

NEPAD's Peer Review Mechanism

Jakkie Cilliers
Institute for Security Studies



ISS Paper 64 • November 2002
Price: R10.00

INTRODUCTION

The African Peer Review Mechanism (APRM) is generally considered the most innovative aspect of the New Partnership for Africa's Development (NEPAD). It represents an ambitious attempt by key African countries to lever themselves out of the cycle of poverty and instability to which the continent has been condemned, by taking responsibility for the maintenance of appropriate standards of conduct.

Recently there has been much controversy around both NEPAD and the APRM. Days ahead of the 5th NEPAD Heads of State Implementation Committee (HSIC) meeting in Abuja on 3rd November 2002, South African Deputy Foreign Minister Aziz Pahad revealed the compromise position that would be discussed in Nigeria. Instead of political review, as well as economic and corporate review, the APRM would be limited to the latter. The African Union would be responsible for political review through its various structures, a number of which are not yet in existence.

The negative reaction in the South African media and amongst Africa's development partners was strong-based on the G8 understanding that the Partnership included a common commitment to democracy, pluralism, and electoral fairness, amongst others.¹ Although framed delicately, the communiqué that was released after the Abuja meeting reaffirmed Pahad's blunt admission and even went a step further, providing for the long-awaited harmonization of the prospective peer review processes within the AU Commission with that of NEPAD. The NEPAD secretariat is now formally recognized as an interim arrangement, pending the completion of the transition process to the African Union, where after it would be fully integrated into the Commission of the Union.²

A closer reading of the results of various earlier NEPAD meetings and documents would indicate that the issue of democracy, human rights and good

governance had long been discussed as more deeply integrated into the African Union rather than as part of the NEPAD APRM secretariat and its activities³ and that resistance from a number of African governments to remove political review from NEPAD was not new.⁴

It is equally evident that the NEPAD partners and the donor community, the G8 in particular, have been guilty of creating expectations around the Partnership and its peer review mechanism that were practically unrealistic and politically impossible.⁵ Since the purpose of the Abuja meeting was to finalise the modalities around the peer review mechanism, time had run out and hard choices had to be made.

From the start NEPAD had been promising a process of self-monitoring and what is now being called 'peer learning'. The experience within the Organization for Economic Cooperation in Europe (OECD), from which NEPAD is taking its cue, is that of a non-adversarial and collegial process, relying on mutual trust and understanding between countries being reviewed.⁶ NEPAD promises incremental change by participating countries, with each moving from different positions at its own speed. Different from the internal technical purpose of the OECD process, NEPAD is about a quid pro quo between developing countries and Africa. If developed countries see improvements in the political economic and social circumstances of Africa, they will give, in return, greater concessions in trade and aid.

NEPAD promises incremental change by participating countries, with each moving from different positions at its own speed.

In due course it may become evident that African expectations around NEPAD and support from its development partners are also unrealistic. These include greater predictability in donor assistance, increased resource flows, a move away from conditionality (tied aid) and acceptance of mutual accountability between donors and recipients through the establishment of an external partner performance review mechanism.⁷ But this would be to pre-empt the present debate.

While NEPAD has been subject to a number of reality checks in recent months, of which events in Zimbabwe are the most significant, the steady inclusion of both NEPAD and the APRM within the African Union presents Presidents Mbeki and Obasanjo with new opportunities that require a change of strategy. Thus far the attraction and promise of NEPAD and the APRM has been the fact that it was exclusive and discriminatory. The NEPAD HSIC could fast-track a number of developments such as the APRM, while the threat of a structure outside of the OAU, that engaged its most important members, invigorated the transition from the OAU to the African Union. NEPAD is now inevitably part of the Union and even the NEPAD secretariat has a limited separate existence.

The next strategically appropriate step is for the HSIC to transform and institutionalize itself as the 15-country Peace and Security Council of the Union. The composition of the Council, Africa's version of the UN Security Council, will already be guided by a number of specific requirements for membership, specified in the Protocol establishing the Council that was adopted at the Durban AU Assembly meeting in July 2002. Expectations are that enough countries will have ratified the Protocol establishing the Peace and Security Council for it to enter into force before the next ordinary meeting of the AU Assembly in Maputo during July 2003. By implication, adherence to the NEPAD Declaration and the APRM should become a prerequisite for election to the Council. Formally this commitment could be achieved either through an amendment to the Act (a number are presently under consideration) or through a decision of the Assembly—but could also simply be reflected in a common intention by the HSIC.⁸ In this manner NEPAD, the socio-economic development plan for Africa, would have served to reform and transform the African Union, gaining from its legitimacy and unparalleled status internationally and on the continent.

