executive Council meetings, including the agenda and draft decisions • Make recommendations on areas of common interest to Member States particularly on issues on the Executive Council agenda • Consider the Board of External Auditors' report and submit written comments to the Executive Council • Consider matters relating to the AU's programmes and projects, particularly issues relating to the socio-economic development and integration of the continent, and make recommendations to the Executive Council • Propose the composition of AU organ bureaus, ad hoc committees and sub-committees
D	• Consider the AU's programme and budget as well as the Commission's administrative, budgetary and financial matters, and make recommendations to the Executive Council • Consider the Commission's financial report and make recommendations to the Executive Council • Participate in the preparation of the AU programme of activities and calendar of meetings; consider any matter assigned to it by the Executive Council; and carry out any other functions that may be assigned to it by the Executive Council.

Source: See Rule 4 of the AU PRC Rules of Procedure, 2002 (ASS/AU/2(1)- C

For the sake of brevity, this policy brief will only highlight relevant provisions of the Rules of Procedure of the PRC, as follows: (1) it is expected to meet monthly, and hold extraordinary sessions to prepare for Extraordinary Meetings of the Executive Council (composed of Foreign Ministers); (2) decisions are to be reached on the basis of consensus, and in the event that such could not be achieved, result from two-thirds majority vote cast in secret ballot; (3) decision-making on procedural issues are to be based on simple majority vote; (4) all sessions are to be closed, except in agreement by simple

majority; (5) the chair rotates on a monthly basis to coincide with the country chairing the Executive Council; finally (6) decisions are mere recommendations until adopted by the Executive Council (cf. Rule 26).

The PRC and the First 'Baptism' of Reform

Now that the AU is undergoing its first – and by far most encompassing – "baptism" of reforms in 15 years in response to institutional, structural and fiscal imperatives, it is only due that the PRC should come under critical scrutiny. For the PRC, the reform is important; not just because it is the organ with the most crosscutting oversight on all other organs of the AU, but also given that how it relates with other organs determine, for good or bad, what the AU can achieve in the medium and short terms.

Perhaps a fitting point of departure to properly grasp what might be wrong with the PRC is to reflect on the impressions and conclusions offered in 'The Final African Union Reform Combined Report (2017)' by the arrowhead of the wider AU Reforms agenda, President Paul Kagame of Rwanda. In the preamble to the Report, Kagame was clear that the only way to make the AU "fit-for-purpose" is if it manages to transcend its perennial administrative, financial and environmental limitations. In specific terms, the Report berated the PRC for assuming "the role of supervising the day-to-day work of the Commission" (Kagame, 2017, p. 9), and by so doing increased the implementation inefficiencies in the Commission. It noted further how "some decisions of the Assembly of Heads of States and Governments have been delayed by the PRC, or even disregarded, suggesting that the PRC has taken on an unwarranted role in the decision-making process" (Kagame, 2017, p. 10). It concluded by recommending that the PRC Rules of Procedure be amended to bring it in line with the mandate provided for it in the Constitutive Act; that it would be sufficient for it to "facilitate communication between the AU and national capitals, and act as an advisory body to the Executive Council, rather than a supervisory body of the Commission" (Kagame, 2017, p. 9.)

It is clear from the above substantive mandates and rules of procedure that the PRC is very strategic to the day-to-day operations of the Commission and the entire AU system. It is envisaged as a one-stop platform for the AU to engage the Member States directly, and vice versa. This important aspect of the PRC must not be underplayed as it provides the most direct channel of communication with, and mobilization of support from, Member States. The PRC is expected to serve as the "clearing house" for substantial parts of decision-making and implementation activities of the AUC and other organs within the wider AU system. By its design and mandate, therefore, it should ordinarily provide a strong and veritable opportunity for robust and seamless exchanges and interactions between the AU and national capitals of Member States, with the hope that critical information and decisions could be shared in a timely manner.

One would, therefore, expect that the AUC and the PRC should routinely and closely work together, and do so in a complementary and symbiotic manner, towards driving the agenda and implementing the decisions of the AU for the collective good of the continent and its citizens. At least on paper, it is not a bad thing that the AUC and PRC have built-in checks and balances, even if that leverage tilts more in favour of the latter. While the AUC engages in the preparatory work, the PRC considers the outcome documents and advises the Executive Council for onward transmission to the Assembly for approval.

The PRC's supervisory role ensures that Member States are involved in the day-to-day affairs of the bureaucracy (AUC) as well as being kept abreast of its activities and plans. Further, while it might have been aimed at ensuring seamless administrative oversight especially in the build-up to major events such as the AU Assembly, the provision that the monthly Chair of the PRC should also be the country chairing the Executive Committee is a dangerous arrangement. Bearing in mind the agenda-setting role of the PRC, we do not see the wisdom in this arrangement; not the least because it completely makes a mockery of whatever checks and balances that should be on any country holding the two important positions at the same time.

Minding the Gaps: The Dilemmas of Reform

There are several other points to illustrate the arguments made for and against the PRC, but the bottom-line is that the criticism offered by President Kagame might cause it to be thrown away with the proverbial bath water. It is true that PRC members, mostly acting individually rather than as a collective, frequently step out of their boundaries, and engage in activities tantamount to meddlesomeness in the affairs of the AUC and other organs. The plausible reasoning behind such acts could be that such members have become emboldened that their governments would, at best, only give a pat on the back. At a level, there is nothing new in such scathing criticism of the PRC; after all, the same point about its undue and excessive interferences had also been made as the OAU transitioned to the AU as noted in the introduction section of this brief. It could even be symptomatic of a typical disposition of Heads of States and Government to be wary of allowing other putative centres of power and influence to exist side-by-side with its club. The reality, of course, is that as appointees of their respective governments, ambassadors and plenipotentiaries that serve on the PRC are also directly responsible to their home governments, even when they occasionally step out of line in the discharge of their collective responsibilities as PRC members. Perhaps they behave like overbearing potentates in their dealings with the AU once they are in Addis Ababa, simply because their national governments do not exercise sufficient day-to-day administrative oversights as they should.

There are other reasons why the PRC has consistently faced criticism, but virtually all of those could still be traced to the disposition of their respective government that actively endorses such situations and that of the AU as an inter-governmental institution. Lisakafu (2016, 234ff.) has identified five challenges facing the PRC in terms of permanency, agenda-setting, inadequate financial and human resources, delayed circulation of documentation (or bureaucratic inefficiencies). Regardless of whether these challenges are couched in policy, administrative or financial terms (Okeke 2017), they are unfortunately also directly linked to some of the recurrent deficiencies associated with how the Member States themselves treat and relate with the AU. They are symptomatic of the kind and quality of diplomatic representations that some Member States send to the AU compared with the more versatile and experienced ones posted to major multilateral institutions in New York, Brussels or Geneva.

By its name, after all, members of the PRC are supposed to spend a fairly long and stable tour of duty, of at least three years, in Addis Ababa, but the reality is either one of high turnover of ambassadors or unduly long delays in appointing the right calibre of persons: this is as much the case for smaller African countries but sadly also has affected one of the so-called P-5 countries, the big financial

contributors to the AU. However, it is by appointing the right calibre of senior and experienced diplomats to Addis Ababa that Africa's global representation and voice can be asserted and secured. It should also be expected that the much-desired institutional memory to serve the PRC might be lost given the high rate of turnover of members. Invariably, for as long as African governments do not appoint the "Best Eleven" as ambassadors to Addis Ababa, but send junior and inexperienced staff to fill critical vacancies, the quality of the PRC in terms of debates, decision and other activities would remain abysmal.

Invariably, any institutional reform agenda that seeks to considerably whittle down or confine the PRC into the dustbin of history would be politically inexpedient. It is bad enough that such an important organ as the PRC is currently seen as a mere footnote to the wider reform implementation on the basis of the top-down justifications provided by a mostly technical team put together to support President Kagame. If it succeeds in cutting the PRC to size for the wrong reasons, the effort might just end up undermining political aspects of the relationship between the AUC and individual Member States on the PRC. After all, members of the PRC have regular and first-hand knowledge (or are expected to) in the daily workings of the AU including its Commission. They should play a pivotal role in briefing their capitals on major issues that require the decisions of both Ministers and Heads of State, or even their parliaments.

What the PRC therefore urgently requires is enhanced performance as opposed to obliterating it on the altar of institutional reform. They will require some political considerations such as ensuring that only highly qualified diplomats with long years of experiences are posted as ambassadors to Addis Ababa with at least two political officers (first and second secretaries) and other capacities, depending on the role of each Member State in the PRC and its subcommittees, but also within the PSC and other AU organs and committees. Other considerations for enhanced performance could be the establishment of peer-to-peer meetings involving representatives of the PRC vis-à-vis their counterparts in New York, Brussels and Geneva; increasing the oversight role of the PRC in other non-security issues related to the development and regional integration, to name a few.

The primacy of politics that has kept Member States of the AU from openly sanctioning their permanent representatives when they err in the discharge of their duties is evident in the fact that they could also use the PRC to protect and advance their respective national interests at the AU. Except, perhaps, the leaders of the reform agenda do not see this important, if particularistic, role as paramount. Hence, it is a common view among PRC members that they personify their presidents in Addis Ababa and should therefore be accorded the highest respect. It is precisely for this reason that individual PRC members – not necessarily acting in unison – have been known to raise dust when issues that seem to put their countries in bad light are about to be put on the agenda of the AUC or any of the other organs for that matter. It is for the same reason that they are known to occasionally launch verbal or written tirades against the leadership and rank-and-file of the AUC, or openly try to manipulate certain outcomes. Understandably, such indulgences cannot go down well with the bureaucrats in the AUC, often ending up straining whatever good working relationship that should exist between the PRC and Commission.

If there is a clear-cut relationship between the PRC and the Commission despite occasional frictions and accusations of undue interference, the same cannot be said to exist between the PRC and the Peace and Security Council, the standing organ of the African Union for the prevention, management and resolution of conflicts (Ukeje and Ako, 2017). Apart from the fact that membership of the two

organs overlaps, the only provision that establishes any formal link between them is that which provided that the Chair of the PSC give monthly briefings on its activities and decisions to the PSC. Still, whether or not the PRC can amend, or repudiate, decisions and actions taken by the PSC remain unclear.

It would seem that those who prepared the Rules of Procedure of the PRC were conscious of the likelihood of overlapping interests and clashes because they did not specifically include peace and security as one of the mandates of the PRC. And, it does seem, from closely studying the two organs, that the Committee tends to defer to the PSC on the subject since they have concurrent memberships in both. Yet, as peace and security issues are not only becoming writ large in the affairs of the AU – and actually consuming a large chunk of its attention and resources – the current reform agenda should already anticipate and avert potential areas of friction between the PRC and the PSC.

Another area that should, as a matter of urgency, require the attention of reformists is to open up the activities of the PRC – or, at least a substantial part of it – to the public. To date, the PRC is by far the organ of the AU that exercises considerable leverage but curiously also the least known to the public. Its Rule of Procedure specifically states that sessions of the PRC be closed, except when a simple majority decides otherwise, or the Committee is keen to invite expert opinion from outside to reach a more informed decision. It is therefore not surprising that there is very little in the public domain about the PRC, as they do not even announce or disseminate their activities or decisions to the public. It might be that the decision to shroud it in secrecy conforms to the old traditions of diplomacy. However, that cannot be fully justified by today's standards for a continental body like the AU that the keen to reinvent itself as a public-friendly institution that responds to the yearnings and aspirations of African citizens not just do the biddings of Member States. To some extent, several of the criticisms that the PRC has attracted to itself are linked to the opaque and back-door manner that it carries out its activities as much as the imperial mindsets of its members who speak and act as if they owned the AU.

If the reform agenda contemplated for the AU is going to whittle the powers and functions of the PRC, it must proceed with utmost caution otherwise it could end up incapacitating the Committee for the wrong reasons. A good place to start is to revisit the Constitutive Act of the African Union that puts rather too much responsibility on the shoulders of the PRC. With the benefit of hindsight, the PRC clearly lacks the capacity to carry out the myriad of roles expected of it. One of such burdensome responsibilities it is carrying is that all the organs of the AU must submit their annual budget and programs to the PRC through the AUC for consideration. It is odd, in this regard, that the Commission lacks any substantive leverage as it is only required to play the secondary role of a conveyor or transmission belt between the PRC and other organs, and vice versa. All the organs, including the Commission, are required to appear before the PRC to defend their budget and programmes, and they only have to relate with the Commission solely for budget implementation.

The reform that is now in contemplation should institutionalize the working practice whereby the AUC and the PRC have regular joint retreats that are not only aimed at improving working relationships between them but are also useful in building the kind of trust and cordiality necessary for the successful execution of AU activities. It is possible to make such meetings more frequent, perhaps even quarterly, and to involve the leadership of other organs of the AU as well as liaisons of the RECs to the AU. With more regular and inclusive meetings, the suspicions that sometimes play out

between the PRC and the Commission, on the one hand, and between them vis-à-vis other organs of the AU, could be better managed. It should also help to evolve a truly pan-African community of practice that the AU has struggled to put in place and lead since its inauguration in 2002.

Conclusion

Any proposed reform of the PRC should aim, first and foremost, to tackle legal grey areas in terms of clarity of functions and oversights that currently hinders the relationship between the AUC and other organs, and after this focus on scaling up the capacity of the Committee rather than decapitate it. By this, we mean that apart from rightsizing, or streamlining, its powers and functions, a new and improved version of the Committee should be better resourced in terms of human capacity, expertise and robust financing. For instance, while it is supposed to advise and service the Commission and the Executive Council, and by extension, the Assembly, one is uncertain how much, and well, the PRC is able to do that. Further, while it is expected to rely on a number of subcommittees; on financial, audit and other admin matters, for instance, it is doubtful how thorough the PRC could be, given that each of these functional areas are themselves heavy.

In its present form, the PRC is rather unwieldy as an all-comer Committee of the whole since every country is represented. It is for this reason, apart from those already stated, that the Committee has more or less become a victim of the popular view that if you do not want something done efficiently, leave it to a committee. Indeed, for a committee of 54 members that is expected to operate on the basis of consensus, achieving the same becomes tortuous and impossible. In the final analysis, then, the focus of reform should be to ensure that there is a marked improvement in the quality, and quantity, of diplomatic representations put forward by the Member States in Addis Ababa. This, more than anything else, is what is required to ensure that the PRC performs optimally to the benefit of the AU and African citizens that the Union is meant to serve.

Policy Recommendations

- The reform of the PRC should be considered in more detail beyond the (limited) technical scope contained in the proposal by President Paul Kagame to include the institutional and political ramifications for both the AU and the Member States.

- There is enough justification for the PRC to continue to exist, but with a right-sized mandate that makes it serve as the clearing-house for policies and decisions that eventually makes the way up to the Council of Ministers and the Assembly.

- Critical institutional checks are necessary to prevent the PRC from creating the kinds of blockage that undermine the day-to-day work of the AUC, and even those of the Executive Council and the Assembly.

- The heavy and burdensome administrative oversights currently exercised by the PRC should be given up to another organ, perhaps even a new one, with hybrid membership drawn from the Member States and the AUC hierarchy.

- The PRC can serve the broader interests of the AU and that of African citizens only by weaning itself from an undesirable cloak of secrecy and conducting substantial parts of its activities in an open, transparent and accountable manner.

- The focus of any desirable reform of the PRC should underscore the imperative for a marked improvement in the quality, and quantity, of diplomatic representations deployed by the Member States to the AU in Addis Ababa.

- A smooth working relationship between the PRC and the AUC should be fostered through constant interactions to stem the occasional frosty irritations that adversely affected the work of the Union in the past.

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About the authors

Charles Ukeje

Charles Ukeje is a University Professor in International Relations at the Obafemi Awolowo University, Ile-Ife, Nigeria. Until recently, he held the position of Senior Advisor under the African Peace and Security Program (APSP) - a joint initiative of the African Union and Addis Ababa University hosted by the Institute for Peace and Security Studies, Addis Ababa University, Ethiopia. In the latter position, Professor Ukeje provided scientific and technical supports to the African Union and the Tana High-Level Forum on Security in Africa.

Professor Ukeje previously held a Lectureship in African Politics and Development at Oxford University's Department of International Development, and was a past recipient of the prestigious Fulbright Scholarship. With Dr. Ako, he is completing a major collaborative research project on the issues and challenges of domesticating the decisions of the African Union Peace and Security Council (PSC) supported by the African Peacebuilding Network of the Social Science Research Council (SSRC) of New York.

Rhuks Ako

Rhuks Temitope Ako holds a PhD in law from the University of Kent at Canterbury in the United Kingdom. He was on the faculty at the Law Schools of Obafemi Awolowo University and University of Hull, UK between 2002 and 2015. Rhuks has served in several consultancy capacities including Miliudefensie (Friends of the Earth, Netherlands) between 2007 and 2012. More recently, he has served as a UK Department for Foreign Investment and Development (DFID) and International Institute for Democracy and Electoral Assistance (I-IDEA) seconded Consultant Political Analyst to the African Union Commission; the Institute for Peace and Security Studies (IPSS); and, the Tana High-Level Forum on Security in Africa. His most recent publication is titled: Revisiting the 'Primacy of Politics' in Contemporary Peacebuilding Enterprise in Africa' (African Peacebuilding Network Working Paper Series 17, March 2018).

AU Institutional Reforms: Legal Implications for the Member States

George Mukundi Wachira & Josephat Muuo Kilonzo

Executive Summary

Africa has made progress towards achieving continental unity amidst challenges. Granted, political, socio and economic integration remain elusive due in part to inefficiency and ineffectiveness of the continental body. Several past attempts have been made to redress challenges that faced the Organization of African Unity (OAU) and its successor the African Union (AU). President Paul Kagame of Rwanda is leading renewed efforts to reform the AU. Unlike past initiatives, the ongoing process presents significant potential to succeed given its emphasis on African ownership, including resourcing and tracking implementation.

This policy brief examines the legal implications for the Member States based on the five priorities of the AU's institutional reform process. Successful implementation of the reforms is dependent on full ownership and political commitment by the Member States to comply. Most of the reforms give rise to legal duties and obligations to the Member States.

The fundamental issues and policy implications for consideration by the Member States include:

- Undertake legal and institutional reforms that may include reviewing mandates, powers and functions of AU organs and RECs to enhance efficiency, rationalization and avoid duplication of efforts and resources
- Accede to the APRM for the AU Member States that are yet to do so. To date, only 37 States have acceded to the APRM which means 18 more should join the mechanism.[1]
- Enforce gender equity policies and measures at national and continental levels as well as effective participation and engagement of youth in socio, economic and political governance: this should include enforcing gender and youth quotas in decision making structures and employment opportunities for women and youth.
- Ratify and domesticate the Protocol on Free Movement of Persons in Africa
- Adopt domestic legislation and related measures to implement the 0.2% AU import tax levy while ensuring compliance with the World Trade Organization (WTO) rules: this should also be viewed in the light of the ability of some Member States to meet their obligation to contribute to AU financing without imposing the 0.2% levy. In other words, there should be a level of flexibility to

1 United Nations Economic Commission for Africa, 'Governance: African Peer Review Mechanism (APRM) crucial for SDG implementation in Africa' https://www.uneca.org/stories/governance-african-peer-review-mechanism-aprm-crucial-sdg-implementation-africa-%C2%A0 (accessed 11 February 2018).

the extent that a Member State can still comply with their financial obligations to the AU even in instances where they do not impose the 0.2% levy.

