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# **A Path Way to a New Start? Appraisal on The NEPAD's Peer Review Mechanism**

By

**Eyasu Mekonen Masresha**

**Addis Ababa University**

**Law School**

**Graduate Program**

**December, 2010**

**Addis Ababa, Ethiopia**

Approval Sheet by the Board of Examiners

**A Path Way to a New Start? Appraisal on the  
NEPAD's Peer Review Mechanism**

I hereby declare that this thesis is my original work and all referenced materials  
used in this work have been duly acknowledged.

Declared by: Eyasu Mekonen Masresha



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Approved By:

Advisor: Girmachew Alemu (PhD)



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Examiners

1. Dr. Biniam Dawit



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2. \_\_\_\_\_

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# **A Path Way to a New Start? Appraisal on the NEPAD's Peer Review Mechanism**

Submitted in partial fulfilment of the requirements of the Degree

LLM (Public International Law)

**By**

**Eyasu Mekonen Masresha**

**Advisor:- Girmachew Alemu (PhD)**

**Addis Ababa University**

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### **List of Abrivations**

ADB	African Development Bank
AEC	African Economic Community
APR(M)	African Peer review (Mechanism)
AU (C)	African Union (Commission)
CRT	Country Review Team
CSA	Country Self Assessment
CSOs	Civil Society Organizations
DAC	Development Assistance Committee
ECOSOCC	African Economic, Social and Cultural Council
EDRC	Economic and Development Review Committee
HSGIC	Head of State and Government Implementation committee
ILO	International Labour organization
IMF	International Monetary Fund
LDC	Least Developed Countries
LPA	Lagos Plan of Action
MAP	Millinium Africa Recovery Plan
MoU	Memorandum of Understanding
NEPAD	New Partnership for African Development
NGO	Non Governmental Organizations
OAU	Organization of African Unity
OECD	Organization of Economic Cooperation for Development
PAP	Pan African Parliament
PoA	Program of Action
SA	South Africa
TPRB	Trade Policy Review Board
TPRM	Trade Policy Review Mechanism
U.S.A.	United States of America
UNDP	United Nations Development Program
UNECA	United Nations Economic Commission for Africa
USSR	United Soviet Socialist Republic
WTO	World Trade Organization

## **Abstract**

Even though most of African countries have been politically independent from political colonization the quest for political stability and economic prosperity was denied by the foreign intervention, the proliferation of conflicts, coups and counter coups, corruption and other severe economic mismanagement. The continent of Africa at the dawn of the 21<sup>st</sup> century was still plagued by poverty, disease and ignorance on different social issues. These contributed to Africa's peripheral and diminishing status in the world economy which in turn resulted in the marginalization of the African continent from the world economy.

That's why on the turn of the 21<sup>st</sup> century African leaders agreed to change this image of African by replacing the previous organization, OAU, with the new one AU for new hopes, ambitions and commitments. The creation of AU as a new African institutional architecture was supported by the adopting of NEPAD as a program of action for the new Africa. NEPAD is, AU believes, a vehicle for solving prevalent problems of bad governance, and provide a new way for African development. The central part of NEPAD is APRM based on the belief that no redemption can occur unless African countries engage in some form of self assessment, critique through peer review mechanism and some form of mutual accountability to one another and to their people.

Thus the main issue of the paper, therefore, is to analyze and discuss the structural and functional capability of APRM whether it can cope up with the mandate its given under different documents to examine the performance of the reviewed states. The research seeks to address how far and how well APRM is performing in its mandated task since its inception in 2003. The writer specifically deals with whether the APRM, in its current form and mandate, could be a major regional review mechanism and an instrument in promoting democracy, good governance, sustainable development and respect for human rights for Africans as it claims. The paper aims at understanding the real structure and how far APRM has succeeded in fulfilling its purpose in its relatively short life span and what needs to be done to better equip the mechanism to achieve it's desired objectives. The writer approaches the research question by selecting benchmarks for good peer review from other similar international mechanisms who use peer review to monitor compliance and check how well such benchmarks are being incorporated under the APRM.

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## Chapter One

### Introduction

#### 1.1. Background

Africa is clearly the world's poorest and least developed continent and what is more worrying is Africa's poverty would appear to be increasing from time to time. The main cause for such is prevalence of conflict, lack of democracy, deep rooted corruption and human right violations.<sup>1</sup> There fore it was not surprising that for decades international donors like IMF and World Bank made the granting of their assistance 'conditional' upon the recipient countries acceptance of certain stipulated 'structural adjustments' and these conditional ties were mostly burdensome, ineffective and nationally humiliating.<sup>2</sup>

Since the replacement of OAU by AU, African states have undertaken a growing number of commitments to respect good governance at least on papers.<sup>3</sup> By the constitutive act of the AU, member states are bound to promote human rights, democratic principles, popular participation and good governance.<sup>4</sup> At the same time there were meetings at high level among African states deliberated to establish a full blown and ambitious plan to rescue the people of the continent from the bondage of poverty and illiteracy.<sup>5</sup> The creation of NEPAD was, thus, the plan for the development of Africa in the new Millennium. Through NEPAD African leaders have made a commitment to their people to work together to rebuild Africa.<sup>6</sup> It is a pledge to promote peace, stability, democracy, economic development and to hold each other accountable.

NEPAD in theory aims at minimizing dependence on foreign Aid and loan for Africa's development and ownership of all African matters under the hands of its own people.<sup>7</sup> NEPAD

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<sup>1</sup> Ravi Kanbur, *The New Partnership for Africa's Development (NEPAD: An Initial Commentary*, ( Ithaca: NY: Cornell University press, 2001), p.3

<sup>2</sup> Ibid

<sup>3</sup> Constitutive act of the African Union, (Lomé, Togo, 11<sup>th</sup> day of July, 2000), preamble, para 8 and 9 and Art 5(m)

<sup>4</sup> Ibid

<sup>5</sup> Alex De Waal, "What's new in the 'New Partnership for Africa's Development?'" *International Affairs*, (Royal Institute of International Affairs 1944-) 78:3(July 2002): 463-475, p. 212

<sup>6</sup> Declaration on the Implementation of the New Partnership for Africa's Development (NEPAD) [Assembly/AU/Decl. 1(1)], Durban, South Africa, from 8 to 10 July 2002, para 7

<sup>7</sup> NEPAD Declaration on Democracy, Political, Economic and Corporate Governance, AHG/235 (XXXVIII) Annex I, (June 2002), para 2 and 3

also calls for new kind of partnership based on mutual respect and understanding between Africa and Developed Nations.<sup>8</sup> NEPAD proposes a bargain where African leaders will deliver democracy and Good governance while the Developed nations will deliver more resources of various kind including Aid, fair trade and debt relief.<sup>9</sup>

One of the decisive element and commitment in the NEPAD program is the African Peer Review mechanism (APRM) which is seen as the most important instrument of NEPAD and way to show Africa's seriousness about democracy and good governance.<sup>10</sup> The APRM represents a new departure in African Governance away from Non interference to mutual accountability. It is the first working frame work to help improve Governance within the countries of the continent to help promote collective action among themselves.<sup>11</sup> The central purpose of APRM is to promote political, economic and social best practices in the public affairs of all its participants.<sup>12</sup> By establishing APRM, the architects of the new process hopefully anticipated that such reviewing would encourage foreign aid to increase in the future.<sup>13</sup> APRM is at least theoretically designed to be 'African owned'. Neither sanctions nor coercive steps are contemplated against reviewed states whose assessment results fall short of the standards stipulated under APRM. But there is a serious doubt as to the success of this reviewing mechanism as hoped during its creation.

## 1.2. Statement of The Problem

Even though adoption of APRM, at face value, has been proposed as a key element in the NEPAD and represents a dramatic change in the thinking of African leaders to be accountable to their people and to each other, it is important to check how far and how well this noble idea is brought into effect to be a real change in the thinking of African leaders. Thus, the ultimate question the research seeks to address is how far and how well APRM is performing in its mandated task in accordance with well accepted benchmarks for good peer review under

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<sup>8</sup> Aparajita Biswas, "NEPAD: Forum for Growth and Unity", *Economic and Political Weekly*, 39:8 (Feb. 21-27, 2004): 793-79, p. 793

<sup>9</sup> Id, 795

<sup>10</sup> Magnus Killander, "The African Peer Review Mechanism and Human Rights: The First Reviews and the Way Forward," *MUSE scholarly Journals, Human Rights Quarterly*, 30 (Johns Hopkins University Press 2008), p.3

<sup>11</sup> Declaration on Democracy, Political, Economic and Corporate Governance (Declaration on Democracy and Governance), AHG/235 (XXXVIII) Annex 1, para 1

<sup>12</sup> Wilson Mokote Makgalnecheche, *African Peer Review Mechanism and African Union: The Case For Leadership And Governance Perspective In African Public Service*, (University of Pretoria, 2006), p.100

<sup>13</sup> Perceptions on APRM, available at [http://www.sahrit.org/index.php?op=news&aid\\_30](http://www.sahrit.org/index.php?op=news&aid_30) (accessed on September 1, 2010)

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<sup>8</sup> Aparajita Biswas, "NEPAD: Forum for Growth and Unity", *Economic and Political Weekly*, 39:8 (Feb. 21-27, 2004): 793-79, p. 793

<sup>9</sup> Id, 795

<sup>10</sup> Magnus Killander, "The African Peer Review Mechanism and Human Rights: The First Reviews and the Way Forward," *MUSE scholarly Journals, Human Rights Quarterly*, 30 (Johns Hopkins University Press 2008), p.3

<sup>11</sup> Declaration on Democracy, Political, Economic and Corporate Governance (Declaration on Democracy and Governance), AHG/235 (XXXVIII) Annex I, para 1

<sup>12</sup> Wilson Mokote Makgalncheche, *African Peer Review Mechanism and African Union: The Case For Leadership And Governance Perspective In African Public Service*, (University of Pretoria, 2006), p.100

<sup>13</sup> Perceptions on APRM, available at <http://www.sahrit.org/index.php?op=news&aid=30> (accessed on September 1, 2010)

actions they need to take to improve the mechanism and make the system more effective and its review reports more credible.