NEPAD STRUCTURE

As a backdrop to this paper a few basic points of departure may be appropriate given the complexity of the various structures.

The NEPAD Heads of State Implementation Committee (HSIC) originally consisted of 15 countries. It meets once every four months. The most recent meeting (the 5th) was held in Abuja on 3rd November 2002. The 4th HSIC meeting in Durban agreed to increase its membership by one member per AU region to make the total 20. Angola was subsequently appointed as the additional member for SADC and apparently Libya for North Africa. Kenya is expected to join for East Africa and Ghana for West Africa.

The Committee reports annually to the AU Summit. The original 15 member states are:

- Chairperson: Pres. Obasanjo (Nigeria)
- Vice-chairs: Pres. Bouteflika (Algeria), Pres. Wade (Senegal)
- Central Africa: Cameroon, Gabon, São Tomé and Príncipe
- Eastern Africa: Ethiopia, Mauritius, Rwanda
- Northern Africa: Algeria, Egypt, Tunisia
- Southern Africa: Botswana, Mozambique, South Africa
- Western Africa: Mali, Nigeria, Senegal.

The AU Chair and Chairperson of the Commission are ex-officio members of the HSIC.

The functions of the HSIC are:

- identifying strategic issues that need to be researched, planned and managed at the continental level;
- setting up mechanisms for reviewing progress in the achievement of mutually agreed targets and compliance with mutually agreed standards; and
- reviewing progress in the implementation of past decisions and taking appropriate steps to address problems and delays.

The NEPAD secretariat originally consisted of 5 people based in Pretoria, South Africa. Its task is to coordinate the production of business plans for each of the six priority areas.⁹ Recently the five founding countries of NEPAD have been requested to contribute financially as well as to second appropriately qualified professional persons as staff members.¹⁰ The secretariat will continue to exist until at least the next Assembly meeting of the Union (July 2003 in Maputo).

THE DEVELOPMENT OF THE APRM

The 37th Summit of Heads of State and Government of the Organisation of African Unity (OAU) adopted the New African Initiative, subsequently renamed NEPAD, in July 2001 in Lusaka, Zambia. At that point NEPAD officially became a programme of the OAU and the Summit meeting of Heads of State and Government became the governing structure of NEPAD to which it reports annually. Later that year, in October 2001, the 1st meeting of the NEPAD Heads of State Implementation Committee met in Abuja, Nigeria, and "... agreed that

African leaders should set up parameters for Good Governance to guide their activities at both the political and economic levels. In this regard, it decided that, at its next meeting, it would consider and adopt an appropriate peer review mechanism and a code of conduct." As a result the next HSIC meeting of March 2002 adopted the APRM, although the document was

The next strategically appropriate step is for the HSIC to transform and institutionalize itself as the 15-country Peace and Security Council of the Union.

only publicly available some months later. The 3rd HSIC meeting in Rome, in June 2002, subsequently approved a Declaration on Democracy, Political, Economic and Corporate Governance. Both the APRM and the Declaration were eventually submitted to the AU Summit in Durban as the final governing authority of NEPAD. The Summit encouraged all Member States of the African Union to adopt the Declaration and accede to the APRM.

The Rome meeting had also expressed the hope that the APRM "... as an instrument voluntarily acceded to by African members of the African Union for the purpose of self-monitoring, ... will foster the adoption of policies, standards and practices that will lead to political stability, high economic growth, sustainable development and accelerated regional integration of the African continent. This will ensure that the APRM is independent, effective, professional and credible. The Committee approved the establishment of a Panel of Eminent Persons and recommended that the proposed Secretariat of the APRM be located in the UNECA [the UN Economic Commission for Africa based in Addis Ababa]."¹¹

When eventually available for public scrutiny several months later, the APRM document did not provide for the location of the APRM Secretariat in the UNECA, but within the Commission of the AU. At the time few commentators noted the significance of the change in the location of the APRM secretariat. In fact, the existence of a separate NEPAD governing and implementation structure that operated in parallel to the Commission of the AU had been a source of considerable tension between NEPAD, the continental organisation and those African countries who have little interest in subscribing to a process of peer review. To compound these tensions the Rome meeting of the NEPAD HSIC also agreed that the separate NEPAD Secretariat established in South Africa would continue to exist after the AU Summit in Durban and only be reviewed in Maputo during the Summit of 2003. Ultimately the NEPAD secretariat would, of course, relocate to Addis Ababa or could constitute a satellite office of the Commission—but as an integral part of the AU Commission.¹² This understanding has subsequently been reaffirmed by the communiqué following the Abuja HSIC meeting in November.