- Establish a legally binding mechanism to ensure effective follow-up and compliance with the AU decisions.

Introduction

The journey towards Africa's integration has endured several challenges. These include inadequate decisive political leadership, limited implementation of decisions and inefficiency of the continental body – the Organization of African Unity (OAU) and its successor the African Union (AU). The shift from the OAU to the AU in 2002 was meant to cure some of these deficits by forging closer integration and co-operation of African peoples and states.[2] During the 27th AU Summit in Kigali in July 2016, the AU acknowledged that it was time to reform the AU to make it more efficient and effective. President Paul Kagame of Rwanda was tasked with the responsibility to prepare a report on the way forward. He appointed a pan-African advisory team to assist in the preparation of the report. The team reviewed the strengths and shortcomings of the AU and made recommendations for reforms. In January 2017, during the 28th AU Summit, President Kagame presented a report (herein the Report) under the title "The Imperative to Strengthen our Union".[3]

The Report's main finding was that the AU faced challenges in terms of efficiency and effectiveness towards a common vision for a united and strong Africa. The Report acknowledged that this was not the first time there had been attempts to reform the AU. Similar efforts had been initiated in 2007 through a High-Level Panel of the Audit of the AU led by Prof. Adebayo Adedeji.[4] The Adedeji findings are quite like those by Kagame, but there was inadequate implementation of its recommendations. A slight but important detail in terms of ownership and leverage was that Kagame's process was the first state-led reform of the AU since its establishment. In addition, likely guided by the limitations of previous efforts to reform the AU, the present efforts emphasized on African ownership, sustainable financing and an implementation mechanism.

To achieve results, and tangible impact, implementation and change of management structures is required at both the Assembly and African Union Commission level. The Report recommended a high-level panel of Heads of State and Government to be put in place to supervise the implementation process. The Report further recommended a legally binding mechanism to be established to ensure that Member States fulfil their commitments to implement the AU reforms.

1.2 Aims of the Policy Brief

While all the 55 AU Member States agree in principle on the imperative for AU institutional reforms, the process for implementation is rather complex. It requires continued consultations and dialogue

2 B Fagbayibo, 'A supranational African Union? Gazing into the crystal ball' (2008) 41 De Jure.
3 African Union, 2017. The Imperative to Strengthen our Union sourced at <https://au.int/sites/default/files/pages/32777-file-report-20institutional20reform20of20the20au-2.pdf> accessed 20 December 2017.
4 Audit of the African Union, Report of the High-Level Panel of the Audit of the AU. 2007.

to obtain full ownership and consensus by the Member States. Several Member States have expressed reservations about the process, nature, pace and implications of the proposed reforms.[5] Indeed, there is still a view by some Member States of limited inclusivity in consultations.[6] If the reforms are to have universal and effective implementation by all AU Member States it is imperative that the concerns and reservation expressed by some of the AU Member States are addressed through consensus building. Effective consultations will enhance a shared understanding among the Member States of the reforms and their implementation. The five-main financial contributing member states – Egypt, Nigeria, Morocco, Algeria and South Africa - should be part of the consultations on the implementation of reforms.

Essentially, there are legal and political aspects of the AU institutional reforms with implications to several stakeholders - the Member States, AU Organs and Institutions, and Regional Economic Communities. The scope of this policy brief is limited to the legal aspects of the AU institutional reforms and the implications to the Member States. The aim of this policy brief is therefore to examine the legal aspects of the AU institutional reforms and the implications for the Member States towards effective implementation.

2. Legal Aspects of the AU Institutional Reforms: Implications for the Member States

2.1 Focus on Key Priorities with Continental Scope

The reforms call for a clear division of labour and effective collaboration between the AU, RECs, RMs, Member States and other continental institutions in line with the principle of subsidiarity.[7] Despite several past recommendations on how to enhance coordination, cooperation and synergy among these actors, including in the AU Audit of 2007,[8] effective collaboration remains elusive.[9] Among the proposals to address this challenge is the need to reduce, rationalize and harmonize the number of RECs and RMs.[10]

Reducing, rationalizing and harmonizing the number of RECs and their functions with the AU will of necessity entail undertaking legal reforms to the foundational instruments, mandates, powers and functions of RECs. More realistically, it should entail a revision of the Protocol on Relations between the African Union (AU) and Regional Economic Communities (RECs).[11] Such a revision if undertaken should be grounded on a thorough analysis of the complementarities and differences among RECs as well as between RECs and the AU. The focus should be on the areas of AU competence while remaining alive to and the fact that competence of some RECs may extend beyond the scope of the

5 Member States Deliberations during debate on the Progress report as above.

6 During debate on the AU reforms at the January 2018 Summit in Addis Ababa, various delegation expressed some reservations about the pace and scope of the reforms and in particular the effect of the 0.2% AU import tax levy. For instance a SADC position was presented which called on more structured consultations before final implementation of the reforms.

7 Progress Report of the Chairperson of the Commission on the Implementation of Decision Assembly/AU/Dec.635 (XXVIII) on the African Union (Assembly/AU/3 (XXX); Priority 1.1.

8 See <http://osf.org.za/wp-content/uploads/2015/08/Audit-of-the-African-Union-Report-of-the-High-Level-Panel.pdf> accessed 22 Feb 2018

9 Supra note vii.

10 Ibid, para 17 (b); (c) and (d).

11 The Protocol on relations was adopted to replace the Protocol on Relations between the African Economic Community and the Regional Economic Communities of 1998.

four areas identified under AU reforms. A key challenge is characterized by the existence of multiple regional economic communities and organizations with overlapping memberships and lack of clear principles of coordination among them.[12] Presently, Africa has eight different and partly overlapping regional trade zones with none having more than half of Africa's states.[13]

While the Kagame report makes proposals on key areas which the AU could focus on – peace and security; governance, international partnerships and trade – they touch on overlapping mandates of the RECs. Consultations on shared competencies and mandates and how best to optimize resources, capacities and leverage would require the AU and RECs to recalibrate their institutional architectures and processes to enhance cooperation, complementarity and application of the subsidiarity principle.

Division of labour between AU, RECs/RMs and the Member States should be based on the AU Constitutive Act, the Treaty Establishing the African Economic Community (Abuja Treaty) and the 2007 Protocol on Relations between the African Union and the Regional Economic Communities, as well as RECs treaties and protocols. The AU Constitutive Act under Article 3 emphasizes the need "to coordinate and harmonize the policies between the existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union." The Abuja Treaty (Chapter XIX) underscores the importance of establishing the African Economic Community "through the coordination, harmonization, and progressive integration of the activities of regional economic communities" and the "the Community shall be entrusted with the co-ordination, harmonization and evaluation of the activities of existing and future regional economic communities".[14] A progressive interpretation of this aspect by the AU and RECs could provide the basis for revision of the Protocol governing their relations and in so doing establish parameters for engagement to avoid duplication of efforts and optimize their capacities and resources.

Essentially, the division of labour should be based on criteria that ensure optimal attainment of integration. Sustainable division of labour should respect the principle of fair and equitable allocation of benefits and advantages to the AU Member States and RECs: this will provide incentives for greater cooperation in the implementation of the AU reforms. Success in the division of labour depends on the extent to which the AU and RECs are each prepared to work together based on their comparable competencies. A study carried out by UNECA in 2006 showed that RECs appeared to accept the principle of subsidiarity as long as the 'superior institution' does not impose sanctions even in situations where states deviate from the common goal.[15] At the time although all RECs were in favour of sensitization on common goal on integration, only 22% of the RECs supported the notion of sanctions.[16] To cure this deficit, it is worth noting that one of the key recommendations under consideration under the AU Institutional reforms is the development of a mechanism to ensure that legally binding decision are implemented.[17]

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12 RF Oppong, 'The African Union, African Economic Community and Africa's Regional Economic Communities: Untangling a Complex Web' (2010) 18(1) African Journal of International and Comparative Law 92-103.

13 A Leke, 'Reforming the African Union: The vital challenge of implementation' https://www.brookings.edu/blog/africa-in-focus/2017/05/03/reforming-the-african-union-the-vital-challenge-of-implementation/ (accessed 28 January 2018).

14 Abuja Treaty (Chapter XIX).

15 United Nations Economic Commission for Africa, Assessing Regional Integration in Africa II, Rationalising Regional Economic Communities. (2006).

16 Ibid.

2.2 Align AU Institutions to Deliver Against Chosen Priorities

Related to the institutional reforms is imperative to ensure the effectiveness of existing AU institutions. The 2017 Report on AU Institutional Reforms calls for: NEPAD to be fully integrated into the AU; Strengthening the APRM to track implementation and oversee monitoring and evaluation of key governance areas of the continent; review of AU judicial organs and Pan African Parliament; and reform of the AU Peace and Security Council and strengthening of its working methods and role in conflict prevention and crisis management. While most of these reforms will be implemented at the AU and related organs and institutions levels, there are several legal implications for the Member States.

First not all AU Member States have joined the APRM, and it remains a voluntary process–as much as the AU Agenda 2063 aspires for universal accession to the APRM by 2023.[18] If the APRM is to be the main mechanism for tracking implementation and overseeing monitoring and evaluation of key governance areas of the continent it will inevitably mean that those Member States that are yet to accede to the APRM should do so by 2023. Currently, 37 AU Member States[19] have voluntarily acceded to the APRM which means that 18 Member States will need to accede to the APRM for this reform to be fully implemented. In addition, and in line with the overall goal of the APRM to contribute to governance reforms, institutions and processes, AU Member States should integrate the APRM process and their National Plans of Action within their national legal and policy frameworks especially on budgets and development priorities.[20]

The second reform with legal implications for the Member States is related to the Peace and Security Council. For the PSC to be effective in conflict prevention and crisis management, the Member States should be willing to cede some of their sovereign powers to the AU. That would include closer engagement and cooperation between the PSC and the Member States in conflict prevention that may include sharing early warnings, undertake country structural vulnerability assessments, early warning and preventive diplomacy and mediation. In addition, article 5(4) of the PSC Protocol requires periodic review of PSC's membership considering the extent to which PSC members are committed to upholding AU principles, respect constitutional governance, the rule of law and human rights as well as the contribution to peace and security fund. In the past, some AU Member States who have served on the PSC have been accused of committing human rights violations against their citizens and continue to hide behind the veil of the "traditional Westphalian principle of state sovereignty and non-interference as a rhetorical shield against accountability."[21]

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17 P Kagame January 2017 Report to the Assembly on AU Institutional Reforms; See also Progress Report of the Chairperson of the Commission on the Implementation of Decision Assembly/AU/Dec.635 (XXVIII) on the African Union (Assembly/AU/3 (XXX)

18 Agenda 2016 10 Year Implementation Plan, pg 24.

19 APRM Members as of January 2018: Algeria, Angola, Benin, Burkina Faso, Cameroon, Chad, Cape Verde, Djibouti, Egypt, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Kenya, Lesotho, Liberia, Malawi, Mali, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Republic of Congo, Rwanda, Sao Tome and Principle, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, The Gambia, Togo, Tunisia, Uganda and Zambia

20 South African Institute of International Affairs, 'The African Peer Review Mechanism: Development Lessons from Africa's Remarkable Governance Assessment System' (2014) Research 15.

21 E Abatan & Y Spies, 'African solutions to African problems? The AU, R2P and Côte d'Ivoire (2016) South African Journal of International Affairs 9.

2.3 Connect the AU to its Citizens

The AU Institutional Reforms notes that although strides have been made in ensuring that gender and youth issues are at the epicentre of the AU, more needs to be done to demonstrate real value and impact for African citizens. To attain real value and impact for African citizens, the AU Institutional Reforms Report focused on women's and youth quotas, private sector participation and continent-wide public goods and services. Despite notable progress, the AU Commission was not able to deliver on its goal to ensure gender parity in all functional positions within the AU Commission by 2015.[22]

The Constitutive Act, article 4(l) lays the basis for the implementation of policies and measures that enhance gender parity in employment and equal opportunity in organizational processes. The AU Commission Chairperson should promote efforts to ensure gender parity at the AU Commission pursuant to Article 8(y) of the Statutes of the AU Commission which places the function to 'coordinate all activities and programmes of the Commission related to gender issues' within his/her mandate. Article 9 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) requires states to ensure an equal representation and participation of women in all decision-making structures at Member States level. Furthermore, Provision 5 of the Solemn Declaration on Gender Equality in Africa calls for the expansion of gender parity principle to all organs of the AU and national and local levels in collaboration with political parties and national parliaments in the AU Member States. Article 20 of the PSC Protocol equally recognize the crucial role of women in creating enabling, stable and peaceful environment in pursuit of Africa's development agenda thus requires the participation of women in peace and security affairs. Therefore, AU, RECs and the AU Member States are legally obliged to put in place measures to guarantee women equitable participation in peace and security sphere.

On the issue of youth, the reforms acknowledge that Africa should invest more in identifying and implementing concrete measures to tap youth potential given the fact that the majority (65%) of Africa's population are young people.[23] In the past, the AU has adopted normative frameworks to guarantee the protection and promotion of the rights of young people, including their participation in governance, democratic processes and decision-making structures at all levels. Article 11 of the African Youth Charter requires the participation of youth in governance and decision-making processes. Through the Africa Governance Platform, the AU has sought to foster participatory and active engagement with youth in governance and democratic processes in the continent pursuant to the African Governance Architecture (AGA) Youth Engagement Strategy.[24] The African Union Volunteer Corps (AUYVC) has also provided a platform for youth engagement on the Continent. However, youth participation and engagement at national levels remains inadequate as is the employment of youth. The situation is replicated at the continental level where at the AU Commission youth employment is less than 15% of the staff - those under the age of 35 and '7% of the staff in the professional

22 Progress Report of the Chairperson of the Commission on the Implementation of Decision Assembly/Au/Dec.635 (Xxviii) on the African Union presented during the Assembly of the Union Thirtieth Ordinary Session 28 – 29 January 2018 Addis Ababa, Ethiopia Assembly/AU/3(XXX) para 39.

23 Ibid.

24 AU Commissioner for Political Affairs, 'Youth Participation and Representation in Governance and Democratic Processes in Africa' Press Statement 26 January 2017.

categories.'[25] Laws, rules and regulations at the continental body and also in Member States should be reviewed to address the challenge of youth recruitment at the AU Commission and Member States if the situation is to change.

At a practical level, emerging from one of the landmark decision during the January 2018 Summit, which would enhance the relevance of the AU to citizens, is facilitating free movement of people in Africa. The Adoption of the Protocol to the Treaty Establishing the African Economic Community on Free Movement of Persons, Right of Residence and Right of Establishment (Free Movement Protocol) at the January 2018 Summit is a key milestone towards achieving this end. The Free Movement Protocol will unlock Africa's socio-economic potential of African citizens. To realize this potential, the RECs and AU Member States should align their migration laws and policies with the Free Movement of Persons Protocol. The AU Member States should also tackle challenges that threaten free movement such as xenophobia and guarantee rights of migrants in line with the African Charter on Human and Peoples' Rights (African Charter) as well as the international treaty and customary international law. In addition, Member States should adopt and effect measures to avail the African passport to eligible citizens.

2.4 Manage the Business of the AU Efficiently at the Political and Operational Levels

Effective implementation of the AU reforms hinges on political and operational leadership and efficiency. At the political level, the reforms propose that the AU Assembly holds one ordinary summit per year and extraordinary sessions when the need arises in accordance with Article 6 of the AU Constitutive Act. In place of the June/July Summit, the Bureau of the AU Assembly should hold a coordination meeting with RECs constituting of RECs Chairpersons, the AU Commission and RMs.[26] Before the meeting, the AU Commission needs to play an active role in coordinating with RECs which should be done in line with the Abuja Treaty.

The Assembly should delegate some of its powers and functions to other organs of the AU pursuant to Article 9(2) of the AU Constitutive Act. For instance, to ensure smooth functioning of the budget cycle and budget adoption, it has been proposed the Assembly delegate its budget adoption powers to the Executive Council which should meet in line with Article 10(2) of the AU Constitutive Act.[27]

On external partnership summits, the reforms recommend that these should be reviewed with the aim of providing an effective framework for African Union Partnerships. The Report recommends that Africa should be represented by the Troika, namely the current, incoming and outgoing Chairpersons of the African Union, the Chairperson of the AU Commission, and the Chairpersons of the Regional Economic Communities as well as the Chairperson of NEPAD. Effective implementation of this recommendation would mean that in forging strategic continental partnerships with external partners, Member States will be represented by the AU rather than as individual countries which gives impetus and a stronger collective voice and leverage to negotiate.

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25 Supra note xxii para 46.

26 Ibid para 71.

27 Ibid para 72.

On operational management certain challenges that cause inefficiency have been identified namely; weak accountability, poor finance and budget management accountability, limited platforms for internal coordination, administrative inefficiency and poor human resource management and staff development.[28] To address these challenges, the reforms envision that the Deputy Chairperson and commissioners should be recruited competitively, the role of Deputy Chairperson should be re-framed as Chief Operating Officer responsible for the efficient functioning of the AU Commission's administration. The Report also recommends the review of structure and staffing needs of the organization which should be undertaken by a reputable firm. In effecting the recommendations on operational management, consideration should be made on Articles 7 and 8 of the Statutes of the AU Commission which provide for the responsibilities and functions of the AU Commission Chairperson.

2.5 Finance the AU Sustainably with Full Ownership of the Member States

Full ownership of the reforms by the AU Member States includes providing adequate and sustainable technical, human and financial resources. One of the defining decisions by the AU on the reforms was the recommendation to impose a 0.2% AU import levy on eligible goods originating from a non-AU Member State which are to be consumed in a Member State.[29] The revenue collected under the import levy is remitted in line with each AU Member State's approved assessed contribution.[30] Some of the exemptions from the import levy include: goods originating from outside the territory of a Member State for home consumption in a Member State and re-exported to another Member State; goods received as Aid, gifts and non-repayable grants by a State or by legal entities constituted under public law and destined for charitable works recognized as being for the common good; goods originating from non-Member States, imported as part of financing agreements with foreign partners, subject to a clause expressly exempting the said goods from any fiscal or para-fiscal levy; and goods on which AU import levy has already been paid.[31]

To ensure domestic compliance with the 0.2% AU import tax levy, some AU Member States have enacted legislation to effect it. Others have devised other means of levying the import tax and transmitting it to the AU.[32] As at February 2018, out of 55 AU member states, only 12 had started the implementation process of the decision to finance African Union.[33] Five other member states have indicated that they at an 'advanced stage' in regards to their domestic legal requirements for implementation of the decision to finance AU. Others like Egypt and South Africa have expressed some reservations and inability to implement the financing decision in the current configuration.[34] Due to

28 Ibid para 131.

29 Trade Law Centre Southern Africa, 'African Union Legal Resources and Policy Documents' https://www.tralac.org/resources/by-region/african-union-resources.html (accessed 27 January 2018).