#### **1.4. Research Methodology**

After giving a general background about peer review in general and APRM in particular in descriptive form, the writer approaches the research question through a comparative analysis with other similar international mechanisms namely OECD peer review, WTO review system, IMF monitoring mechanism and the ILO system and their benchmarks for good peer review as an important tool of addressing the research question. The writer compares APRM and the above peer review mechanisms both structurally and functionally to show how much APRM is adhering to the internationally recognized standards and how APRM should learn from the others. The comparative analysis especially focuses between OECD, which has the best peer review mechanism so far, and since APRM itself claims to get its basic principle from the former. The writer make use of the different basic documents and released review reports and practical results of APRM in one hand and the well accepted benchmarks of other international peer review mechanisms on the other hand to put their institutional structure, function and mandate under comparison and compare them to ascertain the compatibility of the APRM's system with other international peer review mechanisms and their benchmarks for peer review to succeed. In strengthening his argument the writer will also systematically use other approaches like charts and tables to take a grasp of where APRM currently is in fulfilling its objectives. To address the issue the writer may also refer to other relevant documents, reports and practices when ever it is necessary for solidifying the argument.

#### **1.5. Scope and Limitation of The Research Paper**

The research covers the structural and functional study of the African peer review mechanism both on paper and on practice. But these structural and functional study of APRM is limited to the following benchmarks namely the competence of APRM, independence of its staffs and institutions, the extent of participation of different stake holders, publicity of the process to the public, and degree of peer pressure exercised by APRM member countries. The writer has selected these benchmarks as they are used by many international peer reviews as the corner stones for the success of any peer review mechanism. The research tries to address these issues

through a comparative analysis with other mechanisms which use peer review as an integral part of self monitoring for studying how far APRM has applied these standards effectively. Recommendations are subsequently made how to resolve some of the structural and functional difficulties faced by APRM.

The paper will not discuss all the problems and pitfalls faced by the APRM outside the above selected benchmarks. So, the paper is by no means exhaustive list of all the issues regarding the statement of the problem and issues and challenges of APRM in discharging its duties effectively. The writer will only focus on the above selected institutional and functional issues of APRM using a comparative analysis when it is relevant to condense the argument. There could be many other related and important topics and issues regarding APRM that will not be covered by the paper so that others are welcomed and encouraged to fill the gap.

#### **1.6. Structure and Contents of The Study**

The paper is divided into four chapters. Chapter One serves as the introductory part of the paper. It gives an idea for the readers what the paper is about and how the writer approached the research topic and what the objectives of the paper are. Chapter Two discusses the creation of NEPAD and APRM and their respective institutional structure by focusing more on the latter. It specifically gives a clear picture of APRM's mandate and stages of the review process. The same chapter also gives a general grasp about the other international peer review mechanisms and their system of review to be able to give a comparative analysis with APRM since such is necessary for proper understanding of the paper. The Third chapter is wholly devoted to analyzing the structure and functions of APRM under different criteria and bench marks and how well APRM is adhering to these internationally accepted bench marks through realistic evaluation of APRM. The Last chapter, Chapter Four, proposes ways how APRM should take its lesson for its way forward to deliver a real hope to the African continent as it promised during its inception. The writer gives different recommendations under this chapter that will make APRM more competent and its reports robust and credible.

## Chapter Two

### AU, NEPAD and APRM: an Effort For a New Path

#### 2.1. Africa in The Twenty First Century

As Africa enters the 21<sup>st</sup> century, the people are faced with the basic problems of survival that they expect to have overcome almost half a century of political independence from colonialism. The basic problems that are prevalent in Africa includes deep rooted poverty, ignorance, deadly transmittable diseases like HIV/ AIDS and malaria, inter-state and intra- state conflicts, denial of basic fruits of human rights and democracy.

Independence did not really guarantee full political and economic liberation. The unfinished business of liberation and the long quest for full freedom was denied by the replacement of colonial rule by foreign intervention in the political, strategic, economic and other spheres, the proliferation of conflicts, coups and counter coups, corruption and other severe economic mismanagement.<sup>14</sup> African continent has the largest number of the poorest countries in the world. This statement can be qualified by the fact that out of the 42 nations of the world that are classified as LDC, 29 of these are found within the African continent.<sup>15</sup> The continent of Africa at the dawn of the 21<sup>st</sup> century was still plagued by poverty, disease and ignorance on different social issues.

UNECA reported that four out of ten Africans live in absolute poverty and those conditions continue to increase in the new millennium.<sup>16</sup> In addition to this, for decades, leaders in the post colonial Africa turned a blind eye to human right abuses, corruption and coup de tat in obedience to a cardinal rule: sovereignty above all.<sup>17</sup> Excessive executive power stifled debate, curtailed free speech, covered up miss guided policies and allowed corruption to flourish. With out sound governance to fight corruption, cross examine new laws and effectively manage public services,

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<sup>14</sup> Kinfe Abrham, *The African Quest*, The international Institute for peace and development, (2003), p. 5

<sup>15</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism (APRM) and African Union (AU): The Case For Leadership And Governance Perspective*, p.3

<sup>16</sup> 3E Foundation , strategic plan, 2007-2012, available at

<http://www.3efoundation.org/Papers/3E%20Foundation%20-%20Strategy%202.0.pdf> (accessed on November 10, 2010)

<sup>17</sup> Ross Herbert , *The APRM: Lessons from The Pioneers*, South African Institute of international Affairs, (Lesedi Litho Printers, 2008), p.3

much of Africa was effectively bankrupt within twenty years of independence.<sup>18</sup> Debt which escalated recklessly after independence hobbled Africa, as countries slashed services and took more debt to service their military might and personal wealth.<sup>19</sup> Economically, African economic structure remained unchanged after independence and most of the continent's economies were not integrated. African foreign exchange is hugely dependent on export of unprocessed raw materials to the west which is mostly cheap and fluctuates in price.<sup>20</sup>

A number of factors are responsible for the historical impoverishment of Africa. This was mainly by the legacy of slavery, colonialism, the cold war, the working of the international economic system and the lack of leadership and shortcomings in the policies which were pursued by most of African leaders.<sup>21</sup> This clearly indicates that both internal problems and excessive outside intervention worked together for the impoverishment of Africa.

Colonialism contributed to the under development of Africa: by subverting traditional structures, institutions and value system; by retarding the development of entrepreneurial skills to ensure that Africans lacked managerial skills; by bringing lack of essential skills and expertise in African public services; and by making the continent integrate into the world economy only through a supplier of raw materials and cheap labour.<sup>22</sup> Development after independence from the yoke of colonialism was retarded by the fact that post colonial Africa inherited weak states and dysfunctional economies.<sup>23</sup>

The impact of cold war was also devastating on Africa because it was a divisive force making African states to fight each other for the sake of ideological differences and the two super powers at the time. U.S.A. and USSR, backed such divisions to salvage their selfish interest out of such divisions and conflicts.<sup>24</sup>

To add insult to the injury, the structural Adjustment programs formulated and forwarded by the international financial institutions, IMF and the World Bank, during the 1970s and 1980s were

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<sup>18</sup> Ibid

<sup>19</sup> Ibid

<sup>20</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism and African Union : The Case For Leadership And Governance Perspective*, p. 5

<sup>21</sup> Id, p.4

<sup>22</sup> Id, p.5

<sup>23</sup> Peter Damien Reddy, *Peace Operations and Restorative Justice: Groundwork for Post-conflict Regeneration*, A thesis submitted for the degree of Doctor of Philosophy at The Australian National University, March 2006, p. 32

<sup>24</sup> Id, p. 33

also unsuccessful because it does not consider the economic and social realities of the continent and its people.<sup>25</sup> The structural adjustment mainly stipulates that Africa has to just conform in order to receive assistance from these institutions. Africans have limited or no choice because they were presented on the basis of “take it or leave it” principle.<sup>26</sup> This then confirms that, Africans lost control over their continents agenda of development and were based on external support from external partners. This approach meant that Africans were denied of themselves self- reliance and self sustainability. This was a compromise to the African vision of a ‘home grown’ development strategy.<sup>27</sup> The structural adjustment program absolutely lacked the ability to derive the continent out of the economic and social misery it was in.<sup>28</sup>

But all the above reasons and excuses for the under development of Africa can be summed up by the poor leadership, corruption and bad governance by the political leaders of Africa. Most post colonial African leaders and elite used the African states as an instrument for self enrichment instead of creating a better life for their citizens, they become greedy and accumulated wealth for themselves.<sup>29</sup> They could try, at all costs, to manipulate election results in order to remain in power, if there is any election to begin with.<sup>30</sup> This created strife and conflicts by the section of the people who oppose such bad governance of the leaders. Since the policy of most African states were driven by the desire of political elites rather than the needs of the people which robbed the people of Africa to enjoy their wealth on an equitable basis.<sup>31</sup> These conditions that prevailed in Africa were and still are actually responsible for Africa’s deep poverty and underdevelopment.