THE APRM: A SHORT DESCRIPTION

The APRM is a voluntary mechanism open to all member states of the African Union. To join, the country concerned has to sign up to the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance, and undertake to submit to

and facilitate periodic peer reviews, and generally be guided by agreed parameters for good governance at both the political and economic levels. Twelve countries signed an agreement of intent in Abuja on 3rd November 2002 to submit to the APRM¹³ and an additional 5 countries are apparently willing to sign once the agreement of intent has been translated into French.¹⁴ The intention is apparently that reviews commence during April next year.

Eighteen months after a country becomes a member of the APRM process it must submit to a base review, followed by mandatory reviews which take place between three and five years thereafter. The APRM also provides for ad hoc reviews under special circumstances. The review process itself consists of five stages as part of a consultative, not a punitive, process. The first stage of desk research followed by country consultations will draw heavily on the UNECA Governance project to provide the background on the key governance and development issues. Thereafter the peer review process follows two tracks, one that covers economic and corporate governance issues and the other dealing with political governance issues.

The review process itself consists of five stages as part of a consultative, not a punitive, process.

NEPAD is premised on the need for improved democratic political, economic and corporate governance and an end to conflict as preconditions for sustainable economic growth. As a result the issue of tracking and reporting on both political governance and economic and corporate governance have featured prominently in

all NEPAD and APRM documentation as an integral part of the Partnership. This was, in fact, the reason why the recent proposal to restrict the APRM to only economic and corporate governance issues elicited such a strong response from Africa's development partners.

The Panel of Eminent Persons and the APRM Secretariat are central to the process of peer review. The intention of the AU Summit in Durban was for a small APRM Secretariat to be established within the Commission of the African Union, comprised of two divisions, one responsible for political governance and the other for economic and corporate governance.

The subsequent country reviews are to be led by a Panel of Eminent Persons consisting of between five and seven personalities, and conducted by teams that include experts from Pan-African institutions, such as the projected Pan-African Parliament, the African Commission on Human and Peoples' Rights and the Economic, Cultural and Social Council (ECOSOC) although neither the Parliament nor ECOSOC exist at this point in time.¹⁵ The suggestion put forward by the UNECA is that the Panel will select and appoint appropriate institutions or individuals to conduct the political governance peer review and that UNECA

and the African Development Bank will do the economic and corporate governance review. The original intention was to finalise benchmarks for review by November 2002 but this will now happen by February 2003, at which point a legal document will be ready for signature and actual accession to the APRM will occur.¹⁶

The APRM Secretariat will be responsible for providing administrative and logistical support for Peer Review Teams, and maintaining extensive database information on political and economic developments in all participating member countries. This information will be used to prepare background documents for the various country teams that would do the work.

Although nominally part of the AU Commission, the NEPAD HSIC originally proposed that the APRM Secretariat be independent of the Commission in its management, operations and funding, which will come directly from participating member governments. The head of the APRM Secretariat will report directly to the NEPAD HSIC, including by way of annual reports. This strange arrangement reflected the compromise that had emerged in response to the initial idea of locating the APRM secretariat outside of the AU Commission. The 5th HSIC meeting during November 2002 now provides for the full integration of the APRM Secretariat into the AU structures and process and future decisions may also see the end of the HSIC as a semi-separate governing body.

As indicated earlier, one of the consistent misunderstandings of the APRM has, in fact, been the desire by Africa's development partners to see APRM standards and benchmarks as hurdles that had to be cleared rather than objectives that had to be met over time. The APRM foresees a process through which the initial review serves to benchmark the difference between extant country practice and target. Thereafter NEPAD, with the assistance of the international community, would support measures to close the gap. There is therefore no requirement for countries that accede to NEPAD and the APRM to meet predetermined standards, but rather a commitment to move towards common standards and practices—hence the term 'peer learning'. In this sense the accession by countries such as Zimbabwe and Libya under their present leadership does not present NEPAD with an immediate problem—but will inevitably do so in due course if these countries do not change their style of government significantly.

Initially funding for the APRM is to come from two principal sources: assessed contributions from member governments on the basis of GDP and assistance from development partners, including from

donor governments and 'multi-lateral agencies without conditionalities.' At their recent ministerial meeting in Sandton, African finance ministers urged that the APRM be entirely funded from African resources to ensure ownership by the continent and reduce perceptions of foreign influence.¹⁷ With the intention to fully integrate NEPAD into the AU, future funding for both the NEPAD secretariat or the APRM will become part of the regular budget of the Union.