30 Ibid.

31 Ibid.

32 For a critical analysis of the AU financial autonomy – See JM Okeke, 'Is the Africa Union's Aspirations Towards Financial Autonomy Achievable' IPSS Policy Brief Vol 07, Issue 09| July/August 2017; See also See P Apiko & F Aggad, Analysis of the implementation of the African Union's 0.2% levy progress and challenges, Briefing Note 98 (November 2017) ECPDM sourced at <http://ecdpm.org/publications/analysis-of-the-implementation-of-the-africa-union-levy/> accessed 20 Jan 2018.

33 African Union, "Revised Report on the Implementation of the Kigali Decision on Financing of the African Union", January 2018, Unpublished.

34 Ibid.

inherent domestic economic and legal constraints, Mauritius and Seychelles have also stated that they may only be in a position to meet their financial obligations through alternative mechanisms.[35] It is therefore critically important that besides calling for AU Member States to implement the 0.2% import tax levy to finance the AU, the reforms process should explore and encourage Member States to adopt and employ other flexible options that will ensure their meet the AU financial commitments.

Besides adopting domestic legislation and related measures to implement the 0.2% AU import taxes levy a key issue with legal implications for the AU Member States has been compliance with the World Trade Organization (WTO) rules. Although in principle, WTO members are free to impose customs duties on imported goods as long as they do not exceed their agreed bound tariffs[36], there have been concerns regarding the effect of the AU import tax on Member States WTO legal commitments. Some Member States have raised concern that the levy may not be WTO compatible because the levy is discriminatory and a violation of Most-Favoured Nation principle (MFN).[37]

One of the solutions to compatibility with the WTO Rules that is under consideration by the AU Member States is the Continental Free Trade Area (CFTA) which would ensure that the levy is compliant with WTO principles.[38] AU Member States should, therefore, speed up joining the Continental Free Trade Area and its subsequent notification to the WTO whose benefits go far beyond compliance with WTO rules for purposes of the AU 0.2% Import tax levy.

2.6 Effective Implementation of the Reforms

In relation to the implementation of the reforms for result and impact, the AU Institutional Reforms Report notes that previous recommendations have largely remained unimplemented. The Report calls for dedicated oversight, implementation and establishment of a legally binding mechanism to ensure that the Member States honour their commitment to implement the current reforms. Notably, article 23 of the AU Constitutive Act provides that:

a. The Assembly shall determine the appropriate sanctions to be imposed on any Member State that defaults in the payment of its contributions to the budget of the Union in the following manner: denial of the right to speak at meetings, to vote, to present candidate's activity or commitments, therefrom;

b. Furthermore, any Member State that fails to comply with the decisions and policies of the Union may be subjected to other sanctions, such as the denial of transport and communications links with the other Member States, and other measures of a political and economic nature to be determined by the Assembly.

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35 Ibid.

36 P Van den Bossche & W Zdouc, The Law and Policy of the World Trade Organization (2013) Cambridge University Press, New York.

37 See critical analysis and proposals to address this challenge in Philomena Apiko & Faten Aggad, Analysis of the implementation of the African Union's 0.2% levy progress and challenges, Briefing Note 98 (November 2017) ECPDM sourced at <http://ecdpm.org/publications/analysis-of-the-implementation-of-the-africa-union-levy/> accessed 20 Jan 2018.

38 Supra note xv.

In addition, Rule 33 of the Rules of Procedure of the Assembly (2002) provides that non-compliance with regulations and directives of AU Assembly shall attract sanctions in line with Article 23 of the AU Constitutive Act. To this end, AU Member States should cooperate and if necessary cede some of their sovereignty to a degree reasonable enough to enable the institutions of AU to effectively carry out their mandates and in particular enable AU Assembly to effect its functions and to ensure compliance with AU decisions.[39]

The Reforms recommends that the current sanctions mechanism should be strengthened and enforced. It is necessitated by the finding of the Reform's Report that the Assembly had adopted more than 1 500 resolutions yet there was no easy way to determine how many of the decisions have been implemented. Essentially, this will be a test of the capacity of AU member states to limit their sovereignty to allow greater institutional impact of Pan-African bodies.[40] The strengthening of sanctions mechanism should be in line with Article 4 of the AU Constitutive Act which requires respect for the sovereign equality of AU member states.

However, a key challenge with the current sanctions regime is its limited impact and the fact that it has not been sufficient deterrent to the recalcitrant Member States. Accordingly, Member States should consider both sanctions and incentives to comply such as making it conditional for Member States to participate in AU processes such as peacekeeping operations, recruitment of staff including endorsement of candidates to international institutions and fora. However, for such incentives and sanctions to have an impact, the AU has to offer a far better attractive value proposition to Member States besides political leverage. The ongoing consultations on the Continental Free Trade Area (CFTA) could potentially provide an opportunity to link trade, economics and movement of goods and services as well technical knowhow to an enforcement mechanism. Linking trade and economic benefits may be a more appropriate incentive than sanctions to foster compliance by the Member States.

3. Policy Implications for Consideration

Based on the foregoing this brief recommends the following for consideration by the Member States:

a. To avoid duplication of efforts and overlapping membership, treaties and protocols establishing RECs should be revised in a clear and concise manner taking into consideration the AU Constitutive Act, the Abuja Treaty and the Protocol on Relations with RECs to allow effective division of labour between the AU, the RECs and the AU Member States: this is because the duplication of efforts and overlapping membership is an indication of lack of shared visions of integration. With a clarity of vision of integration there will be an efficient and strong basis for tasks allocated to the AU, RECs and AU Member States. Effective division of labour can be achieved once current political and economic fragmentation and membership of RECs has been resolved.

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39 GM Wachira, 'Sovereignty and the 'United States of Africa' Insights from the EU' (2007) Institute for Security Studies.

40 Institute of Security Studies, '30th AU Summit: time to implement first AU reforms' https://issafrica.org/pscreport/on-the-agenda/30th-au-summit-time-to-implement-first-au-reforms (accessed 29 January 2018).

b. To ensure the effectiveness of implementation of the decisions of the AU, Member States could cede some of their sovereign powers to the extent necessary to allow the institutions to prevent conflict, monitor compliance and track implementation. The AU Assembly should diligently ensure that its decisions are adhered to by the AU Member States. Where there is non-compliance, the Assembly should determine appropriate sanctions to be imposed on the recalcitrant Member States. In line with Article 5(4) of PSC Protocol, the PSC should be reconfigured to adhere to objectives of the AU and particularly, respect for human rights, democracy and the rule of law.

c. To ensure AU's relevance to its citizens, gender and youth issues as well as, facilitation of free movement of people within Africa should be given a priority. Legislative and policy measures should be put in place by the AU, RECs and AU Member States to ensure gender parity in employment, equal opportunity in organizational processes and equal representation of women and participation of women in all decision-making structures in line with Article 4 of the AU Constitutive Act, Article 8 of the Statutes of the AU Commission and Article 9 of the Maputo Protocol. In addition, youth should be granted an opportunity to participate meaningfully in governance and decision-making processes in accordance with the African Youth Charter. While the adoption of Free Movement Protocol is a milestone towards the realization of free movement of people in Africa, RECs and AU Member States should put in place legislative and policy measures that promote free movement of people and address challenges such as xenophobia that hinder the free movement of people.

d. Effective management of AU at the political and operational level will necessitate delegation and prioritization by the AU and RECs: this also means staffing AUC with competent political and technical staff. As proposed in the reforms, AU Assembly should delegate some of its functions to other organs of the AU in accordance with Article 9(2) of the AU Constitutive Act. For example, the Assembly can delegate its budget adoption powers to the Executive Council which should carry out delegated functions in line with Article 10 & 11 of the AU Constitutive Act. Strategic partnerships should be aligned to the objectives of the AU as elaborated under Article 3 of the AU Constitutive Act and should take into consideration interests of the African people and adhere to normative human rights standards. Operational management review should take into consideration the powers and functions of the AU Commission's Chairperson as provided for in Articles 7 and 8 of the Statutes of the AU Commission.

e. The proposed mechanism to ensure that legally binding decisions are implemented should be vest wish sufficient powers, mandate and resources to follow and ensure effective implementation of the AU decisions. Strengthening enforcement and sanctions mechanism are therefore central to the realization of the AU reforms: this should be done in accordance with Article 23 and objectives of AU Constitutive Act as well as Rule 33 of the Rules of Procedure of the Assembly (2002). Dedicated oversight, implementation and establishment of a mechanism to ensure that AU Member States respect their commitment to implement the current reforms will determine the success of the reforms. Therefore, AU Member States should be committed to ensuring that measures are in place to guarantee effective political and operational functioning of the AU.

f. On ownership and sustainable financing, the 0.2% import levy requires that the Member States put in place legislative and policy measures to give effect to the levy. In addition, the AU reforms process and Member States should also explore alternative instruments and mechanisms to ensure that all Member States comply with their financial commitments to the AU, notwithstanding how they mobilize the resources domestically. However, the AU and Member State should ensure that imposition of the levy is compliant with WTO rules. Adoption and universal membership of the Continental Free Trade Area is a possible solution. Implementing the import levy will provide reliable and sustainable funding for AU operations and the continental peace and security: this will significantly reduce reliance on donor funds for the implementation of AU agenda and integration programs. The approach taken by ECOWAS to impose levies on imports without violation of existing international treaty obligations provides comparable best practice model. However, there should be a level of flexibility in the implementation of the 0.2% levy in light of inherent national economic and legal constraints faced by some of the AU member states.

4. Conclusion

Effective implementation of the AU institutional reforms demands concerted efforts, political leadership, financial autonomy and commitment by the Member States. While political will and commitment is the key to successful implementation, the reforms give rise to several legal implications which the Member States should weigh to ensure compliance, with national, regional and international obligations.

Acknowledging that this is not the first time that the AU has made attempts to undertake institutional reform - with limited success - the brief notes commendably that unlike in the past where tracking implementation was not prioritized, the current reforms give significant importance to monitoring implementation – by the Assembly. Equally important is the decision by the AU Member States to finance the AU and the reforms – through the 0.2% AU import levy. Coordination and rationalizing of AU, RECs and their organs is critical to optimize results and avoid duplication of efforts and resources. Each of the reforms as highlighted in the brief requires that the Member States take appropriate political, operational and legal measures to give effect to the reforms. As noted by Kagame, 'it is time to change direction and provide a basis to initiate the process for reforms'.[41]

41 Ibid.

About the authors

George Mukundi Wachira

George Mukundi Wachira is the CEO of Maendeleo Group, a legal advisory and management consulting firm on Democratic Governance; Sustainable Development; Peace and Security in Africa. He was the founding Head of the African Governance Architecture Secretariat, African Union (AU) Commission (2013-2016). He has over 15 year's expertise in legal drafting, dialogue facilitation, knowledge management, policy analysis, and advocacy at continental and national levels. He has provided strategic and technical support to AU Member States, AU organs and institutions; Regional Economic Communities (RECs); United Nations Agencies; the World Bank; and the African Development Bank on rule of law, constitutionalism, democratic governance, human rights, transitional justice, migration and humanitarian assistance. Mukundi has a Doctor of Laws (LLD) Degree in International Human Rights Law from the University of Pretoria and a Master in Public Administration Degree (MPA) from the Harvard, Kennedy School of Government.

Josephat Kilonzo

Josephat Muuo Kilonzo is a Junior Research Associate with Maendeleo Group. He is an international human rights lawyer with a keen interest in public interest litigation, constitutionalism, the rule of law, democratization and African regional integration. He has worked with among others the Lucerne Academy for Human Rights Implementation, Switzerland, National Legal Aid & Awareness Program, Kenya and the Dollar Omar Institute, University of Western Cape, South Africa. He obtained a Bachelor of Laws Degree (LLB) from Moi University, Kenya (2015) and a Master in Human Rights and Democratization in Africa Degree (LLM with Distinction) at the University of Pretoria, South Africa. He received the Nelson Mandela Prize for the best academic performance in the Class of 2017.'

Ownership of Africa's Integration through Financing and Reforming the AU: Implications for the RECs

Raheemat Momodu

"The institutional reform of our union has made significant progress.....Obviously, we are moving forward on this matter. The ever increasing number of states which apply the 0.2% levy on eligible imports is a striking proof, as are the unprecedented contributions to the Peace Fund. Other areas of reform and not least especially the division of labour between the African Union and the Regional Economic Communities, must imperatively take shape, to enable the latter fully play their role as pillars of integration. It goes without saying that the success of our efforts is strongly tied to our degree of cohesion. And our cohesion itself is determined by the frankness of our discussions and the intensity of our consultations on the way forward".

H.E Moussa Faki Mahamat, AUC Chairperson at the 31st Ordinary Session of the Assembly of African Union 28th January 2018

Executive Summary

The call by the AUC Chairperson that the frankness of discussion and intensity of consultation on the AU Reform demonstrates cohesion, should be taken seriously because reforming the AU should mean re-form in a transformative sense. Thus this article seeks to contribute to the frank discussion and intense consultation as it attempts to give an honest and bold analysis of some of the knotty issues that seem to have been overlooked or glossed over in the discourse on AU/RECs relationship. More importantly, this article provides some out of the box policy recommendations which require open-mindedness and a high dose of courage to appreciate. It is time for Africa to do things differently if she wants better results and outcomes. The core message is that treading the path of the Abuja Treaty towards an African Economic Community and delivering the Africa We Want and Deserve is not rocket science and farfetched, if we change our mindset, realign our priorities, reconfigure our institutions and harness all our resources on the continent. Africa has all it takes to grow into an economic giant.

Key Points

1. Reform of AU/RECs relationship is central to the AU Reform and the AU been fit for purpose; and so the role, responsibilities and position of the RECs' Secretariats and their Chief Executives including other RECs/ regional organs and institutions in the constellation of the AU universe must be factored in and made very clear in a reformed AU. It is not enough to have the AU Mid-year Summit an AU/RECs Coordination Meeting or Summit but that by implication it is imperative for reforms to take place in all the aspects of AU/RECs relations and interfaces to ensure enhanced and more effective collaboration in the spirit of the Abuja Treaty and in delivering the Africa We Want even much earlier than 2063. Undeniably, it will take much more than participation in the Mid-Year Summit to make AU decisions binding on the RECs, because the RECs through their Secretariats and represented by their Chief Executives must be present and involved in the making

of such decisions. Of course, most fundamental reforms in this regard will include joint planning, decision-making, financing, implementation and accountability.

2. The division of labour between the AU and the RECs should not be about cherry picking areas of focus or concentration, but division of roles and responsibilities based on each institution's comparative advantage and added values. Rather than have AU or RECs deal with different specific areas of African integration, the division of labour; should be about which aspects within the chain of actions to deliver a particular outcome should be assigned and undertaken by AU or the RECs. For example the AU has absolute comparative advantage to coordinate and harmonize RECs policies and texts, to provide overall strategic policy direction in all aspects of integration, build consensus and a common African voice and position in the global stage, establish standardization, benchmarks and threshold for measurement monitoring of implementation and compliance to AU decisions, promoting experience and knowledge sharing between the RECs towards building capacity and promoting peer learning and influencing, anchoring strategic external partnerships, joint recourse mobilization for the AU and RECs towards joint implementation of RECs and AU decisions, agenda and programmes contributing to continental integration and of course driving the implementation of the many existing continental agendas. The RECs, on the other hand, have a comparative advantage in developing and harmonizing regional texts, advocating and ensuring compliance of AU Member States to AU decisions, sensitization of ratification of AU Protocols, acting as first responders in Peace and Security, promotion of Good Governance and Political Stability; and Humanitarian Assistance.

3. The insistent call for the rationalization of RECs as a pre-condition for a more effective AU/RECs engagement is misplaced and diversionary because overlapping membership of RECs could provide a creative and innovative pathway to accelerating continental integration rather than stalling it. It can be argued that the countries that belong to more than one REC could be commended and used as champions and catalysts to rapid integration since they already subscribe to integration agendas of all the RECs they belong to. Perhaps, the COMESA/EAC and SADC Tripartite was made easier because of the countries who share multiple memberships of these three RECs. It is high time we saw and did things differently to achieve a different and better result.

4. Indeed, the Abuja Treaty establishing the African Economic Community called for the coordination and harmonizing of RECs policies, programmes and agendas and not the rationalization of numbers and membership of the RECs. It amounts to 'diplomatricks', waste of time and attempt at undermining Member States' right of freedom of association to want to 'rationalize' membership of RECs especially at a time when Africa needs to do all it can to build on its weaning Pan African solidarity within the context of receding multilateralism in some parts of the world.

5. The RECs may also need to undertake institutional and textual reforms, to be able to perform the enhanced roles and responsibilities and meet up with the obligations that may come with the AU Reform. AU/RECs relationship is a two-way street and as such the RECs in an anticipatory and proactive move need to start to re-jig and review their policies, texts, structures, and more importantly their mindset and outlook to embrace the possible additional expectations and efforts required of them in a reformed AU.

Introduction

The call and decision for and the journey towards AU Reforms since 2016 has dominated discourse on the continent especially amongst the African Academia/Researchers, Think Tanks, the diplomats in the African Capitals and even more so with some Africa's external partners. This is not surprising because of the growing importance of the AU in global geopolitics and thus the need to reboot the institution to remain relevant and if possible be more proactive and engaging with not just the Governments of its Member States, its external partners who are mostly its donors but most importantly to reset its mind to seeing the ordinary Africans as its primary constituency, when all is said and done.

At no time since the whisperings and rumours of pending AU Reforms was there so much high tension, excitement and expectations about/surrounding the outcome of an AU Summit than the period leading up to the last AU Summit of 28 and 29 January 2018 in Addis Ababa. The tension, speculations and attendant permutations, conspiracy theories and even predictions of termination of the AU Reform process were based on the different rumours of strong opposition from some regions and groups of African Ambassadors in Addis Ababa. To the relief of many, the Heads of States/Summit weathered the storm of controversies, fictions and bruised egos and remained on course to deliver the reforms no matter how and when.