All the above conditions indicate that African societies were entrenched in a vicious cycle of economic decline, reduced capacity and poor governance. These contributed to Africa’s peripheral and diminishing status in the world economy which in turn resulted in the

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<sup>25</sup> Ibid

<sup>26</sup> Asante, MK. *Remove the Mind's Baasskap Shakle Now: African Leaders Must Do More To Teach People About Self reliance*, (2005), p.7

<sup>27</sup> Wilson M. Makgalncheche. *African Peer Review Mechanism and African Union : The Case For Leadership And Governance Perspective*, P. 20

<sup>28</sup> Ibid

<sup>29</sup> Ibid

<sup>30</sup> Id, p.9

<sup>31</sup> Id, p. 10

marginalization of the African continent from the world economy.<sup>32</sup> African continent, as a region, found itself in a worse situation at the down of the 21<sup>st</sup> century than during the time of decolonization in 1960s.<sup>33</sup> Many parts of the continent have degenerated into a number of socio – economic evils which resulted in Africa’s losing its value globally. Thus, independence created further frustrations to African peoples of the unmet expectations of the local inhabitants who felt that independence has brought them more misery and hardship than foreign colonial rule.

## **2.2. Previous Plans for African Renaissance Before NEPAD: A Historical Synopsis**

Africa’s search for unity and its renaissance were aimed at Africa’s socio-economic recovery, which was a centuries old characteristic. Africa had a common historical experience, especially with regard to slavery and colonialism which compelled African leaders to develop a common consciousness as one people with a common destiny.<sup>34</sup> It is also true that for many young Africans colonial rule is something they know in their history books. What they know and share in common is a post colonial Africa known for autocratic rules, a single party system, military regimes and presidents for life. Many African nations have painfully experienced such type of undemocratic regimes commonly. It is with this common experience in mind that African states formed different continental institutions in trying to crush their common yoke of poverty and almost continent wide lack of good governance but with little success to brag about.<sup>35</sup>

### **2.2.1. The Organization of African Unity (OAU)**

This was formed as a continental organization and it served as a vehicle for a common dream amongst African leaders. In 1957 Ghana became the first sub Saharan African country to be independent from the yoke of colonialism. When Ghana became independent, the celebrations amongst Africans marked the beginning of Good things to come for the African continent.<sup>36</sup> The

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<sup>32</sup> Rugumamu, Séverine M, *Globalization and Africa's Future: Towards Structural Stability, Integration and Sustainable Development*, (Harare – Zimbabwe, 2001). Available at <http://unpan1.un.org/intradoc/groups/public/documents/IDEP/UNPAN005540.pdf> (accessed on Nov 16, 2010)

<sup>33</sup> Anyang Nyongo, Aseghedech Ghirmazion and Davinder Lamba, *New Partnership For Africa's Development – NEPAD A New Path?* (Heinrich Böll Foundation [eds], 2002), P.19

<sup>34</sup> Mutharika Bingu, *One Africa, One Destiny: Towards Democracy And Good Governance And Development*, (Harare:SAPES books 1995), p.151

<sup>35</sup> The NEPAD recognises that there have been attempts in the past to set out continent-wide development programme but not successful. See para.42 of the NEPAD Base Document.

<sup>36</sup> Kinfe Abrham, *The African Quest*, p.12

early years of 1960s saw the dismantling of colonialism from many African countries.<sup>37</sup> Independence raised hopes amongst African people that their aspiration and wishes for good things for life would be achieved.<sup>38</sup>

In 1963 the OAU charter was presented before 32 African heads of states for deliberation in Addis Ababa, Ethiopia.<sup>39</sup> Then these Head of States signed the OAU charter on may25, 1963.<sup>40</sup> The organization provided a valuable platform for Africanism, Pan- African unity and vehicle for action at the global level.<sup>41</sup> But, OAU charter was known for its principle of non-interference where by dictators were tolerated and do grave crimes with absolute impunity. No reference was made in the OAU Charter on the protection of human rights or democracy and instead sovereignty was emphasized.<sup>42</sup> Furthermore, OAU member states committed themselves to jealously protect their sovereignty and territorial integrity and their inalienable right to independent existence.<sup>43</sup> African states only viewed international concern for human rights and democratic and good governance as pretext for undermining their sovereignty.<sup>44</sup>

It is after 1980 that African leaders realized it was imperative to take concrete steps to address the developmental woes of the continent.<sup>45</sup> The various continental organizations under OAU had been established to rescue Africa from its deep rooted poverty and mal management and to forge unity among Africans.<sup>46</sup> The different organization had different priorities depending on the era during which they were established.<sup>47</sup> Through these institutions African leaders attempted to develop a common vision and a firm conviction though they are facing a common challenge with no concrete results. During the 1990s OAU was facing the threat of extinction for

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<sup>37</sup> Ibid

<sup>38</sup> Gaisie, SK., *Demographic Prospects For Tropical Africa For The Nex: Thirty Years*, (AA and Patel,HH (eds), 1974), p.143

<sup>39</sup> Mekonen Ketema, *OAU creation*. Available at [http://www.oau-creation.com/creation\\_of\\_the\\_oau\\_1.htm](http://www.oau-creation.com/creation_of_the_oau_1.htm) . (accessed on August 20, 2010)

<sup>40</sup> Ibid

<sup>41</sup> Ibid

<sup>42</sup> Art 2 (1) (c) OAU Charter

<sup>43</sup> Id, Art 3 (3)

<sup>44</sup> Gino Naldi, *The Organization of African Unity: An analysis of its role*. (London: Mansell, 2<sup>nd</sup> eds, 1999), p.6

<sup>45</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism (APRM) and African Union (AU): The Case For Leadership And Governance Perspective*, p.19

<sup>46</sup> Id, p.4

<sup>47</sup> Ibid

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<sup>37</sup> Ibid

<sup>38</sup> Gaisie, SK., *Demographic Prospects For Tropical Africa For The Next Thirty Years*, (AA and Patel,HH (eds), 1974), p.143

<sup>39</sup> Mekonen Ketema, *OAU creation*. Available at [http://www.oau-creation.com/creation\\_of\\_the\\_oau\\_1.htm](http://www.oau-creation.com/creation_of_the_oau_1.htm) . (accessed on August 20, 2010)

<sup>40</sup> Ibid

<sup>41</sup> Ibid

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<sup>43</sup> Id, Art 3 (3)

<sup>44</sup> Gino Naldi, *The Organization of African Unity: An analysis of its role*, (London: Mansell, 2<sup>nd</sup> eds, 1999), p.6

<sup>45</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism (APRM) and African Union (AU): The Case For Leadership And Governance Perspective*, p.19

<sup>46</sup> Id, p.4

<sup>47</sup> Ibid

failing to adapt itself to changed global and regional political, social and economic settings of last quarter of the 20<sup>th</sup> century and the beginning of 21<sup>st</sup> century.<sup>48</sup>

### 2.2.2. The Lagos Plan of Action (LPA)

The Lagos plan of action was adopted by the OAU in 1980. The main reason for the LPA to be adopted was the economic stagnation of Africa since independence.<sup>49</sup> The LPA attempted to set a twenty year developmental agenda for the continent and seven priority areas were identified to reach this goal.<sup>50</sup> The LPA was based on the principle of self reliance and self sustaining development and economic growth.

*We recognized "the need to take urgent action to provide the political support necessary for the success of the measures to achieve the goals of rapid self-reliance and self-sustaining development and economic growth",*<sup>51</sup>

The LPA was a failure mainly because of the occurrence of natural misfortunes such as famine, flood and economic crisis of the 1980s, which deteriorated Africa's foreign income and sky rocketed its debt.<sup>52</sup> In addition, this plan was launched during the western states launched a structural adjustment program to be implemented with out due regard to the LPA principles or other consideration.<sup>53</sup> The LPA was also criticized for being too ambitious with out taking into consideration the current economic and structural capacities of most African states to implement its strategies to be achievable.<sup>54</sup> In addition, LPA did not openly criticize the leaders of African states for their failure to deliver sound economic plan and good governance to their people since independence.<sup>55</sup>

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<sup>48</sup> Mekonen Ketema, *Challenges of OAU*. Available at [http://www.oau-creation.com/creation\\_of\\_the\\_oau\\_1.htm](http://www.oau-creation.com/creation_of_the_oau_1.htm) (accessed on August 20, 2010)

<sup>49</sup> See the para 1 of the preamble of LPA for the economic development of Africa, 1980,

<sup>50</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism and African Union: The Case For Leadership And Governance Perspective*, p.19

<sup>51</sup> See the document forming LPA para 3.