African finance ministers urged that the APRM be entirely funded from African resources to ensure ownership by the continent

FROM POLITICAL TO ECONOMIC REVIEW: THE RECENT COMPROMISE

Ever since the early discussions in Algiers, where the UNECA's much acclaimed Compact for African Recovery became the substantive part of what was then known as the Millennium Partnership for the African Recovery Programme (MAP), South African enthusiasm for the role of the UNECA has been key to understanding the debates around the APRM. The original South African intention was to use the UNECA Governance Project as a basis for the entire APRM. This view was subsequently reflected in the communiqué issued after the 3rd NEPAD HSIC meeting in Rome. During the 4th HSIC meeting that coincided with the AU Summit meeting in Durban in July 2002, Nigerian president Obasanjo reversed his position. Now Obasanjo was arguing that the UNECA was non-African and inappropriate since it represented the interests of the international financial institutions such as the World Bank and the International Monetary Fund. The Nigerian president's position on this was generally interpreted as a defence of the view that the CSSDCA Unit within the AU Commission should coordinate all aspects of peer review (see below). An important factor in understanding this shift is the increasingly precarious domestic situation in Nigeria in the run-up to presidential elections.

Subsequent to the Durban meetings, and in order to implement the intentions reflected in the APRM framework document, the NEPAD Extended Steering Committee held an Implementation Workshop in Addis Ababa from 2 to 4 August 2002. According to the NEPAD secretariat, the meeting had decided to accord the highest priority in the area of APRM and to take steps to encourage countries to accede to the Mechanism within six months of the adoption of new indicators. Other decisions regarding the operationalization of the APRM were to:

- clarify the mandate for and appoint a Panel of Eminent Persons by the HSIC within 3 months, and to swear in the chairperson and members;
- define and provide a formal mandate to the APRM secretariat;
- develop a sustainable funding mechanism; and
- prepare and start conducting Reviews.

The NEPAD secretariat also reported that the meeting in Addis Ababa decided to appoint the UN Economic Commission for Africa (UNECA) and the African Development Bank (ADB) to prepare indicators and benchmarks for the operationalisation of the APRM.

Two months later, in October 2002, the NEPAD Secretariat organised a two-day workshop in Cape Town to build upon the meeting in Addis Ababa and to develop indicators and benchmarks. The meeting also sought to provide a detailed framework and content for the review process. In addition to the APRM, the workshop also sought to define the external partner performance review mechanism (EPPRM).

At that point the intention was to have the Abuja HSIC of 3rd November 2002 approve and finalize the indicators.

While the UNECA could, to a degree, defuse the barrage of criticism about its methodologies and processes during the Cape Town meeting, it had no defence when it came to its lack of expertise in human rights and standards of democracy. In fact, by the end of the meeting, the complexity of the challenge of peer review was apparent to all and sundry. It was clear that the NEPAD Secretariat faced a mammoth task to finalize the APRM benchmarks in time for submission to the Abuja meeting starting on 3rd November 2002.

Having toyed with the idea of comprehensive review, one could sense the desire of the Secretariat to return to their original idea to use the existing UNECA Governance Project as the basis for the APRM.¹⁸ Eventually the UNECA argued in favour of a two track approach with one track focussing on democracy and political governance which the UNECA recommended should be undertaken by persons or institutions appointed by the Panel of Eminent Persons. The second track would cover economic and corporate governance issues. Of these, the UNECA would deal with economic governance issues while the ADB focused on banking and financial standards. This pragmatic consideration, together with the need to present a practical compromise acceptable to Nigeria and the Commission of the AU, were the considerations that saw the compromise position first floated by Deputy Foreign Minister Aziz Pahad a few days before the Abuja meeting.

HARMONIZING AU AND NEPAD PEER REVIEW

The Abuja HSIC now provides for the harmonization and rationalization of two processes of peer review: that of the African Union and NEPAD, that had been developing in competition with one another.

Peer review within the African Union has its origins in the Conference on Security, Stability, Development and Cooperation in Africa. The CSSDCA is a Nigerian initiative created by the current Nigerian president, Major-General Obasanjo, when recently out of politics in 1991. The Conference predates NEPAD by several years and has slowly but steadily been building consensus around a series of benchmarks, standards and timetables for a continental African peer review process. As the name indicates, the CSSDCA process deals with inter-state security, democracy/human rights/good governance, economic/development issues and with coordination between sub-regional groupings. At the Durban Summit in July 2002, African leaders adopted a memorandum of understanding that set out a framework and process for the CSSDCA peer review process. This included a set of core values and commitments and some 50 specific key performance indicators regarding democracy, human rights, security, economic issues and development. The closing paragraphs of the memorandum speak of the designation of focal points and national coordinating committees within each country for coordinating and monitoring all activities relating to the CSSDCA, including annual monitoring of the country's compliance with the CSSDCA process.