It may, therefore, be difficult not to agree with the AUC Press Release (A Summary of Key Decisions); on the success of the last AU Summit in January 2018 in Addis Ababa, which celebrated the outcomes/decisions of the Summit in glowing terms. In particular, on the AU Reforms it said;

> *"On the implementation of the Assembly Decision on the Institutional Reform of the African Union, the Assembly reiterated the commitment to the reform and renewal of the Union as part of the effort to ensure delivery of Agenda 2063 as an integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in international arena."* (Press Release No 20/30th AU Summit, 2018)

Indeed, the adoption of these decisions especially the adoption of the Protocol of Free Movement of Persons will easily translate to boosting Intra African Trade, labour mobility, in addition to the free movement of persons for non-trade, commercial and business sake. Perhaps the fact that the AU Heads of State 'did not kill the message of AU Reforms because of the messenger' as the messenger appealed maybe the real achievement of the Summit. This is because it is only a 'well' reformed AU that can deliver on the implementation of the other celebrated decisions on Common African Sky, holding of an Extra-Ordinary Summit to sign the Agreement Establishing the African Continental Free Trade Area in March 2018, and the adoption of the Protocol on Free Movement of Persons.

It appears that it is now an African Union culture and character to take decisions, with no intention of implementation as if taken decisions is enough success and achievement by itself. This same 'disease' or condition of non-implementation of decisions is pervasive at the national/member states levels. It is this mentality of non-implementation that should be at the core of the AU Reform, and it should begin with a change of mindset and financing the AU. The Member States not been able to finance the AU decisions and agendas contributes significantly to none or at best weak implementation of decisions: this demonstrates that Member States do not take the AU and its decisions seriously under the guise of sovereignty and protecting national interests. This author has always argued elsewhere

that no African country can stand and compete alone on the global stage and what good or use are weak and vulnerable conflict infested economies with national sovereignty; whereas pooled or collective sovereignty can produce a very strong and formidable Africa with robust, vibrant and strong integrated economies.

Certainly, if the AU Reform is faithfully implemented without fear or favour of internal or external stakeholders and 'interested' external partners, the Reform will only come close to such milestones like the establishment of the Organization of African Unity (OAU) on 25th May 1963 and the transformation of OAU to AU on 9th July 2002 in the history of Africa. It is for this reason that this unique opportunity of introspection and the boldness/audacity to admit failures and gaps with the AU should not be petered away on the altar of national, regional, sectional, egoistic and negative external pressure and influence. The current AU Reform process presents a golden opportunity for all the changes necessary to fix the AU to be fit for purpose to be made, regardless of initial misapprehension and misgivings about the right process and proper procedure; in the interest of a better and stronger AU and Africa.

It is precisely for these reasons that resetting of the AU/RECs and the AU/RECs/Member States relationships should be at the core of the reforms. Fundamentally, this will not require the re-inventing of the wheel as the treaty establishing the African Economic Community (Abuja Treaty: 1991) provides the grand norm and basis. In this regard, the Progress Report of the AU Institutional Reform presented to the AU Summit on 28th January 2018 (Assembly /AU/Dec. 635 (XXVIII)) in Addis Ababa must be commended for its clarity and scope but it was not deep and bold enough when it comes to proposals for the position of RECs in the constellation of institutions in the universe of a reformed AU ecosystem.

Although the Report alluded to the many reports, debates and consultations on the role of RECs in a reformed AU, it came short of rocking the boat and ruffling some powerful feathers that appear to see RECs as 'blocking boulders' instead of building blocks of the AU. This article will, therefore, attempt to build on the Progress Report proposals, premised on some of the often ignored gaps and knotty issues pertaining to the RECs and their relationship with AU and their position within the AU architecture.

Discussion

"There is no need for me to remind that at the stage we are now, we have only two choices: to move resolutely forward in the implementation of the reform or to pave the way for failure, once again, whose consequences will seriously undermine the image and credibility of the valuable unity, freedom, integration, development and democracy, which is the African Union. I have no doubt that your commitment to Africa and your great wisdom will bring out of this Summit decisions that will carry forward the reform. In so doing, you will definitely place our organization at the exalted levels of hope that it raises among the African peoples and their friends in the world."

(H.E Moussa Faki Mahamat/ AUC Chairperson at the 31st Ordinary Session of the Assembly of African Union 28th January 2018)

Undeniably, the AUC Chairperson is right, going back on the AU Institutional reform is no longer an option and to that extent, the reform of the AU is fait accompli. The only subject up for discussion, debate, discourse, dialogue and conjuncture or speculation is the nature, areas, scope, depth and timeline of the reform. In this regard, one of the outstanding knotty issues; which will require a high dose of sincerity and courage to deal with is a reformed AU/RECs relationship.

A fundamental concern is that reforming AU/RECs relationship should not be limited to RECs participation in the proposed AU/RECs Coordination Mid-year Meeting or Summit but reforming and resetting other aspects of the interface. To make the AU/RECs Mid-year Summit effective and deliver meaningful and impactful outcomes, other areas and levels of AU/RECs interfaces and engagement must be equally reformed. The Mid-year Summit should have members of the AU and RECs Bureau, AUC Chairperson and Heads of other AU Organs and Chief Executives of RECs and Heads of RECs Institutions and their staff. In addition, some continental organizations including UNECA (United Nations Economic Commission for Africa), AfDB (African Development Bank), ACBF (African Capacity Foundation) and very importantly the African Private Sector should also participate. The Summit should be grounded in expanding the frontiers of AU engagement with other Non-Member States entities so as to build smart synergies with non-AU actors. This Summit should be more technical, driven and focused on joint ownership and implementation of AU decisions and agendas by a wide spectrum and cross section of African stakeholders to achieve the 'Africa We Want'. It will be a painful missed opportunity if this reformed Mid-Year Summit will not help to bring AU closer to the people while at the same time bridging the wide gap between decisions and implementation. It goes without saying that the decision for RECs to participate actively in AU Summits reiterated at the Mid-Year Summit in Johannesburg, South Africa in June 2015 should be implemented beyond the reformed Mid-Year Summit but also at the January AU Summits.

The need for a statutory and institutionalized interface between other AU and RECs Organs and Institutions beyond the Chief Executives meeting cannot be overlooked. These organs include Pan African Parliament (PAP), New Partnership for African Development (NEPAD), African Peer Review Mechanism (APRM), Economic and Social Council (ECOSOC,) African Commission on Human and Peoples Rights (ACHPR), African Court for Human and People's Rights (ACHPR), AU Advisory Board on Corruption (AU –ABC). These mechanisms should be at Senior Officials/Experts level with the primary mandate of working together to implement the decisions and report back to the proposed AU/RECs Chief Executives Management Board.

While it is true that there have been consultations with the RECs on the AU Reform, first through the RECs Liaison Officers to the AU on two occasions (with the RECs Liaison Officers submitting two separate 'Position Papers) and with the RECs Chief Executives on one occasion, all in 2017, the consultations have been basically on the envisaged division of labour of roles and responsibilities and the Mid-year Summit but not in other areas of the AU Reform. As pillars of the AU and AEC, the reform of AU/RECs relationship should affect all aspects of the AU Reform beyond the division of labour and the Mid-Year Summit. As contained in the Progress Report on AU Institutional Reform, the RECs should be integrated into all AU Organs to create a clear web of smart institutional synergies throughout the AU ecosystem.

The envisaged division of labour between the AU and the RECs is seen by many as perhaps the most difficult aspects of the reform concerning AU/RECs relationship, maybe because many people are

thinking along the lines of territories and turfs of each institution. Perhaps if the thinking and narrative changes from territories /turfs to areas of comparative advantage in terms of position, proximity to people and actions, size and will of bureaucracy, speed of decision making and historical and cultural affinity, then the decision on division of labour between the AU and RECs will be clearer and easier to make. Such decisions should not undermine but reinforce the value addition of each of the institutions in the interest of the African people. The AU evidently has a comparative advantage, for instance in promoting horizontal Inter RECs cooperation; which is currently led by ECOWAS. A great example in this regard where AU has huge comparative advantage and value addition is facilitating the current efforts by the ECOWAS (Economic Community of West African States and EAC (East African Community) Liaison Offices to AU's proposal and push for an inter-regional cooperation through the exchange of free movement privileges between ECOWAS and EAC: this is to accelerate the implementation of the recently adopted AU Protocol of Free Movement of Persons and to serve as motivation for other RECs and the individual AU Member States.

In discussing the reform of the AU/RECs relationship, no area warrants greater reforms as the area of peace and security given its significance and nexus to development and sustenance of political stability. A lot of attention has been given to this subject so not much will be discussed in this article but suffice to say that the AU Reform must cover AUC/ RECs and more importantly AU Peace and Security Council relationship with similar organs of the RECs, which sadly is nonexistent. A clear case of missed priorities is the fact that while the AU PSC meets with UN Security Council, the EU Political and Security Council and recently the Council of the Arab League annually, there has not been such interface physical or virtual between AU PSC and similar organs of the RECs: this is in spite of the relevant provisions of the Protocol Establishing the AU PSC that provides that the AU and RECs should collectively address security challenges on the continent. That there is an urgent need for a fundamental shift in the relationship between the AU and the RECs through the interface between the PSC and the Governance and Management of the AU Peace Fund would be sounding like a broken record. A great place to start reforms in this area is to build on the 'Conclusions of the Retreat of the PSC on Enhancement of Cooperation between the AU PSC and RECs/RMs' that take took place from 14-15 September 2015 in Abuja.

In view of the above and the need to create and enhance engagement mechanisms between the AU and the RECs in a reformed AU, the RECs Liaison Offices to AU and their counterpart AU Liaison Offices to the RECs must be upgraded in mandate and responsibilities. For instance, the upgrade of the RECs Liaison Offices to the AU should include an enhanced mandate, multiple accreditations to AU, UNECA and Ethiopia, and adequate resources (financial, human and material). One of the most concrete implications of this upgrade will be that the proposed RECs Permanent Representatives to the AU should, for example, participate in the AU PRC (Permanent Representative Committee) meetings, to be better informed and equipped to ensure smart and real-time synergies between the RECs and AU/AUC. The enhanced or enlarged scope of representation should cover/include UNECA, other UN Agencies and other Diplomatic missions and International Organizations in Addis Ababa in the case of RECs Representative Offices. Expectedly these Offices must grow in purpose, function, position and scope of responsibilities in any form and shape in the reformed AU architecture and regime; given their facilitating and bridge-building role in the collective implementation of the Abuja Treaty towards the African Economic Community and Agenda 2063: invariably in advancing African integration

At this juncture, it is pertinent to refer to and quote verbatim the provision of the Abuja Treaty, which stipulates the harmonization of RECs policies against the frequent calls and case for the rationalization of the RECs. It is unambiguous from the text below and many other articles of the Abuja Treaty that the existence of the RECs was not seen as a minus to building an African Economic Community (AEC) and that instead the RECs were seen as the pillars of AEC and as such harmonization of RECs policies was prescribed way back in 1991 as means of leveraging RECs regional integration efforts to culminate in continental integration. There was nowhere rationalization of membership of RECs was prescribed or inferred in the Treaty, and certainly the wisdom of the Abuja Treaty is still valid 27 years after.

Abuja Treaty (1991)- Article 4: Objectives

1. The objectives of the Community shall be:

(d) To coordinate and harmonize policies among existing and future economic communitiesin order to foster the gradual establishment of the Community.

2. In order to promote the attainment of the objectives of the Community as set out in paragraph I of this Article, and in accordance with the relevant provisions of this Treaty, the Community shall, by stages, ensure:

1. (a) The strengthening of existing regional economic communities and the establish ment of other communities where they do not exist;

2. (b) The conclusion of agreements aimed at harmonizing and co-ordinating policies among existing and future sub-regional and regional economic communities;

Conclusion

First, it is reassuring that the Chairperson and Leader of the Reform process is also the new Chairperson of the Union for 2018: this gives hope for the implementation of the Reform no matter how slow: this is perhaps the most important factor for the continuous implementation of the Reform, as all ears and eyes are on President Paul Kagame of Rwanda to walk faster than his talk by sticking to delivering a better AU, fit for its purpose in 2018 and beyond. It is safe to say that whatever happens going forward, that the AU will not remain the same as it has become clear/evident that some reforms will take place but the question will only be, how much or how deep will the reform be and the answer to that question is that only time and diplomatic politics will tell.

Secondly, from the analysis above, the RECs are critical to the AU been fit for purpose and more effective and sustainable because as the pillars of the African Economic Community (Abuja Treaty-1991), the RECs are the centre of gravity of African integration. Thus, playing the ostrich and wishing them out of the core decision-making process of the AU will only translate to cutting off the nose to spite one's face. Any AU Reform that is short of and not bold enough to resolve the clear division of roles and responsibilities between the AU, RECs and the Member States and how they should interface with the AUC and the RECs Secretariats will just be scratching the surface.

Thirdly, undeniably, and worth reiterating is the fact that the RECs Secretariats and their Chief Executives are to the RECs and as the African Union Commission and the AUC Chairperson are to the African Union. It appears that this fact is often ignored or glossed over by many analysts and studies,

with the possible implication that their role and position in a reformed AU universe is not considered or is neglected as a critical factor. Thus, a reformed AU without clear roles and position of the RECs Secretariats and Chief Executives and if their participation is not mainstreamed in the decision making, management and implementation of AU decisions and agendas; would amount to motion and no movement when it comes to AU/RECs relationship.

Fourthly, it is pertinent to sound a note of caution that the so-called 'rationalization of RECs' should be handled very carefully within the context and provisions of the Abuja Treaty which talks about harmonization of RECs policies and projects and not a rationalization of membership of RECs. Indeed, it is fascinating to hear observers in and outside Africa say that some countries belonging to more than one REC is undermining African integration while the reverse can be argued. It is not far-fetched to see how these countries who are members of more than one REC could actually be used as the fulcrum and levers for fast-tracking integration since they already subscribe to the mandate and integration obligations of more than one REC. They can easily be the arrowhead and catalysts for the implementation of such continental agendas as Continental Free Trade (CFTA), Programme for Infrastructure in Africa (PIDA) and the AU Free Movement Protocol and others.

Lastly, as the "building blocks" or "pillars" of the AU and the AEC (African Economic Community), the stronger the building blocks, the stronger the house and its ability to weather all storms, earthquakes and tsunamis. Very importantly, the building blocks and pillars remain the foundation, cornerstones and the base of the house even when it is completed and painted. Invariably, the pillar is the strongest part of the house and the part of the house that is the last to give way or collapse during any disaster, so the RECs should never be seen as competing, undermining or sharing the spotlight of the AU but indeed as the cornerstone, the strength and integrity of the AU now and in the future. Certainly, there will be no strong and effective AU without strong and effective RECs, in other words only strong and effective RECs can make a strong and effective AU; it's a two-way street.

Policy Recommendations

These recommendations are in addition to some other proposals made by this author in three other articles (Raheemat Momodu, 2015, 2016 and 2017)

1. Establishment of a Board of AUC/RECs Chief Executives/ Management Body to ensure joint decision making, financing/resource mobilization, implementation, monitoring, evaluation, reporting and accountability to the Policymaking organs of both the AU and RECs. The mandate and functions of this Board should go far deeper than the current AUC/RECs/UNECA/AfDB and ACBF Chief Executives Coordination meeting; which for all intent and purposes is just a consultative forum. This body will complement and make the planned AU Mid-Year Summit/Coordination Meeting for AU/RECs coordination more effective: this is because it will not be enough for AUC and RECs to meet and engage only for the sake of preparing for the Mid-Year Summit/Coordination meeting but it will be more pragmatic and useful if there is a statutory Joint Management body to ensure institutionalization and sustainability of AU/RECs cooperation/engagement.

2. Establishment of statutory Engagement Mechanisms and focal persons between similar organs and institutions/organizations of the AU and RECs to feed and inform the work of the proposed AU/RECs Management Board. These mechanisms will work as the marketplace and hub for innovative ideas for fast-tracking the continental integration and tasked with responsibility for the popularization of AU and RECs mandate, decisions and agendas. And very importantly these mechanisms should also be tasked with the effective engagement with the African Private Sector and enhanced relationship with the Academia and the Policy Think Tanks.

3. The upgrading and strengthening of the AU Liaison Offices to RECs and their counterpart RECs Liaison Offices to the AU. In line with the pronouncement of the AUC Chairperson during his Speech at the Opening Session of the AU Executive Council on 25 January 2018; the AU Liaison Offices, as well as the RECs Liaison Offices, should become full-fledged Permanent Representative Offices to reflect the enhanced, more robust and higher level of responsibilities expected in a reformed AU/RECs working relationship. Invariably, the proposed RECs Permanent Representatives to the AU should participate in the AU Permanent Representatives Committee (PRC) meetings and activities to bridge the huge gap in decision making and implementation of AU decisions between AU and RECs.

4. The planned and so-called Mid–year AU/RECs Coordination Meeting should first be called and seen as a Summit and should have the full powers and authority of an AU Summit which should take decisions on progress on implementation of AU decisions and agendas and continental integration: this will profoundly promote and enhance the RECs compliance of the provision of AU decisions binding on the RECs, which was repeated many times in the Progress Report on the AU Institutional Reform presented at the last AU Summit in Addis Ababa, as one of the biggest gaps in the implementation of AU decisions and agendas.

5. The establishment of a Joint AU/RECs Financing mechanism to ensure joint implementation, monitoring, reporting and accountability of AU decisions and agendas. It is important to see the new 0.2% Import Duty Financing of the AU as fundamental to the AU Reform because a reformed AU will require a high level of self-financing: this is because any joint role, responsibilities and assignment of tasks to AU and RECs will remain empty decisions without implementation; if not backed by Joint Financing and Resource mobilization mechanism. Unfortunately, there is an indication that the old mindset of excluding the RECs from relevant AU decision making, management and implementation structures that have profound implications for the RECs and undermines collective and effective continental performance has not changed. One of such evidence is the fact that the RECs (through their Secretariats) are not currently represented in any of the Governance and Management bodies of the AU Peace Fund in spite of calls to that effect; whereas non-African partners like the UN and the EU are members of one or two of these bodies. A reformed AU that continues to see the RECs, represented by the RECs Secretariat and their Chief Executives as outsiders to the AU will miss the bull's eye of an AU fit for its purpose and charged to deliver the Africa We Want and deserve.

6. The RECs should immediately put in motion the texts and policies that would make their Summit agendas and outcome respond to their role and responsibilities in the reformed Mid-year AU/RECs Coordination Summit: this will mean that all RECs should hold their statutory meetings at the different levels culminating in their Summits before each of the AU Summits in preparation for their enhanced participation in both AU summits and not just the Mid-Year one. Consequently, the RECs Summit will adopt the AU Annual Summit Themes, discuss and come up with regional positions in all areas of AU decisions and agendas to inform their participation in AU Summits. The RECs in anticipation of a much closer working relationship and interface with a reformed AU should, therefore, begin immediately to prepare to change policies, texts and deploy human, time and material resources to fulfil their envisaged enhanced roles and responsibilities.

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About the author

Raheemat Momodu

Raheemat Momodu joined ECOWAS in August 2008 as the pioneer Head/ ECOWAS Liaison Office to the African Union and has about 26 years of vast and diverse working experience. She previously served as National Programme Officer and Youth Coordinator (UNFPA-2005-2008); Programme Manager/ Good Governance and Human Rights (EU Delegation in Nigeria- 2003-2005); Project Officer/Gender Equity programmes (FES- 2001-2003); Manager, Good Governance and Conflict Management (USAID/OTI-2001); Training and Capacity Building Consultant (USAID OTI-1999) and Group Assistant Political Editor (Concord Newspapers, Nigeria-1998/99).