<sup>52</sup> Mutharika, B., *One Africa, One destiny: towards democracy and Good Governance and development*, p.114

<sup>53</sup> Ibid

<sup>54</sup> Kinfé Abrham, *The African Quest*, p.79

<sup>55</sup> Anyang Nyongo et.al, *NEPAD: A new path?*, p.24

### 2.2.3. African Economic Community (AEC)

Yet another attempt to integrate African economies was also made through AEC. AEC or the Abuja treaty was aimed at taking the LPA vision forward as a development project for Africa's socio- economic recovery.<sup>56</sup> The OAU has targeted 2005 for the creation of regional integration mechanism through AEC.<sup>57</sup> The AEC affirmed its commitment to take the necessary steps to accelerate the establishment of African Economic community.<sup>58</sup> The AEC's main objectives are to promote economic and social development and the integration of African economies in order to increase economic self reliance and promote cooperation among African states.<sup>59</sup>

The AEC was another failure in the attempt to integrate African economies for better cooperation and development. One of the reasons why the EAC was a failure is the fact that it is designed along the European community (EC) model with out first creating relevant structures and institutions that will support policy implementation within the continent.<sup>60</sup> The model of the EC may not be appropriate for the African continent because the later still lacks strong and viable economies to support the plan.

There were also other plans for the economic recovery of Africa including African priority program for Economic Recovery, the African Charter for Popular participation for development and the United Nations New Agenda for the Development of Africa. All these and the above initiatives failed because of lack of commitment both from the African Leaders and the international donors, lack of ownership of the plans by the citizens of Africa and the tendency of the International financial institution to back only programs from donor states whether useful or not.<sup>61</sup>

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<sup>56</sup> See the preamble of The Treaty Establishing African Economic Community, para 7

<sup>57</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism and African Union : The Case For Leadership And Governance Perspective*, p.22

<sup>58</sup> See the preamble of The treaty establishing African Economic community, para 10

<sup>59</sup> Id, Art. 3(a,b)

<sup>60</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism and African Union : The Case For Leadership And Governance Perspective*, p.22

<sup>61</sup> Anyyang Nyongo et.al, *NEPAD: A new path?*, (2002), p.20

## 2.3. AU and NEPAD: Path For The New Africa?

### 2.3.1. AU and Its New Path on Democracy and Good Governance

The ambitious design of the African Union (AU), set out in the Constitutive Act, was taken in Lome', Togo in 2000, to transform the OAU into a new structure and mandate to ensure that it is re-aligned to current demands and challenges facing Africa.<sup>62</sup> The call to review the structure of OAU was necessitated by difficulties, which the continent had experienced in the implementation of the adopted plans such as the LPA and AEC.<sup>63</sup>

In 2001, in a summit in Lusaka, Zambia, the OAU took a decision to launch the African Union (AU) in Durban next year.<sup>64</sup> It was at the Lusaka summit that the OAU also adopted the NEPAD as a strategy for the continents recovery and development.<sup>65</sup> These two initiatives were believed to be a 'made in Africa' strategy for the new Africa in the making.<sup>66</sup>

OAU had lived up to its mandate and principle to eradicate all forms of colonialism from the African continent.<sup>67</sup> The eradication of colonialism and the dismantling of Apartheid from South Africa are one of the highlights of the OAU.<sup>68</sup> The OAU leaders had also tried to form the AEC and the LPA to strengthen regional integration in the continent and to promote economic growth and development.<sup>69</sup> Unfortunately most of the dreams, aspirations and programmes of the OAU were shattered because of lack of resources to implement them; lack of political leadership; the policy of non-interference prevalent at that time and repression of citizens who happen to have a different political opinion.<sup>70</sup> The deep poverty and gross violation of human rights by the incumbents led to more deteriorating situation for Africa. More conflicts, strife and instability became an every day phenomenon in many African states which in turn seriously retards the already stagnant economy of the continent.

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<sup>62</sup> African Union, *Constitutive Act of the African Union*. Lome, Togo. July 2000.

<sup>63</sup> Mekonen Ketema, challenges of OAU. Available [http://www.oau-creation.com/creation\\_of\\_the\\_oau\\_1.htm](http://www.oau-creation.com/creation_of_the_oau_1.htm) (accessed on August 20, 2010)

<sup>64</sup> It is out of this process that AU was officially proclaimed in March 2001.

<sup>65</sup> Creation of NEPAD, available at <http://www.nepad.org/about> (accessed on September 26,2010)

<sup>66</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism and African Union: The Case For Leadership And Governance Perspective*, p.23

<sup>67</sup> Ibid

<sup>68</sup> Ibid

<sup>69</sup> Ibid

<sup>70</sup> Id, p.24

Most commentators agree that the OAU's policy 'non-interference' in the so called 'internal affairs of member states' contributed to the failure of its aspirations.<sup>71</sup> The policy of non interference may have served its purpose during the early years of post-colonialism to protect the sovereignty and the right to exist of some weak and small states which have less capacity to defend themselves against the military might of bigger and stronger states.<sup>72</sup> However, this same policy of non- interference made most African states to seat and watch the horrors of Rwandan genocide to unfold in 1994 from their own backyard. The devastating intra-state conflicts in Sierra Leon and Liberia were also met with deaf ears and the perpetrators were let go unpunished because of this same policy.

The leaders of Africa, even being too little too late, realized that in the world of rapid globalization, the occurrence of a problem in one state directly affects the socio- economic and political situations of other regional states. The grate lakes region of Africa is the best example for this. The problem in Democratic Republic of Congo is directly affecting Rwanda, Burundi and Uganda.<sup>73</sup> That's why the leaders decided to change their idea of 'non- interference' into 'non-indifference' by the creation of the AU.<sup>74</sup>

The other factor for the creation of the AU was the re-emergence of the African renaissance in the late 1990s because of the new democratic states like South Africa that brought this idea back on the table.<sup>75</sup> African Renaissance was an instrumental force towards regional integration and creation of common vision for Africa.<sup>76</sup> African renaissance has five dimensions: development, Protection of African culture, Improvement of African global standing, addressing peace and security matters and building democracy, good governance and human rights.<sup>77</sup> AU and NEPAD are actually attempts to operationalize the African renaissance and vision. Simply translated AU provides the organizational vehicle for the realization of African renaissance whilst NEPAD is the program of action for the same vision.<sup>78</sup> The formation of African organizations was based

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<sup>71</sup> Ibid

<sup>72</sup> Id, p.31

<sup>73</sup> Report on Africa, available at <http://www.algazeera/news/africatoday> (accessed on September 26, 2010)

<sup>74</sup> African Union, *Constitutive Act of the African Union*, preamble

<sup>75</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism and African Union: The Case For Leadership And Governance Perspective*, p.21

<sup>76</sup> Mbeki, T. "Let us contribute every thing to the success of the African renaissance," *ANC Today*, 2:13 (2002), P.4

<sup>77</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism and African Union: The Case For Leadership And Governance Perspective*, P.5

<sup>78</sup> Ibid

on the African renaissance dimension with the Aim of making the African continent a force to be reckoned in the global village.<sup>79</sup>

### 2.3.2. A New Start for Africa? The Creation of AU

The challenge of the new- millennium and the unsuccessful history of the OAU necessitated the radical transformation of the later for the eradication of poverty and underdevelopment on the continent. African leaders seem to realize that the time has come to have a commitment for united vision for the continent.<sup>80</sup> In addition, to give effect to the interactive processes, the African leaders were motivated by the need to combat the scourge of conflicts, the promotion and protection of human rights, the consolidation of democratic institutions and culture and the need to ensure that good governance and the rule of law prevail.<sup>81</sup> In terms of the constitutive act, the AU was constituted by three pillars- partnership with civil society, the promotion of peace, security and stability on the continent, and political and socio economic integration, with a view to achieve sustainable development.<sup>82</sup>

The move to transform the OAU was taken after it became obvious that the OAU structure and mandate had not improved the living conditions of ordinary citizens of the continent. Many of the African people are still living in deep and worse situation than the last years of colonization despite being politically freed from western colonization.<sup>83</sup>

Even though AU has more lavish structure and mandate to deal with the century lived issue of poverty and democracy, from the moment AU was conceived and born, it has its own share of criticisms saying it will not make it and will not be able to live up to its aspirations just like its predecessor. Most critics still assert that the AU was painted with the same brush that was used to paint the ineffectiveness of the OAU.<sup>84</sup> Most of the leaders that create the new AU were also there during the era of OAU who made the latter ineffective. The critics then ask why ordinary

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<sup>79</sup> Ibid

<sup>80</sup> Sirte Declaration, Fourth Extraordinary Session Of The Assembly Of Heads Of State And Government, (8-9 September 1999, Sirte, Libya), para 4.

<sup>81</sup> African Union, *Constitutive Act of the African Union*, Lome, Togo. July 2000, Principles, Art. 4

<sup>82</sup> Aparajita Biswas., "NEPAD: forum for growth and unity", p.793

<sup>83</sup> World Bank, 1992, *Governance and development*, Washington, DC: World Bank.