The Heads of State decision on the CSSDCA also *"reaffirmed the centrality of the CSSDCA Process ... as a monitoring and evaluation mechanism for the African Union."* Under a final section entitled 'Monitoring Performance', Member States agreed to a comprehensive series of mechanisms for monitoring performance at the continental, sub-regional and national levels. The CSSDCA Unit within the Commission of the Union was thus tasked to elaborate a comprehensive work programme and time schedule for *"... overseeing the monitoring process, with diagnostic tools and measurement criteria for assessing performance, as well as deficiencies and capacity restraints that impede them."* The process of peer scrutiny, it was argued, would facilitate the development of best practices and corrective measures. Elsewhere the memorandum spoke of country reports and visitation panels composed of eminent, reputable Africans, conducted in two-year cycles.

While there are important differences between the AU peer review process embodied within the CSSDCA and that of NEPAD, there are also obvious areas of overlap, most glaring of which is the proposed creation of a parallel panel of eminent African persons¹⁹. The most important difference between the two is that the CSSDCA process is inclusive of all AU member states, while NEPAD is voluntary. While the CSSDCA benchmarks are specific, time bound requirements that leave little room for avoidance or ambiguity, those of NEPAD constitute a series of best practices culled

from international institutions, many of which would require substantive state resources to implement.²⁰

Predictably, Nigerian commitment to the CSSDCA has increased in reaction to the creation of the NEPAD APRM mechanism as a parallel process. The warning lights have certainly been apparent. When tasked to report back on NEPAD to the assembled Heads of Government in Durban, President Obasanjo spoke exclusively about the CSSDCA and hardly mentioned NEPAD. Earlier, during the NEPAD HSIC that coincided with the AU Assembly meeting in Durban, Obasanjo came out strongly in opposition to the role of the UNECA, in effect arguing for the task of peer review be coordinated by the CSSDCA Unit of the AU Commission. His argument, and that subsequently echoed by a number of African critics of NEPAD, was that the UNECA was not 'African' and represented the interests of the North and of the donor community. This criticism reflects a strong undercurrent in African politics and is one that UNECA has not been able to counter.

With this background in mind, the challenge in Abuja was undoubtedly the harmonization of these two initiatives into a single, two-tiered system of peer review. Although the Abuja meeting tried to fudge the outcome in the interests of donor sensitivities, the compromise that was frankly stated by Deputy Minister Pahad is an accurate description of NEPAD peer review. The final compromise may not be what Africa's development partners wanted, but it was inevitable and politically necessary.

CONCLUSION

NEPAD is work in progress, often unclear and confusing to many. Therefore even African Ministers of Finance and Planning would recently state publicly that: *"We believe that NEPAD needs to be better explained and better understood by all development stakeholders. It is not an implementation agency; instead it is a framework for collaboration and coordination under the African Union."*²¹ The NEPAD APRM was, perhaps inevitably, going to be susceptible to misinterpretation. At last, it appeared to the easy believers, 'good' African countries would berate and sanction the 'bad'. A number of African analysts went so far as to argue that the APRM would obviate the requirement for donor conditionality, replacing the imposed frameworks made infamous by structural adjustment. Neither expectation is realistic. The UNECA argues that: *"Peer review refers to the systematic examination and assessment of the performance of a State by other States (peers), by designated institutions, or by a combination of States and designated institutions. The ultimate goal is to help the reviewed State improve its policy-making; adopt*

*best practices; and comply with established standards, principles, codes, and other agreed commitments. Peer review examinations and assessments are conducted in a non-adversarial manner, and they rely heavily on the mutual trust and understanding between the State being reviewed and the reviewers, as well as their shared confidence in the process."*²² The key issue, recognized by the UNECA, is that the effectiveness of peer review relies on the influence of peer pressure and that public scrutiny is the most likely factor to affect change and corrective actions. Time will tell if this will be a feature of peer review in Africa, where civil society is weak and the state often repressive.

Despite the recent difficulties, the achievements of NEPAD are significant. Never before has Africa been the focus of so much engagement and support. Had it not been for NEPAD under the leadership of President Mbeki, Africa would have suffered severe marginalisation after the events of 11th September 2001. Instead it was the focus of discussions at the G8 in Canada and will be again in France in 2003 when the G8 have their next meeting. In the process, considerable focus has been placed on those features of globalisation that perpetuate African poverty, such as agricultural subsidies, declining levels of development aid and strict enforcement of intellectual property rights. While not sufficient, NEPAD has done much to attract continued development assistance at a time when the attention of key donor countries has been diverted by military priorities.