Ms. Momodu holds three Masters Degrees; MA in Managing Peace and Security in Africa from the Institute of Peace and Security Studies (IPSS) Addis Ababa University-Ethiopia (2011), MA Gender and Development, Institute of Development Studies (IDS) University of Sussex- England (2000) and MSc Geography and Planning (Specialization in Cartography, Remote Sensing and Population Studies), University of Lagos-Nigeria (1991). Ms. Momodu was a member of the Technical Committee of the Tana High Level Forum (2014-2016). She has also participated in the United States Department of State's International Visitors Leadership Programme on Human Rights Advocacy (2004), received the British Government Chevening Post Graduate scholarship (1999/2000), the Federal Government of Nigeria Post Graduate scholarship (1988/89), and the University of Lagos, Nigeria Post Graduate scholarship (1988/89).

Strengthening AU-RECs Collaborations on Peace & Security Issues in the Context of Reform

Martha Mutisi

Introduction

Discussions surrounding the reform of the African Union (AU) are not new. Recently, these discussions have been informed by the realization that a reformed AU would be able to fully, and effectively, deliver on the mandates of promoting peace and security in Africa. Momentum has gathered on the resolve to turn the core aspirational goals of the continental body in the area of peace, security and development into concrete reality especially with progress in the areas of adequately resourcing the AU, and ensuring seamless collaborations with regional institutions, among others. The importance of Regional Economic Communities (RECs) in the reforms process cannot be overstated, as engaging them constantly and robustly have become a major prerequisite for achieving the AU Vision of an integrated, prosperous and peaceful Africa that is driven by its own citizens and representing a dynamic force in global arena.[1]

To realize the later vision, the AU seeks to efficiently drive the African integration and development process in close collaboration with the Regional Economic Communities (RECs) and African citizens. It is not coincidental therefore that the RECs are recognized as the building blocks of the AU and as such are integral to the successful implementation of the African Peace and Security Agenda (APSA).

Yet, the pursuit and attainment of peace and security within the context of the ongoing reform will require not only strategic guidance from Member States but also the active participation of Regional Economic Communities (RECs). These regional structures have, after all, repeatedly proven they are pivotal in shaping developments within their respective communities in ways that add value to the attainment of the AU's peace and security agenda.

The AU is divided into five regions, East, West, Central, Southern and North Africa, and within these geographical regions, eight regional Economic Communities and or regional mechanisms are recognized, as follows: East African Community (EAC); the Economic Community of Central African States (ECCAS); the Economic Community of West African States (ECOWAS); the Intergovernmental Authority on Development (IGAD); and the Southern African Development Community (SADC); the Common Market for Eastern and Southern Africa (COMESA); the Community of Sahel-Saharan States (CEN-SAD) and the Arab Maghreb Union (AMU). The different regional frameworks have come to the realization that the pursuit of their core mandate of regional integration and development cannot be achieved, or would take time to realize, as long as the atmosphere for peace and stability is disrupted. By extension, RECs are also critical stakeholders in building sustainable peace as envisaged by the United Nations 2030 Agenda for Sustainable Peace.

1 https://au.int/en/about/vision

Discussion:

The relationship between the AU and RECs is one that raises critical questions, especially regarding division of labour; who does what, when, and how. This discussion is primarily underscored by interpretations of the guiding principles of subsidiarity (who should take the lead) and complementarity (what different regional and continental constituencies should do). The issue of how the AU relates to RECs affects peace and security in many ways, and as such determines the ability of the former to effectively intervene in preventing and resolving conflict in different parts of the continent. While experiences admittedly differ from region to region, RECs have often tended to invoke the principle of subsidiarity, compelling the AU to step back, while they make attempts to resolve conflicts in their region. This has consistently been a bone of contention between the AU and the Southern African Development Community (SADC) in Lesotho, Democratic Republic of Congo, Mozambique, and Zimbabwe, among others. Similarly, in West Africa and the Horn of Africa, the Economic Community for West African States (ECOWAS) and the Intergovernmental Authority on Development (IGAD), respectively, have played leading roles in responding to the conflicts in their region, sometimes after prolonged bickering with the AU on who should take the lead. For RECs, the argument is often that being closer to the flashpoint, they should be the first responders to conflicts in regions while the AU should provide necessary political, diplomatic, resource and logistical backstopping.

Although originally established to push the vision for economic development and regional integration, RECs have over the past two decades or more embraced more- and often difficult- responsibilities relating to conflict prevention, management and resolution. Clearly, continental and global normative frameworks provide for the prominence of RECs at the forefront of conflict resolution and peace processes in Africa. As far back, the Lagos Plan of Action for the Development of Africa (1980) and the Abuja Treaty (1991) committed to drive the economic development of Africa through promoting regional integration.[2] Notably, both initiatives recognize that in order to realize mutual economic development among African states, there has to be coordination, harmonization and integration of the activities of the AU and RECs.

The above understanding found expression in the provisions of Article 3(l) of the AU Constitutive Act (2000), the Protocol Relating to the Establishment of the Peace and Security Council (2000) both of which expressly provides for collaboration between the AU and RECs on matters of peace and security.

The RECs are a critical feature of the African Peace and Security Architecture (APSA), and often they ultimately benefit from the political will and support of the PSC in the discharge of their peace and security mandate.

At the global level, and despite the unsettled debate on what constitutes 'regional', Chapter VIII of the United Nations (UN) Charter provides for regional arrangements to deal with "such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes

2 The Abuja Treaty provided for the existence of eight Regional Economic Communities (RECs) in Africa's five sub-regions; the Arab Maghreb Union (AMU), the Common Market for Eastern and Southern Africa (COMESA), the Community of Sahel-Saharan States (CEN-SAD), the East African Community (EAC), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), the Inter-governmental Authority on Development (IGAD) and the Southern African Development Community (SADC).

and Principles of the United Nations."[3]

Finally, the AU and RECs signed a Memorandum of Understanding for Cooperation in the area of peace and security in 2008, which was later solemnized by the Protocol on Relations between the RECs and the AU in the same year. Through the MoU and the Protocol, the AU and RECs committed to work together, cooperate and "adhere to the principles of subsidiarity, complementarity, and comparative advantage' (AU 2008b: article 4.4).

Existing Modalities of Collaboration

Currently, the relationship between the AU and RECs is supported by a number of processes and infrastructures. At the level of the Secretariats, examples of processes that have been put in place to foster AU-RECs cooperation on matters of peace and security include the invitation of Heads of RECs to AU Summits, and the subsequent participation of the AU Commission Chair at the Extra-Ordinary Summits of the RECs. In addition, the adoption of the New Partnership for Africa's Development (NEPAD) in 2001 was also premised on the AU recognizing that through RECs, the vision of an integrated and economically developed Africa could be realized. Indeed, NEPAD recognizes that the AU and RECs are critical in spearheading the development and integration of the continent.

There has been progress in joint deliberations on development issues, which is epitomized by collaborative consultations between the UN, AU, RECs, and NEPAD with key development partners. Nonetheless, progress on advancing the economic development and integration agenda has been slow due to institutional rivalries, competition over status, scarce financial and human resources (Landsberg 2012). Furthermore, the RECs also happen to be at different stages of their integration agenda, with ECOWAS recording the most substantial progress overall.

With regards to institutional mechanisms, the creation of the AU-RECs Liaison Offices is one of the critical milestones in facilitating cooperation between the continental body and RECs. Such Offices provide a veritable administrative conduit to facilitate cooperation, exchange of information and interface between and among them. With initial support from the Capacity Building Programme of the African Peace Facility (APF) funded by the EU, RECs like COMESA, EAC, ECCAS, ECOWAS, IGAD and SADC have fully established Liaison Offices located within the African Union Commission (AUC) headquarters in Addis Ababa. In the same vein, the AU also has Liaison Officers situated in the headquarters of RECs. However, the practical efficacy of these liaison offices is sometimes hindered by factors such as poor staffing and limited funding. Without scaling-up their capacities and resources, the REC Liaison Offices to the AU have also seen their workloads considerably grow beyond peace and security matters in line with the provisions of the Protocol on the Relations of AU and RECs (2008). Finally, the RECs Liaison Offices are also expected to liaise as well as network with a plethora of institutions other than the AUC; particularly embassies, diplomatic missions and other intergovernmental organizations that are based in Addis Ababa. As a result, the officers end up being overwhelmed with work, as they are expected to follow up on a multiplicity of issues and report back to

Chapter VIII of the UN Charter: Regional Arrangements, Article 52: 1. For details, see http://www.un.org/en/sections/un-charter/chapter-viii/index.html (Date Accessed: 18 July 2016)

3 Final Report of the African Peace Facility- Part 2: Reviewing the Overall Implementation of the APF as an Instrument of African Efforts to Manage Peace and Security Efforts in the Continent, http://www.africa-eu-partnership.org/sites/default/files/documents/apf_evaluation_final_report.pdf (Date Accessed, 30 January 2018)

their respective headquarters on regular basis.

Another mechanism that enhances the collaboration between the AU and RECs is the APF, even though it is donor-driven. Briefly, the APF was designed to stimulate the conflict prevention and management capacity of the AU and regional organizations, in addition to promoting cooperation in the design and management of Peace Support Operations. Through it, the AU and RECs get opportunities and platforms that enable the key actors engage in important discussions on critical peace and security challenges on the continent. An evaluation of the APF conducted in 2013 revealed, for instance, that this instrument has been a game changer in enabling joint reflections and interventions in Somalia, Central African Republic, Mali and South Sudan, among others. Experiences of PSOs involving the AU in Somalia (AMISOM) and Central Africa (MICOPAX) are testaments to the benefits of a coordinated approach in maintaining peace and security as it involves regular dialogues between the AU and its allies, including RECs, the UN and development partners such as the EU.

Already, there is a history of collaboration between the AU and RECs on matters related to peace and security. This includes the development of peacebuilding infrastructure as well as missions to manage and prevent conflicts. For example, the AU has collaborated with RECs such as ECOWAS and SADC in establishing and strengthening national infrastructures for peace, and also in processes of mediation. On several occasions, the AU Panel of the Wise has partnered with similar mechanisms at the level of RECs to engage in assessment missions. In 2013, for instance, the AU Panel of Wise, alongside the COMESA Committee of Elders undertook a joint preventive diplomacy mission to Kenya ahead of the country's elections. In May 2017, the AU alongside the UN, EU and ECOWAS engaged in a joint consultative and assessment mission to The Gambia. This mission was a demonstration of institutional cooperation and coherence aimed at identifying the priority needs- and plan strategies for supporting security sector reform process- in the Gambia. Such convergences between the AU and RECs are not only important from both symbolic and practical perspectives, but also evidently the findings of and fact-finding missions and joint assessment generally contribute to the enhanced coordination of efforts to support the pursuit of peace and security.

The cooperation between the AU and RECs is also exhibited at the political level through the pooling of institutional gravitas towards preventive diplomacy and conflict resolution efforts. To this end, the principals and political leaders of the AU and some RECs have often cooperated in responding to conflicts in the regions. For instance, the AU and ECCAS pooled their efforts and initiatives to resolve conflict in the Central African Republic (CAR). The AU-RECs collaboration was evident in the transition of the ECCAS Peace Consolidation Mission in the Central African Republic (MICOPAX) into the African-led International Support Mission for the Central African Republic (MISCA). This transition followed a series of consultations between the AUC and ECCAS; the recognition of the magnitude of the conflict in CAR; and, the need for concerted efforts between the AU, ECCAS and international partners.

However, the complexities involved in such collaborations were soon to be exhibited in the AU-ECCAS partnership in the CAR intervention. In one instance, the repatriation of funding from Brussels to Addis and eventually to CAR took unduly longer time (Carayannis and Fowlis, 2017) while at some point in 2014, the AU intervention in CAR was met with some resistance from ECCAS Member States which felt that the continental body was micromanaging the process (ibid).

Challenges and Complexities

The relationship between the AU and RECs on matters relating to peace and security has often been tenuous and ambiguous. More often than not, the ambiguity arises with respect to who should lead an intervention within the scope of contrasting interpretations of the principles of subsidiarity, complementarity and comparative advantage. It is the divergence in the interpretation of these guiding principles that issues arise between the AU and RECs on their roles and responsibilities in responding to crisis. Govender, Ngandu and Kartz (2010, p22) describe this situation as being characterized by 'tension, uncertainty and competition over which organization should take the lead in a mediation endeavour.' In the light of ongoing reforms being undertaken by the AU, what all the above might mean is that the AU and RECs must urgently clarify their various roles- and the attendant division of labour- in order to achieve tangible results.

While the AU can be credited for working through RECs in its conflict intervention process, it is important for the organization to sometimes step back and play the role of active supporter and enabler of these processes. Unfortunately the AU has not always played the role of a back stopper as exemplified in Southern Africa where SADC has consistently played central roles in the Democratic Republic of Congo (DRC), Lesotho, Madagascar, Mozambique and Zimbabwe peace processes. Notably, SADC took the lead in facilitating mediation processes Madagascar, Lesotho and Zimbabwe, while it created and deployed the Force Intervention Brigade (FIB) in the DRC. Presumably, the AU gave space to SADC to be at the forefront in the management of these conflicts in adherence to the principles of subsidiary and complementarity but the palpable absence of the AU had profound implications. Indeed, its absence to effectively give support and add a credible voice to the SADC processes may have contributed to the social and psychological distances between the continental body and the populations of this region.

Conclusions and Reflections

There is no doubt that reform of the AU cannot be fully implemented without giving adequate attention to the relationship between the continental body and regional organizations. As critical pillars of the APSA, RECs have as much vested interested in the reform of the AU as the continental body itself. This Policy Brief is based on the premise that while clearly demonstrating the emerging of a 'community of practice' in the area of peace and security, the collaborative efforts currently pursued by the AU and RECs, are still far from adequate. Both constituencies still have many proverbial rivers to cross in order to address the challenges that are brought about by ambiguities in, and rivalries over who should take the lead to intervene in conflict situations and quickly restore peace.

As should be expected, the ongoing institutional reforms of the AU led by President Paul Kagame places premium on the need for clear division of labour between and among different constituencies; AUC, RECs, Member States, and other continental institutions, in line with the principle of subsidiarity. In practical terms, however, the effectiveness of any AU-RECs collaboration on peace and security can only be achieved and sustained when the fundamental weaknesses associated with over-dependence on external funding is addressed. This requires the AU, RECs and Member States to be fully on board in operationalizing the resource mobilization strategies already adopted. The earlier it is recognized that the AU-RECs partnership needs some paradigm shift in owning the peace agenda, the better it is for the continent to effectively pursue the tasks of conflict prevention, management and resolution.

Policy Recommendations

Tensions, unhealthy rivalries and contradictory policies have brought to the fore the enormous risks facing the AU and RECs in the effective implementation of the vision of an integrated, peaceful and prosperous Africa. The following are key recommendations for turning the AU reform into reality through effective AU-RECs collaborations:

- Partnerships and collaboration founded on equality. The basis for a fruitful and sustainable collaboration between the AU and RECs should be based on principles of equality, complementarity and subsidiarity, in that order, rather than on the basis of hierarchy, or seniority;

- Recognizing comparative advantages and strengths: The form of partnership that should exist between the AU and RECs should recognize that the different constituencies come with several comparative advantages and strengths that are necessary towards the maintenance of continental- and global- peace and security; including the appreciation of the imperative for burden and cost-sharing for conflict prevention, resolution and overall peace and security matters;

- Acknowledging the backstopping roles of either the AU or RECs: The principles of subsidiarity and complementarity does not preclude active backstopping roles by either the AU or RECs would want one of the partnership members take the lead in conflict prevention, management and resolution;

- Investment towards capacity development of structures of collaboration: In view of the enormous opportunities to promote peer-to-peer institutional collaborations, the AU and RECs should invest more in, and considerably scale-up, the capacity of AU-RECs Liaison Offices and field offices in select countries. This will bridge the gaps in information and actions on peace and security in Africa;

- Institutional mechanism to support AU-RECs collaboration: The quest for greater collaboration between the AU and REC must go beyond ad-hoc arrangements to one that is more systematic and institutionalized at different levels. This relationship should involve different cadres of personnel from desk officers to senior management staff and political leaders

- Undertaking joint assessments and preventive diplomacy missions: Developing sustainable mechanisms for joint identification and response to emerging conflict issues as a prerequisite to determining and designing strategic responses.

- Joint and coordinated capacity building processes: The AU and RECs to engage in joint training and capacity building in order ensure greater and harmonized approach to managing peace and security challenges as well as promote the culture of collaboration and partnerships the continental and sub-regional institutions.

- Elevate the Liaison Offices to Permanent Representative Offices, with requisite high caliber officials, to ensure that issues that require discussion and tackling at the political and diplomatic levels quickly gain traction.

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About the author

Martha Mutisi

Martha Mutisi is a Senior Program Officer: Governance and Justice. She has over 15 years of research, policy and practical experience in peacebuilding, mediation support, leadership development, gender and governance. Before joining IDRC, Martha worked with Africa University's Institute of Peace, Leadership and Governance and the African Centre for the Constructive Resolution of Disputes. She also consulted for several international organizations, including United Nations Development Program (UNDP), United Nations Economic Commission for Africa (UNECA), United Entity for the Gender Equality and the Empowerment of Women (UN Women) and the African Union (AU). Martha holds a PhD in Conflict Analysis and Resolution from George Mason University (USA), a Masters in Peace and Governance from Africa University and a Masters in Sociology and Anthropology from the University of Zimbabwe. She recently co-edited a book titled, Deconstructing Women, Peace and Security: A Critical Review of Approaches to Gender and Women's Empowerment (HSRC Press, 2016)

How will AU reforms impact on relationships with key partners?

Cedric de Coning

Executive summary

The African Union functions in an international global governance system that includes the United Nations and regional organizations such as the European Union or the League of Arab States, but also the Regional Economic Communities. At the same time, the AU has several bilateral partnership arrangements, for example with China, Japan, the Nordic group and Turkey. The AU also increasingly has formal relationships with African and international civil society organizations. It is thus not possible for the AU to reform itself without considering how its reforms may impact on its relations with these partners. In fact, some of the proposed reforms are explicitly aimed at reducing the transaction costs associated with maintaining these partnership arrangements. In this paper, the focus is on the implications of the AU reforms for the relations between the AU and its partners. We argue that whilst the reform process is necessary, and broadly supported by the partners, some of the partnership related reforms are unrealistic, others lack nuance, and a few may end-up undermining the very efficiencies the reforms are meant to achieve.