<sup>84</sup> Alexander K. Frempong, "African Peer Review Is Taking Shape: As First Countries Join Up, Donors See Participation As New Condition For Aid." *African recovery*, 16:4 ( February, 2003), P.25

Africans should expect any different this time around from the AU since most of the leaders are still undemocratic and repressive and would never let go of their old habit.<sup>85</sup>

AU is also largely criticized for not adequately participating civil society and other grass root institutions which could play irreplaceable role to the effectiveness of the AU.<sup>86</sup> AU lacks legitimacy and popular support for it is still a club of leaders, as its predecessor, who want every decision to go from top to down and not the other way around.<sup>87</sup> The Constitutive Act of Union was debated by neither national parliaments nor civil society prior to its adoption.<sup>88</sup> Thus, the conduct of AU does not still escape the criticism of Ordinary Africans who perceive the new organization no more than a union of dictators who pay attention only to their personal glory and desire than their peoples need and will not put their action where their mouth is.

AU defends itself saying it is determined to solve the most burning issues of Africa through its different sub- organs and initiatives like NEPAD. NEPAD is, AU believes, a vehicle for solving prevalent problems of bad governance, and violation of human rights through its peer review and other monitoring mechanisms<sup>89</sup> which we will discuss in detail in the next chapters. AU reiterates that it has created an atmosphere through NEPAD and APRM where African states could share their best practices and improve their system.<sup>90</sup>

It is needless to say that both the African people and the international community expect so much better from the AU this time around. The AU need to live up to its vision and mission contained in its constitutive act by creating an integrated political, social and economic whole and fundamental change for the well being of its citizens. The international community should also rally behind the AU to see whether AU will live up to its promises and embrace its future for the betterment of its people. But the ultimate question still remains that whether AU will ever have 'teeth' to deal with matters that confront its members and subdue dictators who wants to do 'business as usual'. Otherwise launching AU will just be as similar as putting new wine of ideas in the old mind jar of African leaders making the wine of no use what so ever.

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<sup>85</sup> Ibid

<sup>86</sup> Harsh, E. "New African Initiative stirs cautious hope: Praise and skepticism," *African Recovery*, 16: 1-2, (2001.) p.13

<sup>87</sup> Ibid

<sup>88</sup> Alex de Waal, *What's New in the 'New Partnership for Africa's Development'?*, p.468

<sup>89</sup> See APRM Base Document, (NEPAD APRM/Panel5 04-2004/calendar/Doc7b), (2004), para 2 and 3.

<sup>90</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism and African Union: the case for leadership and governance perspective*, p.38

### 2.3.3. NEPAD: New Africa on The Making?

#### 2.3.3.1. NEPAD's Agenda of Democracy and Good Governance

It was at the OAU extra ordinary summit in Sirt, Libya in 1999 that Thabo Mbeki, President of South Africa, and Abdulaziz Butoflika, President of Algeria were requested to engage African creditors with a plea to cancel the huge debt that African countries owe to the west.<sup>91</sup> This was considered as a good beginning because debt was identified as an obstacle towards integration of Africa.<sup>92</sup> The OAU summit held in Togo in 2000 mandated the then President of Nigeria, Olesegon Obasanjo and the above presidents to engage with the developed world of the north to develop a constructive partnership for the regeneration of the African continent.<sup>93</sup> It was out of this mandate that these three leaders raised the issue of a partnership initiative with the G-8 at the latter's gathering which was held in Japan in July 2000.<sup>94</sup>

At this stage the initiative was referred to as the millennium partnership for African recovery program (MAP). MAP was a detailed project for the economic and social revival of Africa involving a constructive partnership between Africa and the developed world.<sup>95</sup> MAP then combined with the Omega plan launched by the Senegalese president to form the New Africa Initiative (NAI) which later changed into the NEPAD document. The Omega plan was a late comer, initiated in the early 2001, focusing on regional infrastructural and educational projects.<sup>96</sup> The initiative created by the merger of the two documents, NEPAD, was aiming at effectively managing the integration of Africa into the global economy for the future economic prosperity and poverty reduction.<sup>97</sup> The final draft of NEPAD was born in Oct, 2001 in Abuja, Nigeria.

NEPAD is an integrated sustainable development initiative for the socio economic revival of Africa through the partnership among Africans and with the developed world.<sup>98</sup> In an effort to do something for Africa at the continental and international level, NEPAD claims its inspiration and

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<sup>91</sup> Id . p.44

<sup>92</sup> Ibid

<sup>93</sup> Ibid

<sup>94</sup> Ibid

<sup>95</sup> Peter Anyand, et.al, *NEPAD: A New Path?*, p.50

<sup>96</sup> Alex De Wall, 'Whats New in The NEPAD?', p.466

<sup>97</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism and African Union : The Case For Leadership And Governance Perspective*, p.46

<sup>98</sup> See the NEPAD Base Document, para 8

legitimacy from the concept of African renaissance.<sup>99</sup> Although the struggle for formal independence was completed, the huge task of liberation of Africa from the yoke of poverty and bad governance remains unfinished. It is this unfinished quest which the African renaissance and NEPAD are preoccupied with.<sup>100</sup> NEPAD does not implement projects or distribute funds. Instead, its role is to “identify problems, pinpoint solutions and where needed, exert high-level political pressure to promote change.”<sup>101</sup> NEPAD is a blueprint for Africa’s development in the 21<sup>st</sup> century and provides unique opportunities for Africa to address the critical challenges facing the continent, including the attainment of the Millennium Development Goals (MDGs) and other continental and international agreed upon goals.

NEPAD is said to be a pledge by African leaders, based on common vision and a firm and shared conviction, that they have a pressing duty to eradicate poverty and put their respective country on sustainable development.<sup>102</sup> The continued marginalization of Africa from the globalization process was a serious concern for Africa and NEPAD wants to change that based on equal partnership with the developed nations.<sup>103</sup>

While AU is aspirational outfit in the present globalization set up, its pragmatic counter part, NEPAD is a plan for African development.<sup>104</sup> Through NEPAD, African leaders have made to the African people and the world to work together in rebuilding the continent.<sup>105</sup> It is a pledge to promote peace and stability, democracy, sound economic management and to hold each other accountable in terms of the agreement outlined in the program.<sup>106</sup>

NEPAD was launched at the time when a number of African countries were victims of one crisis after another.<sup>107</sup> The program came at the time the people of African countries largely resented the out come of the political changes that had occurred in the last quarter of the 20<sup>th</sup> century.<sup>108</sup> It was also a time that witnessed a gradual erosion of interests among the major world powers

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<sup>99</sup> Peter Anyang, et.al, *NEPAD: A New path?*, p.119

<sup>100</sup> Kinfu Abrham, *The African Quest*, p.5

<sup>101</sup> Ross Herbert, *NEPAD and the Many Challenges of Africa. South Africa 2014: The Story Of Our Future* (Guy Lundy, Steuart Pennington, & Brett Bowes eds., 2004), p.4

<sup>102</sup> NEPAD Base Document, para 1.

<sup>103</sup> NEPAD base document , para.2

<sup>104</sup> Aparajita Biswas, “NEPAD: Forum For Growth And Unity”, p.793

<sup>105</sup> Ibid

<sup>106</sup> NEPAD Base Document, para 48 and 49

<sup>107</sup> Aparajita Biswas, “NEPAD: Forum For Growth And Unity”, p.793

<sup>108</sup> Ibid

towards Africa to such an extent that many countries started to close their embassy networks.<sup>109</sup> The declining interest in Africa was further reflected in the attitude of the international community by reducing their annual assistance drastically especially during the last decade of 20<sup>th</sup> century.<sup>110</sup>

During its inauguration, NEPAD secured wide acceptance on its program and commitment from the international community. The UN assembly officially endorsed NEPAD in 2002 to symbolize a new start for the international community in its interactions with the African countries.<sup>111</sup> In June 2002, G-8 leaders observed that Africa's new development program was a 'bold and clear sighted vision'.<sup>112</sup> To support the initiative, the G-8 also welcomed the creation of APRM which they considered 'an innovative and potentially decisive element in NEPAD's success.'<sup>113</sup>

### 2.3.3.2. What is Discussed under NEPAD?

The most important issue of NEPAD is self reliance and it repeatedly reiterated that Africans must be masters of their own destiny.<sup>114</sup> NEPAD explains that no corner of the world has escaped the effects of globalization but the contributions of various regions have differed markedly and Africa is the worst hit by this global phenomenon.<sup>115</sup>

The NEPAD document starts by reviewing the place of Africa in today's world and emphasizes the new political will and resolve of African leaders in the context of the spread of democracy. It then moves rapidly to set out the strategy, to a discussion of programmes of action and to the implementation of the plan. NEPAD explains the ultimate cause for Africa's underdevelopment by saying there is no single cause rather a culmination of causes.<sup>116</sup> NEPAD document first does argue the historical cause, colonialism, to Africa's poverty but refrains to put the blame entirely on the colonial period.<sup>117</sup> The workings of the international economic system is also another