NEPAD has done much to attract continued development assistance at a time when the attention of key donor countries has been diverted by military priorities.

Perhaps most important of all, is that NEPAD has spurred action within the African Union, reflected in the speed with which the Protocol on the establishment of the AU Peace and Security Council was finalized. Eventually NEPAD will be seen to have made a key contribution in the transition from the OAU to the African Union, and even more specifically to the process of value building and coherence in preparation of the establishment of the Peace and Security Council. The Council will be composed of 15 key African states elected to PSC membership on the basis of defined criteria and will operate in many respects like the HSIC of NEPAD.²³

The future of peer review within the Africa Union is probably that of a single, two-tier system consisting of obligatory and voluntary commitments. At the bottom of the tier will be continental review based on those commitments applicable to all AU member states²⁴ as reflected in the:

- Constitutive Act establishing the Union;
- various protocols, treaties and conventions to which countries have acceded to (such as the Convention Governing the Specific Aspects of Refugee Problems in Africa; the African Charter on Human and Peoples' Rights and the subsequent Protocol

establishing the Commission on Human and Peoples' Rights; the African Charter on the Rights and Welfare of the Child; the Treaty establishing the African Economic Community; the Convention on the Prevention and Combating of Terrorism);

- Heads of State decisions and declarations taken over the years—specifically the CSSDCA memorandum of understanding adopted in Durban during July 2002 (also the Cairo Agenda for Action; the Ougadougou Declaration; the Lomé Declaration on OAU response to Unconstitutional changes in Government; the Tunis Code of Conduct for Inter-African Relations; the Monrovia Declaration on the Rights and Welfare of the Child; the Grand Bay Declaration and Plan of Action on Human Rights, Khartoum Declaration on Refugees, Returnees and Internally Displaced Person in Africa, etc); and
- various common positions and action plans such as the Durban Declaration Governing Democratic Elections in Africa; the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking on Small Arms and Light Weapons; the Algiers Action Plan on the Prevention and Combating of Terrorism; the Conakry Comprehensive Plan on Refugees, Returnees and Internally Displaced Persons; the recommendations of the two meetings of the Chiefs of Staff of the Central Organ on Peacekeeping; the Kempton Park Common African Position on Anti-Personnel Landmines and subsequently the Maputo Declaration on States Parties to the UN Convention on the Production and Transfer of Anti-Personnel Mines and their Destruction; the Yaoundé Declaration and Plan of Action on Drug Control Abuse and Illicit Drug Trafficking in Africa; etc.

This AU peer review will include all aspects such as political review, human rights, economic and developmental aspects and will apply to all AU member states.

The second level of peer review would then only relate to NEPAD members (apparently now to be known as the NEPAD Peer Review Mechanism or NPRM²⁵) and, by present indications, be restricted to economic and corporate governance issues. The criteria for this would appear to be captured in the 11 codes of conduct and best practices listed by the NEPAD secretariat and the benchmarks being developed by UNECA and the African Development Bank.

At present the AU Commission, while much larger and better resourced than the NEPAD secretariat, does not have the capacity to implement and monitor the commitments of its Member States. The rationalization of peer review systems within a single, two-tiered system will now assist the implementation and adherence to the common commitments and standards across the continent and do so without competing with the AU for resources, attention and political space.

South Africa has had to perform a difficult balancing act: to keep NEPAD as a voluntary, self-monitoring programme on the one hand and as a programme of the continental AU on the other. At each step along the laborious road since the launch of the initiative, those countries opposed to NEPAD and the APRM have sought to undermine the exclusive nature of the programme. And since NEPAD is an AU programme, it is important to remember that these countries are in the majority. A number of complex trade-offs were therefore inevitable, but the end result (the political subordination of NEPAD under the AU) was never in doubt.

For his part, President Mbeki has been adroit in co-opting his critics—starting with President Abdoulaye Wade of Senegal when he proposed the competing Omega Plan. This strategy requires the steady expansion of NEPAD. Thus it has expanded from five to 15 and now 20. There is also likely to be further expansion. Since NEPAD is not an implementing agency, with an independent legal status in international law, it has to rely on existing sub-regional structures such as SADC—a challenge if only four of its member states belong to NEPAD. In fact the NEPAD document refers to the sub-regional organisations as the implementers of the Partnership.