Key points

- The AU exists within an international system, and in relation to other international and regional organizations, states and CSOs. The AU reforms cannot be assessed in isolation from these relationships.
- Some of the proposed reforms are aimed at making these relationships more efficient, by reducing the transaction costs associated with maintaining these networks. Others may have an indirect effect on AU-partner relations.
- Each of the AU's relationships with its partners is unique and has to be considered within its specific context. One-size-fits-all proposals lack the specificity needed to improve the efficiencies the AU wants to achieve. The AU would need to engage with each set of partners, and seek mutually agreed solutions so that the AU's partners co-own and conjointly reinforce the AU's reform efforts.

Introduction

The African philosophy of Ubuntu holds that one can only have meaning in the context of your relationship to others and your embeddedness in a social system.[1] If one were to analyze the African Union (AU) from an Ubuntu perspective, we could argue that its purpose, role and added value are revealed through the prism of its relations with others. For the AU this would include its relationship

1 See Gibson, J.M. 2002. Truth, justice and reconciliation: Judging the fairness of amnesty in South Africa, American Journal of Political Science, 46(3): 540-556, p. 543.

with Member States, the Regional Economic Communities (RECs) and Regional Mechanisms (RMs), the United Nations (UN), the European Union (EU) and other regional organizations, as well as its bilateral partners, for instance, countries like China, India, France, Japan, Norway, Turkey, the United Kingdom (UK) and the United States of America (USA). Increasingly the AU also has formal relationships with African and international civil society organizations (CSOs).

In this paper, the focus is on the implications of the AU reform process for the relations between the AU and its key partners. We explore how the proposed reforms may impact on these relationships, and what the implications may be for the state of peace and security in Africa.

Discussion

Two sets of AU reforms are of particular importance, namely the institutional and the financial. The institutional reforms have several elements that may impact on the AU's partnerships.[2] The first is to get the AU to focus on fewer priorities, namely political affairs, peace and security, economic integration and Africa's global representation. The second is to clarify the division of labour and to enhance the collaboration between the AU and RECs. The third is to realign the AU's institutions so that they can deliver on key priorities. The fourth is to better connect the AU to its citizens. The last element is the efficient functioning and management of AU, both at the political and operational levels. The political level refers to the inter-state level, and here the focus is on improving the effectiveness of the AU summits. The proposal is that there should be no more than three strategic issues per summit and only one summit per year.

The financial reform package is aimed at addressing the dependence on international partners by introducing an alternative financing model that is meant to generate self-sustainable funding for the Union and increase the ownership of its Member States. The AU has become reliant on the EU and its bilateral partners for its programme and peace support operations expenditure.[3] In 2015, AU Member States committed to self-finance 100% of the AU's regular budget, 75% of its programme budget, and 25% of its peace support operations (PSOs) by the year 2020.[4]

This commitment was followed up at the AU Assembly in Kigali in July 2016, where a decision was taken to implement a 0.2% levy on eligible imports to Africa, and to institute a new governance regime for the AU Peace Fund that would enable it to serve as the single account for AU peace and security activities.[5]

Both the institutional and financial reforms may have significant implications for the relations between the AU and her various partners. In the following sections, we will consider each of these relationships separately, before concluding with some overall observations and recommendations.

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2 Progress Report on the Implementation of the Decision Assembly/AU/Dec.635 (XXVIII) on the African Union (AU) Reform, Assembly of the African Union, 30th Ordinary Session, 28-29 January 2018, Addis Ababa, Ethiopia.

3 African Union. 2016. Securing Predictable and Sustainable Financing for Peace and Security in Africa, Addis Ababa: African Union.

4 Okeke, J.M. 2017. In pursuit of pragmatism: the Peace and Security Council of the African Union and regional peace support operations, New York: Social Science Research Council.

5 Securing Predictable and Sustainable Financing for Peace and Security in Africa. 2016, p. 3.

Relationship with the RECs/RMs

The relationship between the AU and the RECs/RMs is in a different class than those between the AU and her international partners. The RECs/RMs are located within the continent and are the building blocks of the African Peace and Security Architecture (APSA) and its pillars, such as the Continental Early Warning System (CEWS) or the African Standby Force (ASF). In other contexts, they are recognized as separate legal entities, several predating the AU, with whom the AU needs to have formal, including legally defined, relationships.[6]

The AU reform proposals recognize that addressing the AU-REC/RM relationships, and trying to resolve some of these long-standing tensions, is critically important for the efficient and effective function of the AU. Towards this goal, the reform package has a number of proposals that specifically address the AU-REC/RM relationship.

Firstly, it proposes that the second annual AU Assembly should be repurposed and dedicated to a coordination meeting between AU-RECs[7]: this could be a meaningful step towards a much closer relationship between the AU and RECs/RMs, and we recommend that the logic of this approach should be followed through to include regular and institutionalized meetings between the PSC and its REC counterparts, and joint missions to continental trouble-spots.

We would recommend that this kind of cooperation at the political level should be underpinned by regular and institutionalized meetings between the senior leadership of the AU and the RECs/RMs, and desk-to-desk information sharing exchanges. The practice of exchanging liaison officers has improved coordination, and the role of the liaison offices should be further strengthened.[8]

We also recommend that the AU and RECs pursue much closer cooperation in the field. For example, the AU and the Economic Community of West African States (ECOWAS) could more closely coordinate their support to a country like The Gambia, and consider the degree to which their deployments and offices in the country can be integrated and co-located. In future, hybrid AU-REC PSOs, similar to the AU-UN hybrid operation in Darfur, could address the tensions that have emerged between the AU and RECs in the Central African Republic (CAR) and Mali, around the question of who is best placed to lead a specific mission.

Secondly, the reforms propose that there should be a clear division of labour and effective collaboration between the AU and RECs/RMs, member states and other African institutions in line with the principle of subsidiarity and the Abuja Treaty. These proposals have been further elaborated to suggest the development of a continental medium-term plan to align AU-REC priorities, with an accompanying financial plan and robust coordination mechanisms. Whilst some hold out the possibility of a clear division of labour in line with the principle of subsidiarity, we are sceptical that such a clear division of labour is possible or even desirable. The AU-REC/RM experiences in Burundi, CAR, Mali and Somalia, to name a few recent examples, have shown that each situation is unique and that

6 See for instance the 2008 Memorandum of Understanding between the AU and the RECs.

7 From its inception until 2018, the AU have had two summits per year, one in January in Addis Ababa, and one hosted by a Member State.

8 Momodu, R. 2017. African Integration: Re-setting the AU-REC Relationship – Policy Options Beyond Kagame Reform, New York: Social Science Research Council.

no one model of subsidiarity can accommodate each situation. Instead, in each case, a particular division of work emerged based on the actual relations and comparative advantages of the different actors on the ground.[9]

Each of the RECs/RMs has different capabilities, and each has its own unique political and bureaucratic structures and histories. We argue that a one-size-fits-all solution is likely to lack the specificities necessary to enable the AU and RECs/RMs to identify each other's comparative advantages in relation to a specific crisis. Even if it is possible to negotiate and agree on a clear division of labour between the AU and the RECs/RMs, such an agreement is likely to trap the AU-REC/RM relationship into an overly rigid model, and that could result in a security arrangement that is even less effective than the current situation.

The alternative we would recommend is to invest in a flexible framework agreement where the division of labour is agreed on the basis of who has the comparative advantage in a particular context: this will enable the AU and the RECs/RMs to find pragmatic context-specific solutions. The transaction costs involved in such an arrangement can be reduced by institutionalizing predictable coordination and cooperation mechanisms and processes, including regular information exchanges, joint assessment missions, joint analysis, joint planning, joint deployments, co-location, and joint evaluations.

Thirdly, the reforms propose that the number of RECs and RMs should be reduced, rationalized and harmonized, because currently there is overlap and duplication amongst RECs/RMs, and resulting in a waste of resources and dispersed impact.[10] Whilst that may be an accurate assessment, it is difficult to see a scenario in which any of the RECs would voluntary disband. Perhaps a more likely scenario is that some of the RECs and RMs could merge, for instance in East Africa and the Horn, or that the member states of a REC like the Common Market for Eastern and Southern Africa (COMESA) could agree, in order to avoid duplication, not to pursue a peace and security role. There may also be a need for new RECs or RMs, for instance in the Sahel, where the absence of a functioning REC or RM in the North has left a gaping hole in the AU's regional building-block model.

It is concerning that a REC like SADC has expressed reservations about the AU reform process at the January 2018 AU Assembly, which seems to stem mainly from concerns with the process, and feelings of lack of consultation and transparency.[11] We recommend that those leading the AU reform process significantly increase their engagement with the RECs/RMs so that they feel they co-own and co-shape the process that will determine how the AU and REC/RM relate to each other in future.

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9 de Coning, C. 2016. 'Adapting the African Standby Force to a just in time model', in de Coning, C. Gelot, L. & Karlsrud, R. 2016. The Future of African Peace Operations: From the Janjaweed to Boko Haram, Zed Books: London.

10 Progress Report on the Implementation of AU Reform, 2018, p. 4.

11 Okeke, J.M. 2018. Ambition versus Realism: Evaluating the Prospects of Success of the African Union Institutional Reform Agenda, Addis Ababa: Tana Forum, p. 14

Relationship with the United Nations

The relationship between the AU and the UN is not directly affected by the AU reform proposals. None of the proposals has a direct impact on the specific elements of the relationship, partly because the UN is not seen as a 'partner' in the same way the EU or bilateral partners relate to the AU, in that there are no AU-UN joint summit arrangements.

The AU-UN relationship used to be more like a donor-recipient relationship where the UN's role was to build the capacity of the AU. The AU took a conscious decision to change that a decade and a half ago, and has since succeeded in transforming the AU-UN relationship into a functioning strategic partnership.

One area that is still unresolved relates to the financing of AU peace support operations authorized by the UN under chapter VIII of the UN Charter. The AU argues that when the UN tasks it with such operations it should also provide the AU with the resources needed to achieve its mandate. The UNSG and several UN Member States support the AU position.[12] However, to date, the prevailing view in the UNSC is that the UN should assist the AU to mobilize resources by encouraging partners and by facilitating the establishment of Trust Fund arrangements, but that its obligation does not extend to directly financing AU operations. However, in Sudan, Mali, CAR and Somalia the UNSC has authorized, on a case-by-case basis, the UN to assist AU PSOs with various form of direct and indirect support, utilizing the UN's assessed contribution budget. The issue that is currently being considered is whether the UNSC should make an in-principle commitment to finance AU PSOs.

In this debate a number of pre-conditions have been identified, namely that the AU take steps to ensure that its PSOs adhere to international human rights, international humanitarian law, and related conduct and discipline standards, that the AU provide access to UN auditors, and that the AU finances at least 25% of the cost of its PSOs itself.[13] The AU has taken steps towards meeting these pre-conditions, and the UN Secretariat and a number of UN Member States have expressed satisfaction with the progress made. It is likely that the AU, the UNSG and the several UN Member States will keep this issue on the agenda of the UNSC, but it is unlikely that the Council will, in the next 12 to 24 months, commit itself in-principle, to directly financing AU PSOs authorized by the UNSC.

At the UN a number of reforms are also underway, and there is thus a need for the AU and UN to remain closely coordinated, at all levels, to ensure that both can adapt their relations to their respective reform processes, as well as in response to the existing and emerging operational challenges they face.

12 Speech delivered by UN Secretary-General António Guterres at the 30th AU Summit held in Addis Ababa, Ethiopia on 28 January 2018.

13 African Union. 2015. Report of the Chairperson of the Commission on follow-up steps on the Common African Position on the Review of United Nations Peace Operations, Addis Ababa: African Union.

Relationship with the European Union

The EU is the AU's largest and most important financial partner. Both the AU and the EU would like their relationship to become more strategic, but currently, the scope and associated transaction costs of the financial dimension of their relationship dominate the dynamics between them.

The AU/Africa-EU relationship has several dimensions. One dimension of the EU-Africa relationship has been informed by the Lomé and Cotonou Agreements between the EU and the African, Caribbean and Pacific (ACP) group of states, which is up for renegotiation later this year. Another dimension is informed by the Joint Africa-EU Strategy (JAES) that was adopted at the Lisbon Summit in 2007. The EU has signalled its intention to upgrade the JAES with an EU-Africa Protocol.[14]

The AU-EU relationship will be affected by both the proposal to limit partner presence at AU summits, as well as to reduce the participation of African Heads of State and Government (AHSG) at AU-partner summits to the Troika. More importantly, the AU-EU relations will be indirectly affected by the rest of the AU reform package, especially the financial reforms. The more successful the AU's attempts at increasing Member State contributions are, the less direct budget support the AU would need from the EU, and the more the EU would be able to utilize that support for the capacity building or other purposes. It is thus not surprising that the EU has been a strong supporter of the AU's financial reforms.

With regard to limiting partner presence at AU summits, the EU has the same concerns as the bilateral partners and aligns itself with the proposals made by the partners; this is discussed in the next section. With regard to reducing the participation of AHSG at partner summits, the EU would argue that it is in a special category because AU-EU summits are meetings where several heads of state and government of both the AU and the EU gather. These types of summits differ from those where several AHSG meet with one partner. The AU-EU summits are likely to continue in their present form.

Another issue was the frequency of these summits. To reduce transaction cost, the AU proposed to reduce the frequency of AU-EU summits from three to five-year cycles. No decision has been taken yet on this aspect, but the 2017 AU-EU summit in Abidjan closed without agreement on the date of the next meeting.

There are also calls to better incorporate the EU into the good working relationship that has emerged between the AU and the UN. At the 2017 AU-EU summit the AUC Chairperson, the UNSG and the EU High Representative for Foreign Affairs and Security Policy, Federica Mogherini, agreed to further strengthen this trilateral cooperation.

Relations with bilateral partners

The AU has a large number of bilateral relationships and partnership arrangements, ranging from relationships with individual states, such as for instance the formalized relationship between Norway and the AU Commission, to partnership arrangements between African states and specific countries, such as the relationships with China, India, Japan, the Nordic Group and Turkey.

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14 Mackie, J. Ronceray, M. and Tadese, L. 2018. Challenges for Africa-Europe Relations: A chance to get it right, Maastricht: ECDPM.

Two aspects of the AU reform package will have a direct influence on these partnership arrangements, namely the proposal to reduce the number of African countries that participate in Africa-partner summits, and the proposal to limit the participation of partners at AU Assemblies.

The first proposal was that instead of all the African countries meeting regularly with partners, such as during the Forum on China-Africa Co-operation (FOCAC), or the Tokyo International Conference on African Development (TICAD), only the Troika, the AUC Chairperson, the Chairpersons of the RECs and the Chairperson of NEPAD, should represent Africa at these bilateral summits. Such a proposal intends to reduce the transaction costs, both in terms of time and costs, associated with these summits. However, some of these partners, as well as some African countries, have expressed doubt that this proposal will achieve its aim, as the summits also provide both individual African countries and their counterparts the opportunity to discuss bilateral relations.[15] A more likely outcome is that the reforms result in a reducing the frequency of the partner summits.

The second proposal is aimed at reducing the presence of partners at the AU Assemblies. The AU decision of January 2017 stipulated that "external parties shall only be invited to Summits on an exceptional basis and for a specific purpose determined by the interests of the African Union."[16] In fact, this has been the practice since 2016, when only the heads of mission of AU partner missions have been invited to the opening and closing sessions of the Executive Council and the Assembly. The practice arose because of a concern that the participation of high-level partner delegations became disruptive when they drew high-level African officials away from Summit meetings to attend bilateral meetings on the margins.

In response to this proposal, some of the partners have submitted a non-paper to the AU that contains a range of possible models for a structured and predictable engagement of partners at the annual January AU Summits.[17] Overall these partners argue that whilst they recognize the AU's concerns, they believe modalities can be found that that mitigates the concerns of the AU Commission and preserve the African focus of the AU summits, whilst at the same time providing opportunities for high-level strategic dialogue with AU partners. The partners argue that convening such a large number of heads of state and ministers at AU Assemblies presents a unique opportunity for partners to engage with African counterparts. The proposals of the partners are aimed at creating opportunities for exchanges at the political level, i.e. Ministers of Foreign Affairs.

The proposal by the partners states that they would welcome the establishment of dedicated time for bilateral meetings with their African counterparts.[18] To do so in the most time efficient manner, hence minimizing disruption to Assembly proceedings, this would ideally take place onsite at the AU compound. They then proceed to highlight a few options. The first is for a half-day partner dialogue event during the annual January Executive Council session before the Assembly. The second and third is to provide access for meetings on the margins of the Executive Council, and eventually on the margins of the summit. The fourth is for a combination of the first three, and the fifth option is

15 Non-paper on stronger partner engagement at African Union summits, January 2018.
16 African Union. 2017. The Imperative to Strengthen Our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union, Addis Ababa: African Union.
17 Non-paper on stronger partner engagement at African Union summits, 2018.
18 Non-paper on stronger partner engagement at African Union summits, 2018.

the addition of a day or half-day for dialogue with partners following the summit.

This aspect of the reforms is intended to reduce the transaction costs of partnership summits as well as the impact of partner delegations at AU Assemblies. However, it appears that both some African states and partners find that these summits provide valuable opportunities to meet several partners in one location and that, compared to the need to otherwise travel to each partner for separate bilateral meetings, the summits help all the parties to reduce transaction costs. It is thus likely that the AU Commission and partners will find a more nuanced formula to allow for some form of partner engagements on the margins on the Executive Council and Assemblies.

Relations with civil society

The AU has increasingly, in line with the Livingstone Formula, entered into formal relationships with African and international CSOs, and several African and international CSOs now have liaison offices at the AU Commission. These engagements recognize that CSOs play a critically important role in several specialized areas on the continent and that states and multilateral organizations like the AU function more effectively and efficiently when they engage constructively with civil society.

The AU reform package includes the goal to better connect the AU to its citizens. The focus of this aspect of the reform proposals is to enhance the recruitment, participation and engagement of women and youth in the work of the AUC. The focus on women and youth indirectly imply closer cooperation with CSOs that represent women and youth. However, the reforms are focused on recruiting more women and youth: this is an unfortunate missed opportunity, as much more could have been done in the current reform package to enhance the relationship between the AU and African and international CSOs.

Conclusions

One cannot analyses the AU's reform process without also taking into account what the implications are of these reforms for the AU's relations with its key partners.

The relationship with the RECs and RMs feature prominently in the reform proposals; however, consultations with the RECs and RMs would have to be significantly intensified before the reforms will be co-owned and co-shaped by the RECS/RMs.

In contrast, the AU-UN relationship has significantly improved over the last decade and has transformed into a meaningful strategic partnership. There is much the AU and RECs/RMs can learn from this experience, including especially the degree to which practical coordination and cooperation, at the political, policy and operational levels have resulted in strengthening this strategic relationship.

The relationship with the EU is significant for the AU, but it is overshadowed by the AU's financial dependency on the EU. This relationship will not become as strategic as both partners desire until this imbalance is addressed. The AU also has relationships with other regional organizations, like the League of Arab States, but these are not likely to be notably influenced by or have an impact on, the AU reforms.