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<sup>109</sup> Ibid

<sup>110</sup> Ibid

<sup>111</sup> UN Resolution (A/RES/57/7). Final review and appraisal of the United Nations New Agenda for the Development of Africa in the 1990s and support for the New Partnership for Africa's Development, 2002

<sup>112</sup> "African Peer Review is Taking Shape," *African recovery* 16:4, ( February, 2003): 1-23, p.12

<sup>113</sup> Ibid

<sup>114</sup> NEPAD Base Document,(2001). para 7

<sup>115</sup> Id, para.31

<sup>116</sup> Id, para 33

<sup>117</sup> Id, para 18

cause for Africa's failure according to the same document blaming it for Africa's integration in the world market only as supplier of cheap labor and raw materials.<sup>118</sup> But ultimately NEPAD puts the fault on the weakness of African states and their dysfunctional economies, which were further aggravated by poor leadership, corruption and bad governance in many African countries.<sup>119</sup> The net effects of these processes has been the entrenchment of vicious cycle and poor governance reinforce each other, there by confirming Africa's peripheral and diminishing role in the world economy.<sup>120</sup>

NEPAD emphasizes that Africans should determine their own destiny and call on the world to complement its efforts.<sup>121</sup> Central to NEPAD is the notion of new partnerships, in particular new partnerships between Africa and the rest of the world, and between African states and their people and NEPAD requires ownership of the process by Africans because the beneficiaries of the initiative are the African countries and their people.<sup>122</sup>

NEPAD admits that these have been similar attempts in the past to set out continent-wide development programmes but were not successful for different reasons both internal and external.<sup>123</sup> NEPAD further explains why NEPAD, this time, will be successful by pointing that there is a new set of circumstances, which contribute for the success of NEPAD's programmes. Internationally, the end of cold war has facilitated for the new favorable condition for Africa and internally NEPAD argues that democracy is spreading and the numbers of democratically elected leaders are on the increase and above all African governments are much more resolute about regional and continental goals of economic cooperation and integration, according to NEPAD.<sup>124</sup> NEPAD's strong emphasis on democracy and good governance indeed make it different from past attempts at fashioning Africa-wide initiatives for African development.<sup>125</sup>

NEPAD has the following primary objectives to be achieved. These include eradication of poverty; to place African countries and their people, both individually and collectively on a path

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<sup>118</sup> Ibid

<sup>119</sup> Id, para 22

<sup>120</sup> Id , para. 26

<sup>121</sup> Id, para.7

<sup>122</sup> Id, para 51

<sup>123</sup> Id, para 42

<sup>124</sup> Id, para 43-45

<sup>125</sup> Ravi Kanbur, *NEPAD: An Initial Commentary*, p.5

of development; to halt marginalization of Africa and ownership of the process by Africans.<sup>126</sup> To achieve these objectives NEPAD selected the outstanding points where African leaders should take joint responsibility. Strengthening mechanisms for conflict prevention, protecting democracy and human rights, restoring economic stability e.t.c are some of the important points mentioned by NEPAD.<sup>127</sup>

APRM is the vital organ instituted to give effect to the objectives of NEPAD, where by a peer review and assessment mechanism to investigate compliance with good governance principles and effective economic and political leadership.<sup>128</sup> NEPAD proposes to bargain in which African leaders will deliver peace and good governance, through peer review and the developed countries will give more resources of various kind, including Aid, more trade and debt relief.<sup>129</sup>

### 2.3.3.3. NEPAD's Institutional Structure

The main feature of the NEPAD governance and management structure includes the AU Assembly, NEPAD HSGIC, which is latter changed into Heads of States Orientation committee, a steering committee and finally the Secretariat latter changed into NEPAD Planning and Coordinating Agency.<sup>130</sup>

The AU Assembly will play a supervisory role on the mechanisms of NEPAD's programmes and receives the recommendation from the Orientation committee for endorsement.<sup>131</sup> The Heads of State Orientation committee is a sub committee of the AU Assembly composed of fifteen heads of States three from each region.<sup>132</sup> The function of the Orientation committee consists of providing political leadership and strategic guidance to NEPAD programmes.<sup>133</sup> The NEPAD steering committee is charged with the task of developing a strategic plan for marketing NEPAD at national, sub-regional, regional and international levels with the aim of mobilizing domestic

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<sup>126</sup> See NEPAD Frame Work Document, para.1

<sup>127</sup> Id, para 49

<sup>128</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism and African Union: The Case For Leadership And Governance Perspective*, p.54

<sup>129</sup> Rodney Schmidt, "Introduction: Ownership And Partnership In Africa's Development Strategy: Africa Report", the North south Institute, *the Brown Journal of World Affairs* 13:2 (Summer Fall 2007), p.794.

<sup>130</sup> See NEPAD Base Document, para.200. the 14<sup>th</sup> AU Assembly decision was responsible for the change of the names (AU/Dec.283(XIV)).

<sup>131</sup> See NEPAD Base Document, para. 198

<sup>132</sup> See NEPAD Base Document, para. 200 and also AU/Dec.283(XIV).

<sup>133</sup> Ibid

support and facilitating private- public sector partnership in Africa as well as enhancing international partnership.<sup>134</sup> The NEPAD steering committee was also given a task as an intermediary body to interface between the orientation committee and the NEPAD Agency.<sup>135</sup>

Even though NEPAD is said to have a secretariat located in Midrand, South Africa, it was always criticized for its loose link with the main programmes and institutions of the AU especially with the AUC making the NEPAD not to fully integrate into the programmes of AU for better implementation. That's why the NEPAD Agency was established, after almost a decade since the creation of NEPAD, by the 14<sup>th</sup> AU Assembly summit decision as an institutional vehicle for implementing the AU's development agenda as a technical body of the AU replacing the NEPAD's secretariat.<sup>136</sup> The NEPAD agency has a mandate to facilitate and coordinate the implementation of the continental and regional programmes and projects; mobilize resources and partners in support of the implementation of Africa's priority programmes and monitor the implementation of NEPAD's programmes.<sup>137</sup> The Chair Person of the AUC was given a mandate by the 14<sup>th</sup> AU Assembly decision to exercise supervisory Authority over NEPAD Agency and to finance the latter through the statutory budgets of the AUC.<sup>138</sup> This is the first time that an African initiative has been institutionalized in the form of a development agency within the AU family enabling to fully integrate the programmes of NEPAD with that of the AU within a single institutional structure.

#### **2.3.4. Can NEPAD Provide a New Path?**

As we mentioned earlier NEPAD proposes a bargain in which African leaders will deliver peace and good governance as a bargaining chip and the developed countries will deliver more resources of various kind including Aid, more trade and debt relief.<sup>139</sup> NEPAD also brags that the new initiative is much more coordinated and the right route for the development of Africa. But many still wonder whether anything is changed in Africa's environment on the ground to make the NEPAD program a success. NEPAD seems a price that African leaders have to pay for continued financial assistance rather than as the political modality that would make development

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<sup>134</sup> Peter Anyang, et.al. *NEPAD: A New path?*, p.57

<sup>135</sup> Assembly AU/Dec.283(XIV), 2010.

<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

<sup>138</sup> Ibid.

<sup>139</sup> Aparajita Biswas, "NEPAD: Forum for Growth and Unity", p.794

more likely.<sup>140</sup> The intention, NEPAD reiterates, is to map out the painful experiences learnt in Africa in the past and establish partnership that is both credible and capable of implementation by making African people architects of their own uplifting.<sup>141</sup>

But the question still remains whether Africans are really the owners of the new initiative or are they being side lined as usual? NEPAD, like its predecessors, is an initiative of the Heads of states. As a result, it has encountered criticism of being elitist in orientation, another movement not based on participation of the mass.<sup>142</sup> NEPAD has a significant shortcoming for being top-down rather than bottom-up initiative. The African leaders are unable to carry their people with them in formulating the substance of the initiative: no consultation was held with the crucial stake holders; its not even sure the national parliaments had deliberated on the document; and the African ownership of the process is a mere hijacking of the program by the heads of states and their immediate advisors with little room for any critical views.<sup>143</sup> The NEPAD plan was first initiated and dealt only among few African leaders. No civil society and even many of the African leaders were not consulted from its outset.<sup>144</sup>

The other problem of NEPAD include whether the donor will go with the commitment necessary to allocate significant amount of money for assistance to Africa since the west is known for broken promises by failing to deliver their commitment.<sup>145</sup> Official Development Assistance (ODA) to Africa has been declining since the 1990s manifesting how much the western were loosing interest in dealing with Africa.<sup>146</sup> Commentators point out that the real motive behind NEPAD is not a genuine commitment of African leaders to their people; rather it is an attempt to win the heart and mind of their western counterparts to pour more money in the form of Aid, loan and debt-relief into Africa.<sup>147</sup>

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<sup>140</sup> Patrick Chabal, "The Quest for Good Government and Development in Africa: Is NEPAD the Answer?" *International Affairs* (Royal Institute of International Affairs 1944-), Blackwell Publishing, 78:3, (July, 2002): 447-462, p. 449

<sup>141</sup> Aparajita Biswas, "NEPAD: forum for Growth and Unity", p.794

<sup>142</sup> Kinfe Abraham, *The African Quest*, p.5

<sup>143</sup> Peter Anyang, *NEPAD: A New path?*, p.48

<sup>144</sup> Id, p.52

<sup>145</sup> Kinfe Abraham, *The African Quest*, p.95

<sup>146</sup> Id, p.142

<sup>147</sup> Alex De Waal, "What's New in the 'New Partnership for Africa's Development?'" p.2

The leaders of NEPAD, which are the most powerful ones in Africa, have got a direct access to the G-8 and other wealthy nations gathering but few in the group have taken the pain to explain to their fellow citizens the basic principles of NEPAD, a serious reluctance which led to a wide speculation about NEPAD.<sup>148</sup> The issue regarding NEPAD raises that it seems to be designed more to ponder and please donor audience rather than responding to or representing the concerns of the democratic issues of reform of political space and development agenda.<sup>149</sup> NEPAD is premised on decisive external support no sooner had the document been drafted, even before any discussion of it within Africans than it was presented to the G-8 summit.<sup>150</sup> This shows NEPAD may have been a mechanism to sell Africa and convince the richest nations to pour more money into Africa.