The future composition of NEPAD will be determined by a decision by each country regarding its commitment to the Declaration and the APRM. Thus those countries that do not commit to these should, at least in theory, leave the HSIC. It would make sense to submit to the next meeting of the AU summit (in Maputo during 2003) or to the forthcoming extraordinary AU Head of State meeting early next year, a proposal for the amendment of the Constitutive Act according to which the HSIC implementation committee ceases to exist upon the establishment of the Peace and Security Council and that membership of the PSC requires a commitment to the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance as well as to the NPRM. Such a change will institutionalise NEPAD within the AU and rationalise peer review along the lines suggested earlier. In fact, the similarity between the membership of the NEPAD HSIC and the AU PSC could ensure the institutionalization of NEPAD within the AU. In this manner NEPAD will have provided African ownership of the African development and security agenda. South Africa, the key driver behind NEPAD and the present chair of the Union is in a unique position now to institutionalise the Partnership within the Union by ensuring that NEPAD members and PSC members are one and the same.

The 5th HSIC meeting in Abuja during November 2002 anchored NEPAD firmly within the AU—politically and technically—reducing the leeway that President Mbeki previously enjoyed in managing NEPAD as a programme of the AU, while at the same time keeping it exclusive and conditional. South

Africa and its NEPAD partners now need to change their strategy from avoiding the AU to seeking greater influence within it.

In driving NEPAD, Mbeki has proved that he is a politician with a virtually unparalleled passion for African recovery. Can that commitment rub off on his peers and can they collectively invigorate and revitalize the African Union?

ENDNOTES

- 1 See, for example, the Genoa Plan for Africa, 21st July 2001, adopted at the Genoa Summit. www.g8.g.c.ca/genoa/july-21-01-1-e.asp, accessed on 5 November 2002.
- 2 Communiqué issued at the end of the Fifth Summit of State and Government Implementation Committee (HSIC) of the New Partnership for Africa's Development, Abuja, Sunday, 03 November 2002.
- 3 For example, see the recommendations from the 2nd Implementation Committee held in Addis Ababa, 27th March 2002 where strong support was expressed for the establishment of a portfolio within the Commission of the African Union of a Commissioner responsible for democracy, human rights and good governance. www.telecom.net.et/~ena/archivenglish/MARCH2002/85630.2703.htm. Accessed 29 May 2002. This was subsequently approved in Durban during the inaugural summit establishing the African Union.
- 4 See the *The Toronto Star*, 11th April 2002, www.worldpress.org/Americas/636.cfm. Accessed on 29 May 2002.
- 5 See, for example, the remarks by Canadian Prime Minister Jean Chrétien as reported in *The Toronto Star*, 11th April 2002, www.worldpress.org/Americas/636.cfm. Accessed on 29 May 2002. He was reported to have stated that he expected a straightforward, report card-style ranking. "They will have to classify themselves, too. ... So, one will be No. 1 and one will be 53." Chief Amoako, head of UNECA, had sought to correct the Canadian Prime Minister.
- 6 The OECD system, it needs to be emphasized, is not based on a partnership and reward assumption. It has a technocratic purpose and nothing is gained or lost as a result.
- 7 Anon, Haste needed with NEPAD – African Ministers, SAPA, Johannesburg, 20th October 2002.
- 8 See Jakkie Cilliers, *Peace, security and democracy in Africa? A summary of outcomes from the 2002 OAU/AU summits in Durban*, Institute for Security Studies, Pretoria, Paper no 60, August 2002. A special AU Executive Council meeting is scheduled for Libya during December 2003 and will be followed by an extraordinary AU Assembly meeting in Durban or Addis Ababa in January 2003. The purpose of the meetings is to deliberate on the proposed amendments to the Constitutive Act establishing the AU proposed by Libya and Nigeria.
- 9 Political governance; economic and corporate governance; infrastructure and development; market access and agriculture; human development; capital flows including debt reduction and foreign direct investment.
- 10 At the time of writing only South African and Algeria have made contributions towards the operating costs of the NEPAD Secretariat. South Africa, Nigeria, Algeria and Egypt have seconded senior officials to the Secretariat and additional contracted staff, from the DRC, Zimbabwe and Lesotho, are also in employ. The UNDP has made a commitment to contribute US\$1,5 million to the Secretariat as part of a strategic partnership which will provide a vehicle through which other development partners can contribute to the NEPAD process. NEPAD Report to the HSIC – July to October 2002, p. 9.
- 11 Communiqué issued at the end of the 3rd Meeting of the Heads of State and Government Implementation Committee of the New Partnership for Africa's Development (HSIC), Rome, Italy on 11 June 2002.
- 12 In preparation for this Mr Amara Essy, the interim Chairman of the AU Commission, recently established a NEPAD office within the Commission that reports directly to him.
- 13 The 12 countries are: South Africa, Algeria, Angola, DR Congo, Egypt, Ethiopia, Ghana, Mali, Mauritius, Mozambique, Nigeria and Rwanda. See W Jordaan and Reuters, SA, 11 lande stem in om deur NEPAD gemonitor te word, *Beeld*, 5th November 2002.
- 14 During the meeting of African finance ministers in Sandton in October 2002 Ghana indicated its willingness to submit to peer review.
- 15 The protocol establishing the Parliament is open for accession, but only a first draft on the Protocol establishing ECOSOC is presently available and neither institution will be operational for several years. The workings and reports of the African Commission on Human and People's Rights lack credibility and have come in for considerable criticism over the years.
- 16 J Katzenellenbogen, No declaration on peer review despite leaders' acceptance, *Business Day*, 5th November 2002.
- 17 J Katzenellenbogen, Still no clear way forward for NEPAD, *Business Day*, Johannesburg, 22nd October 2002.
- 18 By this stage the project covered about 25 countries. It aims at defining and measuring governance on the African continent through a number of country studies, each of which will provide more than 80 indicators on the nature and quality of governance on the continent.
- 19 Technically the NEPAD PEP will be appointed by the HSIC and the CSSDCA/AU PEP will be appointed by the Assembly of the AU.
- 20 The South African government has, for some time, taken a jaundiced view of Nigerian commitment to the CSSDCA-despite its ostensible support to the CSSDCA unit that was established as part of the Commission of the AU in Addis Ababa. The latter included a donation of US\$500,000 to the unit and a seconded official from South Africa. As a result the NEPAD secretariat, which operates in a degree of isolation from the Department of Foreign Affairs, has consistently ignored the CSSDCA process and was reluctant to engage with the unit despite the stated instruction from the Rome HSIC to do so. The Abuja communiqué should now bridge these differences.
- 21 Ministerial Statement: Conference of Ministers of Finance and Planning and Economic Development, Johannesburg, 19–20 October 2002, par 3
- 22 UNECA, *The African Peer Review (APR) Mechanism – process and procedure*, paper presented during the NEPAD Workshop on Indicators, Benchmarks and Processes for the African Peer Review Mechanism, Cape Town, 7–8 October 2002. The description is the same as that of the OECD. See F. Pagani, *Peer Review: A tool for co-operation and change*, OECD General Secretariat, Directorate for Legal Affairs, SG/LEG(2002)1, 11 September 2002, p 4
- 23 For more details on the PSC see Jakkie Cilliers, *Peace, security and democracy in Africa?* op cit, pp 8–12
- 24 See Jakkie Cilliers & Kathryn Sturman, *Commitments by African heads of state to peace, democracy, human rights and associated issues*, Institute for Security Studies, Pretoria, Paper no 58, July 2002.
- 25 See Thabo Mbeki, *Critics ill-informed about NEPAD peer review*, *ANC Today*, vol 2, no. 45, 8–14 November 2002.