The AU has multiple partnership arrangements with specific countries or groupings, such as the Nordic group. Some of the AU reforms are aimed at reducing the transactions costs associated with managing such a large portfolio of relationships. The early reactions to many of the proposed reforms reflect that partners recognize the AU's need to improve the efficiency of how it manages these relations and that they are willing to work with the AU to find more nuanced ways of reducing transaction costs.

The AU reform package includes the goal to better connect the AU to its citizens. The focus of this aspect of the reform proposals is to increase the recruitment of women and youth: this is an unfortunate missed opportunity, as much more could have been done through this reform process to enhance the relationship between the AU and African and international CSOs.

The AU has a legitimate goal to improve the effectiveness and efficiency of the Union and the Commission. The rest of the international system will welcome a stronger AU that can take an even greater role in co-managing international peace and security. However, an overarching observation that emerges from the analysis in this paper is that the AU needs to invest significantly more effort into engaging with its partners if it wants them to co-own and support the AU's reform package.

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i See Gibson, J.M. 2002. Truth, justice and reconciliation: Judging the fairness of amnesty in South Africa, American Journal of Political Science, 46(3): 540-556, p. 543.

ii Progress Report on the Implementation of the Decision Assembly/AU/Dec.635 (XXVIII) on the African Union (AU) Reform, Assembly of the African Union, 30th Ordinary Session, 28-29 January 2018, Addis Ababa, Ethiopia.

iii African Union. 2016. Securing Predictable and Sustainable Financing for Peace and Security in Africa, Addis Ababa: African Union.

iv Okeke, J.M. 2017. In pursuit of pragmatism: the Peace and Security Council of the African Union and regional peace support operations, New York: Social Science Research Council.

v Securing Predictable and Sustainable Financing for Peace and Security in Africa. 2016, p. 3. vi See for instance the 2008 Memorandum of Understanding between the AU and the RECs.

vii From its inception until 2018, the AU have had two summits per year, one in January in Addis Ababa, and one hosted by a Member State.

viii Momodu, R. 2017. African Integration: Re-setting the AU-REC Relationship – Policy Options Beyond Kagame Reform, New York: Social Science Research Council.

ix de Coning, C. 2016. 'Adapting the African Standby Force to a just in time model', in de Coning, C. Gelot, L. & Karlsrud, R. 2016. The Future of African Peace Operations: From the Janjaweed to Boko Haram, Zed Books: London.

x Progress Report on the Implementation of AU Reform, 2018, p. 4.

xi Okeke, J.M. 2018. Ambition versus Realism: Evaluating the Prospects of Success of the African Union Institutional Reform Agenda, Addis Ababa: Tana Forum, p. 14

xii Speech delivered by UN Secretary-General António Guterres at the 30th AU Summit held in Addis Ababa, Ethiopia on 28 January 2018.

xiii African Union. 2015. Report of the Chairperson of the Commission on follow-up steps on the Common African Position on the Review of United Nations Peace Operations, Addis Ababa: African Union.

xiv Mackie, J. Ronceray, M. and Tadese, L. 2018. Challenges for Africa-Europe Relations: A chance to get it right, Maastricht: ECDPM.

xv Non-paper on stronger partner engagement at African Union summits, January 2018.

xvi African Union. 2017. The Imperative to Strengthen Our Union: Report on the Proposed

Recommendations for the Institutional Reform of the African Union, Addis Ababa: African Union.

xvii Non-paper on stronger partner engagement at African Union summits, 2018. xviii Non-paper on stronger partner engagement at African Union summits, 2018.

About the author

Cedric de Coning

Cedric de Coning (South Africa) is a senior researcher with the Peace and Conflict Research Group at the Norwegian Institute of International Affairs (NUPI) and a senior advisor on peacekeeping and peacebuilding for the African Centre for the Constructive Resolution of Disputes (ACCORD). He holds a PhD from the Department of Philosophy at the University of Stellenbosch in South Africa. Cedric served as an advisor to the High Representative of the African Union Peace Fund (2016), and as an advisor to the Head of the Peace Support Operations Division of the African Union Commission (2012-2016).

He has also served on African Union panels to review the African Standby Force (ASF) and AMISOM (2013). Recent publications include edited books on the BRICS and coexistence (Routledge, 2015); the future of African peace operations (Zed Books, 2016); UN peacebuilding (Routledge, 2016); complexity and peacebuilding (Palgrave, 2016); UN peace operations doctrine (Routledge, 2017) and rising powers and peacebuilding (Palgrave, 2017).

AU Financial Reform: Compliance and Implementation Bottlenecks by Member States

Philip Kasaija

Executive Summary

For a long time, African integration arrangements (sub-regional[1] and continental ones) have relied on external sources to finance their agendas. The AU, in particular, has recognized the dangers posed by dependence on external sources of financing. The Constitutive Act of the AU (2000) promotes the self-reliance of the Union.[2]Thus, in recent times, the organization has seriously considered and adopted proposals to wean itself from external financing by rising from within the continent funds to finance its operations and projects. In this regard, the AU adopted the proposal of member states imposing a 0.2% levy on selected imports entering the continent whereupon the money raised will be transferred to finance AU activities. The levy aims at giving the AU predictable and self- sustaining a source of funding. Since the adoption of this proposal, over twenty countries have taken steps at the national level to collect the money. However, the majority of member states are yet to put in place mechanisms to collect the levy thus demonstrating lack of commitment. At the same time, the majority of member states are in arrears in paying their assessed contributions either because they are unable to pay (they are poor) or AU financing is not a priority. Whilst the financial reforms contemplated for the AU should be welcomed, implementation challenges remain including many member states exhibiting lack of commitment to carry the reforms through; weak institutions at national level; in some instances competition with Regional Economic Communities (RECs) financial arrangements; and the levy being incompatible with World Trade Organization (WTO) rules and other trade agreements that AU members have entered. In the end, whilst hitherto hyped, the AU's financial reform process might end up fizzling out with a whimper.

Key Points

- AU structures should urge the member states to meet their financial commitments with sanctions this time around actually being imposed on failure to pay.
- All member states should expedite the processes of putting in place national legal mechanisms and administrative structures implementing the collection of the 0.2% levy.
- AU member states should prioritize their financial commitments to the organization to make it financially self-reliant as stated in the Constitutive Act.

1 For example it was reported in 2015 that donors meet 70% of the funding of the East African Community (EAC). See Analo, T. and S. Kamau (2015, 22 August). 'EAC funding under threat as donors object to Nkurunziza's third term, The East African. Retrieved from http://www.theeastafrican.co.ke/news/EAC-funding-under-threat-as-Nkurunziza-starts-new-term/2558-2842200-10vph98z/index.html

2 Article 4(k).

Introduction

Financing of Africa's integration agenda has been problematic since the founding of the OAU in 1963. The continent has largely relied on external sources to fund its activities resulting in questions being raised on the ownership of the continent's integration plan. In this regard, Ncube and Akena have asked: 'If our continental institutions … obtain a majority of their funding from external donors, then, who really drives the African agenda'?[3] In 2004, the United Nations Economic Commission for Africa (UNECA) noted that African regional integration continued to depend heavily on donor financing which was inimical for the continent's integration agenda.[4] According to UNECA, '… ensuring a brighter future for African integration require … more innovative and sustainable approaches to achieve an autonomous and self-dependent integration process'.[5]Partly as a way of weaning itself from financial dependency syndrome, the June 2015 AU summit in Johannesburg South Africa decided that going forward, members would strive to finance 100% of the AU's operational budget, 75% of the programme budget and 25% of the peace support operations budget.[6] Subsequently at the Kigali summit in 2016, the AU leaders agreed to a 0.2% levy on imports from outside Africa that will initially raise US$325 million from the five regions of Africa with the figure rising to US$400 million in 2020, funds that will be used to finance the AU's operational programme and its peace support operations budgets.[7]

This brief interrogates the question whether this time around, AU member states will carry through the commitments they have made with regard to the financial reform of the organization, given the fact that they have stated in the Constitutive Act that they want to make the organization self-reliant, a commitment that came to pass. The brief also discusses the possible difficulties that AU member states might face in the quest to achieve financial independence including lack of commitment to carry the reforms through; weak institutions at national level; in some instances competition with Regional Economic Communities (RECs) financial arrangements; and the levy being incompatible with World Trade Organization (WTO) rules and other trade agreements that AU members have entered. The brief's concludes that whilst proposals for financial reform of the AU should be welcomed, in the end, the process might end up fizzling out with a whimper.

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3 Ncube, J. and A.M. Akena (2012, 21 November). 'A stream cannot raise above its source-Financing of Africa's regional integration', Pambazuka News. Retrieved from https://www.pambazuka.org/governance/stream-cannot-rise-above-its-source?utm_campaign=shareaholic&utm_medium=email_this&utm_source=email

4 See generally UNECA (2004). Assessing Regional Integration in Africa-ECA Policy Research Report, Addis Ababa: Economic Commission for Africa. Retrieved from http://www.uneca.org/sites/default/files/PublicationFiles/aria1english_full.pdf

5 Ibid. p. 65.

6 AU (2015, 14-15 June). Assembly of the Union Twenty-Fifth Ordinary Session, Decision on the Scale of Assessment and Alternative Sources of Financing the African Union Doc. Assembly/APU/5(XXV), Assembly/AU/Dec.578(XXV), Johannesburg, 14-15 June 2015. Retrieved from https://au.int/sites/default/files/decisions/9664-assembly_au_dec_569_-_587_xxiv_e.pdf

7 AU (2016, 17-18 July). Assembly of the Union Twenty-Seventh Ordinary Session, Decision on the Outcome of the Retreat of the Assembly of the African Union, Assembly/AU/Dec.605 (XXVII), Kigali. Retrieved from https://au.int/sites/default/files/decisions/31274-assembly_au_dec_605-620_xxvii_e.pdf

Trends in financing the OAU/AU

Fostering continental integration in Africa remains an ambitious project politically as well as *financially*.[8] The OAU started its first year of operation without a budget.[9] The Resolution that established the Provisional General Secretariat of the OAU 'entrusted its operation to the Ethiopian government but was silent on how the Secretariat was to be financed.[10] The Ethiopian government bore the greatest burden of financing of the Provisional General Secretariat thus laying the foundation for the dependence syndrome that has come to characterize regional integration arrangements in Africa. But what explains the addiction of African regional arrangements to financial dependency syndrome?

First, whilst the OAU championed the concept of applying African solutions to African problems,[11] the organization's various commissions/structures were 'largely underwritten and ... shaped by external forces'.[12] The problem of Africa's dependence on external sources to finance its regional integration initiatives, ought to be contextualized within the historical and structural problems of the evolution and dynamics of the modern African state in relation to global politics. The dependency theory, which was popular in the 1970s and 80s, according to which the world trading system tends to keep most developing states in a condition of economic and political bondage, resulting in a neo-imperial and neo-colonial relationship between the rich and poor countries,[13] applies to the African continent. Over the years, the autonomy of the African state has increasingly been eroded by the international community, including prescriptions in national budgetary and policy processes.[14] Given the limited financial resources of the African state, the role of the national government and the integration arrangements has become necessarily limited to accepting ready-made policy packages prepared elsewhere or already agreed upon by the main donors. Put simply: the African state has a significant characteristic of pervasive dependence on external actors.[15]

Secondly, on average, the AU member states' contributions to the finance of the AU activities (both operational and programme) has decreased over the years, while the share of donor financing has risen.[16] The 2007 audit of the AU observed that donors continue to foot the lion's share of the AU's program and project financing.[17] For example, the total budget for the year 2018 is US$769,381,891 with member states contributing US$318,276,795 (41%) as assessed contributions, while US$451,105,099 (59%) is being raised from international partners.[18]

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8 Engel, U. (2015). "The African Union finances. How does it work?" Working Paper Series of the Center for Area Studies No. 6, Universität Leipzig. Retrieved from https://www.academia.edu/12788042/_2015_The-African_Union_finances_-_How_does_it_work_

9 Amate, C.O.C. (1986). Inside the OAU: Pan-Africanism in Practice, St. Martin's Press, p. 127.

10 OAU, Resolutions adopted by the First Conference of Independent African Heads of State and Government held in Addis Ababa, Ethiopia, from 22 to 25 May 1963- Special Resolution, CIAS/Res.1/Rev.1, especially para. 2.

11 Makinda, S.M. and F. Wafula Okumu (2008). The African Union- Challenges of Globalization, Security and Governance, London: Routledge, p. 78.

12 Ibid. p. 79.

13 Plano, J.C. and R. Olton (1988). The International Relations Dictionary (4th edition), London: Longman, 1988, p. 122.

14 Doornbos, M. (1990). "The African State in Academic Debate: Retrospect and Prospect'', The Journal of Modern African Studies 28, no. 2, p. 188.

15 Ibid. p. 180.

16 Engel, "The African Union finances. How does it work", p.17.

17 See AU (2007). Audit Report of the African Union: Towards a People-Centered Political and Social-Economic Transformation of Africa, Addis Ababa: African Union.

18 AU (2017, 3-4 July). Assembly of the Union Twenty Ninth Ordinary Session, Decision on the Budget of the African

Moreover, member states hardly meet their assessed contributions. For example, only 67% of assessed contributions are collected each year, with about thirty member states defaulting partially or fully on contributions.[19]

It should be noted that the issue of members not paying their regular contributions to integration arrangements dates back to the days of the OAU. In September 1965, Secretary General Diallo Telli reported that twenty-four member states had failed to pay their due contributions either in full or in part.[20] In March 1976, the Council of Ministers instructed the Ad Hoc Committee on the Structural Reform of the OAU to look closely into the serious problem of outstanding member states' contributions.[21] When the OAU transitioned into the AU, the new organization faced the same problem of late payments or no payment at all. It has been suggested that member states do not pay their assessed contributions because 'they are too poor or too uninterested'.[22]In 2003, the AU's Executive Council published a list of nine member states that had not paid their dues to the organization.[23] Whilst the number of countries contributing fully to the AU has been increasing over the years, the problem of arrears remains. For example, by 2010, member states arrears amounted to US$ 43 million up from US$ 40 million in 2009.[24]

Thirdly, is the fact that few members are bearing a big financial burden of financing the AU. In January 2003, the AU established a committee to review the scale of assessment for member states' contributions to the budget. The debate that ensued was on the idea of introducing a ceiling of 8.25% and two floors of 0.25% and 0.75% respectively.[25] In January 2005, the contribution formula was introduced whereby Algeria, Egypt, Libya, Nigeria and South Africa-each for its own reasons-volunteered to contribute up to 15% to the annual budget of the AU.[26] Whilst the contributing formula became effective in 2006: it was decided that the scale of assessment would be reviewed every three years. The political events in Algeria, Libya and Egypt in 2011 (also called the Arab Spring), left these countries unable to meet their obligations to the AU budget, necessitating the AU to review its funding arrangements. Thus in 2015, a new scale of assessment of contributions was introduced providing a ceiling of 12% as a Member States' contribution to the budget, without a minimum floor rate.[27]

Table 1 below shows contributions of the top ten member states according to the 2015 assessment formula:

Union for the 2018 Financial Year Doc. PRC/Rpt(XXXIV), Assembly/AU/Dec.642(XXIX), Addis Ababa. Retrieved from https://au.int/sites/default/files/decisions/33559-assembly_au_dec_642_-_664_xxix_e_1.pdf

19 AU (2018).African Union Handbook 2018, Addis Ababa: African Union Commission and New Zealand Ministry of Foreign Affairs and Trade, p. 191.

20 Amate, Inside the OAU: Pan-Africanism in Practice, p. 129.

21 Magliveras, K. (2011, 11-13 October). The Sanctions System of the African Union: Part Success, Part Failure, paper presented at an expert roundtable on 'The African Union: The First Ten Years.' Addis Ababa: Institute for Peace and Security Studies.

22 Hilsum, L. (2013). Sandstorm: Libya in the Time of Revolution, New York: Penguin Books, chapter 6.

23 Engel, "The African Union finances. How does it work", p. 7.

24 AU (2012, 9-13 July). Progress Report of the High Level Panel on Alternative Sources of Financing the African Union Chaired by H.E. Olusegun Obasanjo, Former President of Nigeria Consultations With Member States. EX.CL/732(XXI) Rev.2. Addis Ababa, ETHIOPIA, para. 6. Retrieved from http://archive.au.int/collect/oaucounc/import/English/EX%20CL%20732%20(XXI)%20_E.pdf

25 Engel, "The African Union finances. How does it work", p. 10.

26 Ibid. p. 10.

27 AU (2016). African Union Handbook 2016: A Guide for those working with and within the African Union. Addis Ababa: African Union Commission.

Tab. 1: Top ten contributors to AU budget, 2015

	Country	Scale of Assessment in %	Contribution in US$ in millions
1.	Algeria	12	16.258
2.	Egypt	12	16.258
3.	Libya	12	16.258
4.	Nigeria	12	16.258
5.	South Africa	12	16.258
6.	Angola	4.999	6.301
7.	Tunisia	3.008	3.792
8.	Sudan	2.000	2.521
9.	Ghana	1.885	2.376
10.	Kenya	1.849	2.331

Source: Engel, The African Union finances. How does it work? 2015, p. 11.

From the table above, it can be observed that ten countries pay close to 75% of the AU budget. The implication of the heavy dependence on a few countries is that failure to honour their commitments by any one of the countries means serious trouble for the AU.[28] For example, the 2011 political turmoil especially in Libya, has had consequences for AU financing as the country was among the top five prominent financiers of the AU. The remaining 44 countries contribute only 25%.[29]

Table 2 below shows the bottom ten contributors to the AU budget according to the new assessment formula:

Tab. 2: Bottom ten contributors to AU budget, 2015

	Country	Scale of assessment in %	Contribution in US$
1.	Somalia	0.094	118.000
2.	Djibouti	0.074	93.278
3.	Burundi	0.069	86.975
4.	Seychelles	0.057	71.849
5.	Gambia	0.050	63.025
6.	Guinea-Bissau	0.047	59.244
7.	SADR	0.035	44.118
8.	Comoros	0.031	39.076
9.	Liberia	0.024	30.252
10.	Sao Tome &Principe	0.013	16.387

Source: Engel, The African Union finances. How does it work? 2015, p. 11.

28 AU, Progress Report of the High Level Panel.
29 Morocco is not included in this because it became a member of the AU in January 2017. See new formula.

As it has been observed, the majority of the member states of the AU contribute rather small amounts of money[30] due to the scales of assessment. As a result, the funds raised cannot meet the needs of the organization resulting in dependence on donations from external sources. To redress the situation, the AU has been searching for alternative sources of funding to improve its financial situation.