NEPAD separates itself from the previous initiatives by saying it is an inward looking by promising to tackle the issue of bad governance, conflicts, repression of human rights but Africa is still full of leaders with no real commitment and agenda for positive transformation with uncompromised aim of being in power at the cost of the interests of its people.<sup>151</sup> Thus, it may be naïve to expect anything positive from such leaders. For them it could be a tall order to demand sustainable development and peace. NEPAD's assertion that Africa's incumbents are ready to make sacrifice would be a wild ambition since NEPAD has little to challenge the status quo on the African continent. It is difficult, if not impossible, to implement NEPAD where there exists a wide range of regimes on the continent that are anything but democratic despite dressing themselves up in the paraphernalia of democracy.<sup>152</sup>

Furthermore partnership under NEPAD is not a realistic to the current African vs. developed nation's relations. The relationship of the north with the south in general and the formers relation with Africa in particular is and will continue to be characterized by a domination of the strong over the weak. Donors mostly bring their money attaching a lot of conditions to it with the idea

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<sup>148</sup> Id, p.2

<sup>149</sup> Peter Anyang, et.al, NEPAD:A New path?, p.90

<sup>150</sup> Id, p.106

<sup>151</sup> Id, p20

<sup>152</sup> Patrick Bond, "Removing Neocolonialism's APRM Mask: A Critique of the African Peer Review Mechanism. " *Review of African Political Economy*, Taylor and Francis, 36:122, (2009): 595-603, p.11

of 'take it or leave it'.<sup>153</sup> So it is difficult for Africa to control its programmes and projects without much influence from the donor states.

Some also do not agree with a thinking of 'dependency syndrome' African states are in. If Africa aspires for a real democracy to have root, it cannot depend on the foreign and imposed neo-colonialist idea of development. Rather, it should learn the principles of self-reliance and real regional integration.<sup>154</sup> The west wants to impose their own way of democracy in Africa but Africans should demand to use their own path of development and democratization.<sup>155</sup> Africa needs to control over developmental priorities rather than to be a mere recipient of western donations and programs; to set out genuine strategies for improved governance, democracy and accountability; and to take control of its own destiny.

NEPAD is also labeled as a plan with largely ambitious targets such as peace, democracy, education, investment, information technology and infrastructure that it is both difficult and needs the overwhelming support of the wealthy nations to even try to implement such programs.<sup>156</sup> It is unlikely that non-Africans will allocate the necessary resources and attention required for financing such projects. The lessons of history are that domestic resources are central to any sustainable development and for any credible policy initiatives.<sup>157</sup>

NEPAD's weaknesses are also apparent in its institutional apparatus. It is a process with neither the capability nor the inclination of its participants to seriously reprimand those who do not abide by NEPAD's principles.<sup>158</sup> Most of the institutional structures are weak with no teeth to bite any non compliance and it suffers lack of the necessary resources to implement its programs.

Thus, despite NEPAD's prominence on the international agenda, it remains relatively unknown to most of African people.<sup>159</sup> Until NEPAD is owned by the people of Africa, the initiative will not take off at the national level and the plan is as good as dead. NEPAD must strive to get the active support of the people of Africa if it is to have any chance of success. Africa does not need

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<sup>153</sup> Peter Anyang, et.al, NEPAD: A New path?, p.44

<sup>154</sup> Id, p.80

<sup>155</sup> Id, p.83

<sup>156</sup> Id, p. 59

<sup>157</sup> Id, p.105

<sup>158</sup> Patrick Bond, "Removing Neocolonialism's APRM Mask: A Critique of the African Peer Review Mechanism. "

p.13

<sup>159</sup> Aparajita Biswas, "NEPAD: forum for Growth and Unity," p.796

grand new paradigms. What it needs is a proper application of lessons already learnt and applying the existing best practices.<sup>160</sup> Unless the lessons of the past are learnt, there is very little reason to believe that the nature of politics in Africa will change simply because of the (admittedly admirable) ambition displayed by NEPAD.<sup>161</sup>

## 2.4. APRM as NEPAD's Monitoring Mechanism for the New Africa

### 2.4.1. APRM, Part of NEPAD's Package

Africa entered into the new millennium with optimism and a commonly derived and broadly supported road map of how to overcome the development challenges of the last decades that were exacerbated by a range of factors.<sup>162</sup> It is also acknowledged that the objectives of NEPAD can not be achieved, without among other things, promoting and protecting democracy and human rights, developing clear standards of accountability, transparency and participatory governance.<sup>163</sup> Such promotion and protection, NEPAD believes, should be done through mutual accountability and partnership. To bring this into effect, NEPAD crafted a new frame work for relation between Africa with the rich countries and the relation among African countries with themselves to achieve such ambitious goal. To strengthen the partnership among African themselves, NEPAD adopted APRM as a venue where African countries can learn best practices from other African neighbors to improve their own governance.<sup>164</sup> The concrete manifestation of the partnership and collective accountability of African commitment to improve their political and economic governance refines was the creation of APRM.<sup>165</sup> It is The most innovative and audacious element of NEPAD as an effort to improve governance through the APRM.<sup>166</sup>

The NEPAD heralds down of a new African continent with a commitment to redeem the continent. One of the features of NEPAD is the APRM, based on the belief that no redemption can occur unless African countries engage in some form of self assessment, critique through peer

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<sup>160</sup> Alex De Waal, "What's New in the 'New Partnership for Africa's Development?'" , p.4

<sup>161</sup> Patrick Chabal, "The Quest for Good Government and Development in Africa: Is NEPAD the Answer?" , p. 449

<sup>162</sup> APRM, Africa's innovative thinking on governance, prepared by the APRM for the Eighth gathering of African partnership forum, (2007), p.2 available at [http://www.undp.org/oslocentre/docs07/workshop/day3\\_wed\\_290807/provided\\_materials/APRM.pdf](http://www.undp.org/oslocentre/docs07/workshop/day3_wed_290807/provided_materials/APRM.pdf) (accessed on September 06,2010).

<sup>163</sup> See NEPAD Base Document, para. 49

<sup>164</sup> Adotey Bing-Pappoe, *Reviewing APRM: A Seven Country Survey*, partnership Africa-Canada, (2010), p.3

<sup>165</sup> Ibid

<sup>166</sup> Ross Herbert, *The APRM: Lessons from the pioneers*, p.4

review mechanism. NEPAD is at present Africa's most visible and resolute commitment to address the multifaceted problems that have for decades plagued the continent.<sup>167</sup> However the bed rock in many respects of the NEPAD's vision is the APRM, a voluntary process and procedure that seeks to promote good governance.<sup>168</sup> This is supposed to be achieved through sharing of experiences, reinforcement of successful and best practices, adhere to international standards of governance, democracy and respect for rule of law.<sup>169</sup> Africa's biggest problem so far: good governance or rather the lack thereof is the main areas where APRM promised to work on and improve.

African leaders have decided to embrace on a strategy of assessing compliance with NEPAD prescription for the drive to African economic growth and development. To ensure that the vision of NEPAD becomes a reality, African leaders are making a call for improved governance of all entities in all sectors of the human sphere to attain development targets.<sup>170</sup> This call for improved governance was made through APRM to reinforce successful best practices, to identify deficiencies and to assess the needs for capacity building in all African countries.<sup>171</sup>

NEPAD, in its base document spoke of 'setting up mechanism for reviewing progress in the achievement of mutually agreed targets and compliance with mutually agreed standards.'<sup>172</sup> It is to fulfill this very commitment of NEPAD that APRM was created. APRM is thus, the mechanism created by NEPAD to enforce the commitments outlined under NEPAD to promote good governance and sustainable development on the continent.<sup>173</sup> The APRM has been described as 'the sharpest tool in the NEPAD box'.<sup>174</sup> It should enable leaders to 'look over each others shoulders' and to share best practice, as well as advances in governance, socio-economic development and in building the capacity of African countries.