The ISS mission

The vision of the Institute for Security Studies is one of a stable and peaceful Africa characterised by human rights, the rule of law, democracy and collaborative security. As an applied policy research institute with a mission to conceptualise, inform and enhance the security debate in Africa, the Institute supports this vision statement by undertaking independent applied research and analysis; facilitating and supporting policy formulation; raising the awareness of decision makers and the public; monitoring trends and policy implementation; collecting, interpreting and disseminating information; networking on national, regional and international levels; and capacity building.

About this paper

NEPAD is a work in progress and recent developments have proved confusing to many. This paper explains the recent compromise regarding political and economic review by the African Peer Review Mechanism. As a background to this, the NEPAD structure is outlined and the development of the APRM is discussed. The harmonizing of the AU and NEPAD peer review processes, an inevitable and politically necessary step, forms the last section.

About the author

Dr Jakkie Cilliers is the executive director of the ISS.

Funders

This work was carried out with funding from the Government of Norway under the Training for Peace in Southern Africa Programme.

© 2002, Institute for Security Studies • ISSN: 1026-0404

The opinions expressed in this paper do not necessarily reflect those of the Institute, its Trustees, members of the Advisory Board or donors. Authors contribute to ISS publications in their personal capacity.

Published by the Institute for Security Studies • P O Box 1787 • Brooklyn Square • 0075 • Pretoria • SOUTH AFRICA
Tel: +27-12-346-9500/2 • Fax: +27-12-460-0998
Email: iss@iss.co.za • <http://www.iss.co.za>

67 Roeland Square • Drury Lane • Gardens • Cape Town • 8001 • SOUTH AFRICA
Tel: +27-21-461-7211 • Fax: +27-21-461-7213
Email: issct@iss.co.za



ISSN: 1026-0404



9 771026 040004