Proposals for financial reform

The transformation of the OAU into the AU was not a change in form only, but it constituted regime change involving substantive normative and institutional changes.[31] Adequate financing was one of the institutional changes envisaged for the AU. As the operational requirements of the organization have increased, so has the demand for financial resources. Earlier on, there was a perception that the organization could raise additional finances from the member states,[32] but this did not materialize. The Panel that audited the AU in its 2007 report observed thus:

> 'If the AU is to succeed with its ambitious agenda and contribute effectively to claiming the 21st Century for Africa, the Commission must then be able to mobilize financial resources on a scale much higher than its present budgetary provisions.'[33]

The Panel added, 'the AU must put in place and develop appropriate self-financing mechanisms … to serve as a demonstration of their commitment to the achievement of the laudable objectives of the AU.'[34] It is against this background that the 17th Ordinary Session of the Assembly of the AU held in Malabo, Equatorial Guinea, requested the AU Commission to expedite the process of setting up a High-Level Panel on Alternative Sources of Financing the Union[35] (hereinafter High-Level Panel).

The High-Level Panel led by former Nigerian president Olusegun Obasanjo finally recommended to the Assembly three options, namely: a US$2 hospitality levy per stay in a hotel; US$0.5 cents levy per text message sent, and US$5 travel levy on flight tickets originating from or coming to Africa from outside Africa.[36] In May 2013, the High-Level Panel's report was adopted by the Assembly, and it was agreed that a deduction of US$10 from ticket earnings gained from air travel by anyone travelling in and out of an African country, and a US$2 on hotel bookings for tourists, be effected.[37] The US$10 tax on flight tickets and US$2 tax on hotel accommodation would translate into additional finance of US$730 million a year for the AU.[38] However, this proposal was immediately challenged by Algeria, Chad, Egypt, Zambia and Zimbabwe. President Michael Sata of Zambia, for example, argued that 'the

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30 Engel, "The African Union finances. How does it work", p. 11.
31 Bah, A.S, Elizabeth Choge-Nyangoro, Solomon Dersso, Brenda Mofya and Tim Murithi (2014). The African Peace and Security Architecture: A Handbook, Addis Ababa: Friedrich Ebert Foundation, p. 28.
32 Engel, "The African Union finances. How does it work", p. 22.
33 AU, Audit Report of the African Union, para. 432.
34 Ibid. para. 433.
35 AU (2011, 30 June-1 July). Assembly of the Union Seventeenth Ordinary Session, Decision on Alternative Sources of Financing the African Union Doc. EX.CL/656(XIX), Malabo, Equatorial Guinea. Retrieved from http://au.int/web/sites/default/files/decisions/9647-assembly_au_dec_363-390_xvii_e.pdf
36 AU, Progress Report of the High Level Panel.
37 Engel, "The African Union finances. How does it work", p. 23.
38 Ibid.

proposal would stifle efforts to boost tourism and provide tax relief to the economies.'[39] In the end, the proposal was not adopted.

In June 2015, the Assembly endorsed a new scale of assessed contributions based on the principles of solidarity, equitable payment and capacity to pay in a way that ensures no single country bears a disproportionate share of the budget. The ultimate aim of the new scale was to achieve the following targets for member state contributions, phased in over five years from January 2016:

- 100% of the operational budget
- 75%of the programme budget
- 25% of the peace support operations budget.[40]

The new scale also introduced a tier system as follows:

- Tier 1: all countries with a gross domestic product (GDP) annual growth of above 4%
- Tier 2: all countries with a GDP annual growth of 1% and above but below 4%
- Tier 3: all countries with a GDP annual growth of 1% and below.[41]

The Assembly further decided that the new scale would be based on the principle that the five member states in Tier 1 take 60 % of the budget shared equally; member states in Tier 2 and Tier 3 would pay based on their capacity to pay; and imposed a ceiling of 12% without a minimum floor rate.[42] The new scale would be implemented for the financial years 2016, 2017 and 2018.

In place of the earlier proposal to impose air ticket and hotel taxes, the 27th Assembly held in Kigali Rwanda in July 2016, agreed to institute and implement a 0.2% levy, with effect from 2017, on all eligible imported goods into the continent to finance the AU's operational projects, programmes and peace and security operations budget.[43]The adoption of this form of financing was partly instituted following first, a European Union (EU) financial cut of 20% of the African Union Mission in Somalia (AMISOM's) budget,[44]secondly, as part of the institutional reform of the organization, and thirdly more fundamentally to have a predictable and sustainable source of funds. Member states will automatically pay the amounts collected from the levy into an account opened in the name of the AU within the Central Bank of each member state for transmission to the AU headquarters per the assessed contribution.[45] The taxable base of the AU import levy will be the value of eligible goods originating from a non-member state imported onto the territory of a member state to be consumed in that member state. The levy will apply to the cost, insurance and freight (CIF) value at the port of disembarkation for imports arriving by sea, and the customs value at the airport of disembarkation for goods arriving by air.

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39 Namusa, K. (2013, 23 March). 'Sata opposes AU proposed tax hike', Times of Zambia, Retrieved from http://www.openzambia.com/2013/05/times-of-zambia-sata-opposes-au-proposed-tax-hike/

40 AU (2015, 14-15 June).Assembly of the Union Twenty-Fifth Ordinary Session, Assembly/AU/Dec.578 (XXV).

41 AU, African Union Handbook 2016, p. 172.

42 Ibid.

43 AU (2016, 17-18 July). Assembly of the Union Twenty-Seventh Ordinary Session-Assembly/AU/Dec.605 (XXVII).

44 Lorenz, A and Bob Koigi. (2016, 9 February). 'African Union's mission hit by EU funding cut', Euractive, 9 February 2016. Retrieved from https://www.euractiv.com/section/development-policy/news/african-union-s-somalia-mission-hit-by-eu-funding-cut/. This left a funding gap of US$81,846,337 in the AMISOM budget.

45 AU (2016, 17-18 July). Assembly of the Union Twenty-Seventh Ordinary Session-Assembly/AU/Dec.605 (XXVII).

In September 2015, the Peace and Security Council (PSC) meeting at the Heads of State and Government level requested the Chairperson of the Commission to appoint a High Representative for the Peace Fund.[46] In January 2016, Dr. Donald Kaberuka, former President of the African Development Bank (AfDB) was appointed as the High Representative for the Peace Fund and tasked with finding sustained, predictable and flexible funding mechanisms to support AU-led peace operations.[47] In August 2016, Kaberuka proposed that the Peace Fund be organized around three windows namely: preventive diplomacy and mediation; institutional capacity; and peace support operations.[48] Also, he proposed the creation of a crisis reserve facility which would be capitalized at a minimum of US$30 million by the year 2020, and then be replenished as needed.[49] With the adoption of the 0.2% levy, Kaberuka concluded that the Peace Fund would be endowed with US$325 million in 2017 raised to a total of US$400 million by 2020.[50] These funds will avail the Peace Fund with a surplus, and by 2020 its overall budget will be US$302 million. Kaberuka's proposals were adopted by the 29th Assembly held in Addis Ababa in July 2017 with the Chairperson of the Assembly, Chad's President Idris Deby enthusiastically declaring that 'for the first time, the continent is taking charge of its destiny'.[51]

Implementation of the new financial proposals-steps taken and challenges

The body established to oversee the implementation of the new funding mechanism – the Committee of Ten Finance Ministers52 – has already met two times. The Committee agreed on a target amount of US$65 million for the Peace Fund for the year 2017. In this regard, the AU Commission has issued a note verbal to member states indicating the amount of assessed contribution expected of each towards raising the US$65 million. Accordingly, the expected contribution of each member is as follows (see tab. 3). Note that following the admission of Morocco as a member of the AU, it joined the tier one group of countries. As a result, the scale of assessment for tier one countries was adjusted to 9.6%.53

46 AU (2016, 29 January). 'Dr. Donald Kaberuka, outgoing President of the African Development Bank, appointed as High Representative for the AU Peace Fund', Addis Ababa. Retrieved from http://www.peaceau.org/en/article/dr-donald-kaberuka-outgoing-president-of-the-african-development-bank-appointed-as-high-representative-for-the-au-peace-fund

47 Ibid.

48 AU 2016, August. AU Peace Fund-Securing predictable and sustainable financing for peace in Africa. Retrieved from http://www.peaceau.org/uploads/auhr-progress-report-final-020916-with-annexes.pdf

49 Ibid.

50 Ibid.

51 Amani Africa (July 2017). Financing Peace and Security in Africa: Breakthroughs in increased African ownership? Amani Africa Report No. 2.

52 Representing the regions: Algeria and Egypt-North; Kenya and Ethiopia-East; Chad and Congo-Brazzaville-Central; Ghana and Cote d'Ivoire-West; and South Africa and Botswana-South.

53 AU (2018). African Union Handbook 2018, p. 196.

Tab. 3: The new scale of assessment, 2016-2018

Member state	Scale of assessment for 2016-2018 as (%)	Amount due in US$
Nigeria	12	36,794,795
South Africa	12	36,794,795
Egypt	12	36,794,795
Algeria	12	36,794,795
Morocco	9.6	36,794,795
TIER 1 TOTAL	**48**	**183,972,862**
Angola	8	30,662,143
Ethiopia	4.0	15,331,072
Kenya	3.443	13,196,220
Sudan	3.322	12,732,455
Libya	3.260	12,494,824
Côte d'Ivoire	3.0	11,498,304
Ghana	2.380	9,121,988
Tunisia	2.339	8,964,844
Tanzania	1.656	6,347,064
DR Congo	1.488	5,703,159
Cameroon	1.457	5,584,343
Zambia	1.335	5,116,745
Uganda	1.141	4,373,188
TIER 2 TOTAL	**37.478**	**141,126,349**
Gabon	1.095	4,196,881
Chad	0.942	3,610,467
Equatorial Guinea	0.887	3,399,665
Mozambique	0.871	3,338,341
Botswana	0.842	3,227,191
Senegal	0.841	3,223,359
South Sudan	0.798	3,058,549
Republic of Congo	0.766	2,935,900
Zimbabwe	0.751	2,878,409
Namibia	0.697	2,671,439
Burkina Faso	0.685	2,625,446
Mauritius	0.679	2,602,449

Mali	0.619	2,372,483
Madagascar	0.605	2,318,825
Benin	0.473	1,812,899
Rwanda	0.432	1,655,756
Niger	0.422	1,617,428
Guinea	0.354	1,356,800
Sierra Leone	0.279	1,069,342
Togo	0.247	946,694
Mauritania	0.238	912,199
Malawi	0.217	831,711
Swaziland	0.216	827,878
Eritrea	0.196	751,223
Burundi	0.155	594,079
Lesotho	0.129	494,427
Liberia	0.111	425,437
Cape Verde	0.106	406,273
Central African Republic	0.087	333,451
Djibouti	0.083	318,120
Seychelles	0.079	302,789
Somalia	0.076	291,290
Guinea-Bissau	0.055	210,802
Gambia	0.048	183,973
Sahrawi Republic	0.044	168,642
Comoros	0.037	141,812
Sao Tome and Principe	0.017	65,157
TIER 3 TOTAL	**15.179**	**58,177,585**
TOTAL ASSESSED	**100**	**383,276,795**

Source: AU, African Union Handbook 2018, 2018, pp. 196-197.

At the end of May 2017, Kaberuka reported to the AU Peace and Security Council that only fourteen member states had made contributions to the Peace Fund.[54] By January 2018, the total amount collected for the Peace Fund stood at US$29.5 million representing nearly half of the envisaged total amount.[55]With regard to the 0.2% levy, twenty-one of the fifty-five AU member states had by January

54 Amani Africa, Financing Peace and Security in Africa.

55 Kagire, E. (2018, 20-26 January). 'Self-financing to take center stage at the AU heads of state meeting in Addis', The East African, p. 6.

2018 moved to implement it.[56] For example, Rwanda's cabinet has passed the draft law establishing the levy on imported goods.[57] Other countries that are at various stages of enacting legislation and establishing administrative structures to provide for the collection of the levy include Benin, Cameroon, Chad, Congo-Brazzaville, Côte d'Ivoire, Djibouti, Ethiopia, Gabon, Gambia, Ghana, Guinea, Kenya, Mauritius, Morocco, Senegal, Sierra Leone and Seychelles.[58] Among these countries, at least fourteen have started collecting the levy and depositing the funds in a special account opened in the central bank for the purpose.[59] Nevertheless, the 28th AU Assembly, 'expressed concern that some member countries were dragging their feet on coming up with domestic legislation and figuring out how the [levy] will be effected'.[60] On his part, the AU Commissioner for Economic Affairs, Mothae Maruping, 'expressed concern that countries are already showing signs of slowing down on their commitments as their bureaucracies delays processes of putting in place domestic legislation to implement the [funding] decision'.[61] Without all member states adopting mechanisms to collect the levy, the AU's new funding mechanism will continue to sound hollow.

Secondly, the new funding mechanism requires each country to select the appropriate financial institution(s) or customs authority responsible for assessment and collection of the levy.[62] The weak-revenue generating agencies and unsophisticated financial institutions of some member states could, however, make it difficult for them to implement the levy within a given timeframe. Moreover, corruption is pervasive in many African countries. According to Transparency International, only four countries in Africa are in the top fifty least corrupt countries in the world – Botswana, Cape Verde, Rwanda/Mauritius – in that order.[63] Thus, to ensure that the levy is paid to the AU account rather than ending up in the hands of corrupt officials will be an uphill task in many member states.[64]

Thirdly, there are many regional arrangements in Africa. Whilst the AU officially recognizes only eight RECs, there are several integration arrangements, which in the context of the levy raises the issue of whether it will not be an extra burden on some states. For example, the Economic Community of West African States (ECOWAS) 0.5% community levy was due to start in 2017 as is the AU levy.[65] Since 2017 is when most of the levy arrangements on the continent were either kicking off, it has been observed 'some states may have to prioritize in the short term: the AU levy or their own REC',[66] with bias to the latter as they are the building blocks of the former, in accordance with the Treaty Establishing the African Economic Community (1991). Moreover, even the RECs levies have faced challenges. For example, the ECOWAS levy came into force in 2015, almost ten years after being adopted.

Fourthly, the AU import levy may have an impact on importers and consumers. The levy may raise

56 Ibid.

57 Kagire, E. (2017, 11-17 February). 'Rwanda approves draft bank law on new tax for financing AU operations', The East African. Retrieved from http://www.theeastafrican.co.ke/business/Rwanda-approves-draft-law-tax-financing-African-Union/2560-3812500-vsbldez/index.html

58 Kagire, 'Self-financing to take center stage at the AU', p. 6.

59 Ibid.

60 Kagire, 'Rwanda approves draft bank law'.

61 Ibid.

62 Institute for Security Studies (ISS), (2017, March). 'Addis Insight: The new funding model tests the commitment of AU member states', Peace & Security Council Report no. 89. Retrieved from https://issafrica.org/pscreport/addis-insights/the-new-funding-model-tests-the-commitment-of-au-member-states

63 Transparency International (TI), Corruption Perceptions Index 2016. Retrieved from http://www.transparency.org/news/feature/corruption_perceptions_index_2016

64 ISS, 'Addis Insight: The new funding model'.

65 Ibid.

66 Ibid.

the cost of importing goods into the continent, and in turn, this may raise the prices of imported goods. The hope, according to some is that 'any short-term costs or pain (in the form of increased prices of imports) will be outweighed by the medium to long-term benefits of an AU that is self-financing'.[67] But as the saying goes the 'the proof of the pudding is in the eating'. It is only when the levy comes into effect that its effects shall become known.

Lastly, there is the question of whether the levy is compatible with World Trade Organization (WTO)'s rules and obligations, and other trade agreements entered into by the AU member states. The levy, it has been argued, 'is discriminatory in nature and a violation of the Most-Favoured-Nation (MFN) principle'.[68] The principle of MFN states that countries cannot normally discriminate between their trading partners- if the special favour is granted to one, then the same must be done for all the WTO members. One way of going around this hurdle (and there are a number of options)[69] has been the declaration of a Continental Free Trade Area (CFTA) which was done at the 30th Ordinary Summit of the AU in January 2018.Nevertheless, a lot of work remains to be done to make the CFTA operational. But as the Committee of Ten has cautioned, 'the levy must be imposed in a manner that preserves international agreements of member states'.[70]

Conclusion

This brief set out to discuss whether this time round AU member states will carry through the commitments they have made with regard to the proposed financial reforms, given the fact that their vow to make the organization financially self-reliant in the Constitutive Act, has hitherto hardly been met. Due to member states inability to pay, outright non-payment and untimely payment of their assessed contributions, the AU has come to rely on external sources of financing: this has adversely affected the workings of the organization. The brief also teased out the possible difficulties that member states might face in the implementation of the mechanisms aimed at giving the AU financial predictability and sustainability. The difficulties identified include; lack of commitment by member states to carry the financial reforms through; weak institutions at national level; competition with Regional Economic Communities (RECs) financial arrangements; and the possible incompatibility of the levy with World Trade Organization (WTO) rules and other trade agreements that AU members have entered.

Whilst the 0.2% levy has firmly been agreed, what remains is for all AU member states to put in place national mechanisms to start collecting it. As of now, indicators are not encouraging as only several countries out of the AU's fifty-five member states have passed national legislation and instituted administrative measures to start collecting the levy. In the end, this brief concludes that the AU's financial reform process which has hitherto been hyped, might end up fizzling out with a whimper.

67 Ibid.

68 Apiko, P. and F. Aggad, (November 2017). 'Analysis of the Implementation of the African Union's 0.2% levy progress and challenges', Briefing Note 98, European Center for Development Policy Management (ECDM), p. 7. Retrieved from http://ecdpm.org/wp-content/uploads/BN98-Apiko-Aggad-November-2017.pdf

69 Ibid. pp. 8-13.

70 AU (2016, 5 October). Report of the 2nd Meeting of Ministers of Finance Committee of Ten on Implementation of the Kigali Assembly Decision on Financing the African Union, Washington, D.C., 5 October 2016.

Policy Recommendations

In view of the above conclusion, the following recommendations are made:

- AU structures, especially the Assembly of Heads of State and Government, being the topmost policy organ, should urge the member states to meet their financial commitments with sanctions this time around being imposed in failure to pay.
- The top policy organs of the AU, especially the Assembly of Heads of State and Government, should urge all member states to expedite the processes of putting in place national legal mechanisms and administrative structures to operationalize the collection of the 0.2% levy.
- The AU policy organs should urge member states to prioritize their financial commitments to the organization to make it financially self-reliant as stated in the Constitutive Act.
- The new financing mechanism of 0.2% levy should be implemented in compliance with member states international obligations particularly WTO r

About the author

Kasaija Phillip Apuuli

Associate Professor Kasaija Phillip Apuuli holds a doctorate degree in International law of the University of Sussex at Brighton, United Kingdom and teaches in the Department of Political Science and Public Administration at Makerere University Kampala, Uganda.

INSTITUTE FOR PEACE AND SECURITY STUDIES
ADDIS ABABA UNIVERSITY
Tana Forum Secretariat

P.O. BOX 1176
Addis Ababa, Ethiopia
E: tanaforum@ipss-addis.org
W: www.tanaforum.org