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<sup>167</sup> Zein Kebonang, et.al, "the African Peer Review Mechanism: Challenges and Prospects, AU, NEPAD AND the APRM Democratisation efforts Explored", Current African Issue No.32, *The Authors and Nordiska Afrikainstitutet* (2006), p.5

<sup>168</sup> Ibid

<sup>169</sup> Ibid

<sup>170</sup> Wilson M. Makgalncheche, *African Peer Review Mechanism and African Union: the case for leadership and governance perspective*, p.68

<sup>171</sup> Ibid

<sup>172</sup> See Declaration On Democracy, Political, Economic And Corporate Governance, (AHG/235 (XXXVIII) Annex I), para.28

<sup>173</sup> Ibid

<sup>174</sup> Monica K Juma, "Africa's Governance audit The African Peer Review Mechanism", *New Economy*, 11:3, (2004):178-180, p.178

The origins of the APRM can be traced to the NEPAD HSGIC meeting in Abuja, Nigeria and agreed that African leaders should set up parameters for good governance to guide their activities at both political and economic level.<sup>175</sup> In this regard it has decided that, at its next meeting, it would consider and adopt an appropriate peer review mechanism and a code of conduct.<sup>176</sup> Then in the inaugural summit of AU in July 2002, in Durban, South Africa the African heads of states adopted the declaration on Democracy, political, economic and corporate governance.<sup>177</sup> In this adopted declaration the Heads of State agreed to separately established APRM on the basis of voluntary accession to promote adherence to and fulfillment of the commitments contained in that very declaration.<sup>178</sup> It is a full blown, voluntary, non- adversarial and ‘African-owned’ peer review process which was immediately linked organizationally with NEPAD structure.<sup>179</sup>

In March 2003, the NEPAD HSGIC, meeting in Abuja, Nigeria adopted a MoU on the APRM.<sup>180</sup> This MoU effectively operates as a treaty for APRM acceding countries. It entered into force in Abuja, when six states agreed to be subjected to its terms.<sup>181</sup> This specific meeting also adopted a set of objectives, standards, criteria and indicators for APRM.<sup>182</sup> African leaders who subscribe to the APRM agree to allow their fellow Africans (peers) to check if their house rules conform to the goals of good governance as subscribed under declaration on democracy, political, economic and corporate governance. The leaders, especially those that have signed the APRM document, have declared their optimism and hopes in the APRM, which they had declared to be new and unique innovation for Africa’s recovery.<sup>183</sup> In its breadth and depth, the APRM is unprecedented. It seeks assessment of nearly the entire range of state activity under four broad but interlined themes: democracy and political governance; economic governance and management; corporate governance and socio-economic development.<sup>184</sup>

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<sup>175</sup> Jackie Cilliers, “NEPAD’s Peer Review Mechanism,” *Institute of Security Studies*, (2002), p.2

<sup>176</sup> Ibid

<sup>177</sup> NEPAD’s Declaration On Democracy, Political, Economic And Corporate Governance. (AGH/235(XXXVIII) annex I).

<sup>178</sup> Id, para.28

<sup>179</sup> Newell M. Stultz, “African States Experiment With Peer Reviewing”, *Brown Journal of World Affairs*, 13:2 (2007), P.6

<sup>180</sup> Adotey Bing-Pappoe, *Reviewing APRM. A Seven Country Survey*, p.6.

<sup>181</sup> Ibid

<sup>182</sup> Ibid

<sup>183</sup> Mokeke M. Makgalncheche, *African Peer Review Mechanism and African Union: The Case For Leadership And Governance Perspective*, p.69

<sup>184</sup> APRM Base Document, para 2

Currently, as of January 2010, there are thirty countries acceded to the APRM<sup>185</sup> with only twelve countries have completed the full first review cycle.<sup>186</sup> The remaining acceding countries have either did not start their process at all or are in the early stages of the APR process

NEPAD and APRM were received with the mixture of excitement and skepticism in Africa and outside. Many in the continent have grown apathetic after years of business as usual and have adopted a wait and see attitude to the APRM.<sup>187</sup> African leaders have a lot to prove not only to their western counterparts by making sure that they do not fall flat on their faces in humiliating way but also show their citizens that this time they really mean business.<sup>188</sup> In joining APRM, each of the participating countries has agreed to be periodically “peer-reviewed” by a multi national team of African reviewers, acting on behalf of the organization as a whole.<sup>189</sup> Thus, the APRM is a bold, worthy and indeed surprising democratic gamble on the continent that would greatly be served by its successes.<sup>190</sup>

#### 2.4.2. Meaning and Objective of Peer Review

Peer review can be described as the systematic examination and assessment of the performance of a state by other states, with the ultimate goal of helping the reviewed state improve its policy making, adopt best practices, and comply with established standards and principles.<sup>191</sup> The examination is conducted on a non- adversarial basis, and it relies heavily on mutual trust among the states involved in the review, as well as their shared confidence in the process.<sup>192</sup> With these elements in place, peer review tends to create, through this reciprocal evaluation process, a system of mutual accountability.<sup>193</sup> Peer review seeks to make frankness, robust debate,

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<sup>185</sup> Algeria, Angola, Benin, Burkina Faso, Cameroon, Djibouti, Egypt, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Malawi, Mali, Mauritania, Mauritius, Mozambique, Nigeria, Republic of Congo, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Uganda and Zambia and Cape Verde.

<sup>186</sup> Steven Grudz, “SAIIA Round Table: The African Peer Review Mechanism- Progress And Prospects”, *SAIIA Occasional Paper*, No.59, (2010), P.5

<sup>187</sup> Juliet Nakato, ‘*The Politics of Reform: The Role of the APRM*’, Care International In Uganda, (SAIIA, 2008), p.1

<sup>188</sup> Id, p.2

<sup>189</sup> Newell M., “African States Experiment With Peer Reviewing”, p.1

<sup>190</sup> Id, p.6

<sup>191</sup> Fabrizio Pagani, *Peer Review: A Tool For Co-Operation And Change An Analysis of an OECD Working Method*, (OECD Paris, 2002), p.4

<sup>192</sup> Ibid

<sup>193</sup> Id, p.5

differences of opinion and criticism less threatening and more acceptable, if the review process involves different stake holders including citizens of the country under review.<sup>194</sup>

Within one or more of those subject areas, a State may be examined against a wide range of standards and criteria, such as conformity with policy guidelines, or implementation of legally binding principles.<sup>195</sup> Peer review is typically carried out on a regular basis, with each review exercise resulting in a report that assesses accomplishments, spells out shortfalls and makes recommendations.<sup>196</sup>

It would be easier to understand if we take some examples of other monitoring mechanisms and compare them with peer review. Other mechanisms for monitoring and ensuring compliance with internationally agreed policies and norms may be distinguished from peer review include:

*Judicial proceedings:* unlike judicial proceedings, the final outcome of peer review is not a binding act or a legal judgment by a superior body and peer review never implies a punitive decision or sanctions;<sup>197</sup>

*Fact-finding missions:* Peer review, is not always conducted on-site like fact finding mission, and it generally goes beyond fact-finding to include an assessment of the performance of the State.<sup>198</sup> Fact – finding can be a part of the peer – review process;<sup>199</sup>

*Reporting mechanism:* this involves periodic reporting by States to independent bodies, who then analyze the submitted reports.<sup>200</sup> By contrast, peer review is characterized by dialogue and interactive investigation, in addition to reporting by a reviewed state which the review body analyzes the report.

The concept of peer review has its origins in the professional bodies for publishing scholarly journals or books. A writer sends his writing to a scholarly journal.<sup>201</sup> Then the editor sends the

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<sup>194</sup> “News and Views on the APRM”, *The APRM Monitor*, No.6 (2008), p.3

<sup>195</sup> Fabrizio Pagini, ‘Peer Review: A Tool For Cooperation And Change’, p.5

<sup>196</sup> Ibid

<sup>197</sup> Ibid

<sup>198</sup> Ibid

<sup>199</sup> Ibid

<sup>200</sup> See, for instance, the International Labor Organisation Review and Assessment process.

<sup>201</sup> Ravi Kanbur, “The African peer review mechanism (APRM): an assessment of concept and design”, *Politikon* 31:2 (2004):157-166, p.159.

paper to specialist reviewers.<sup>202</sup> Then the reviewers send back their assessment reports back to the editor whether to publish it or not.<sup>203</sup> Then the editor makes his/her judgment based on the reports of the reviewers.<sup>204</sup> But the concept of Peer review by states refers to the monitoring of state compliance with a provision of in a treaty or other relevant instruments through peer dialogue with the state under review.<sup>205</sup>

When we come to the APRM, unlike other international monitoring body processes, it is not a mechanism for enforcing international standards. Instead, the APRM is supposed to act as a catalyst for African countries to discover for themselves best policies and practices that will achieve the objective of NEPAD.<sup>206</sup> The APRM is a voluntary monitoring mechanism that relies on dialogue, peer pressure and monitoring of peers for its success.<sup>207</sup> It is an instrument to assess the quality and status of governance in the participating countries.<sup>208</sup> It is organized on a dual process of governance self – assessment by the APR Panel culminating in a peer review by the leaders of those countries.<sup>209</sup> It is a mutual learning process acceded by voluntary AU members with a view to enhancing progress in their key governance and socio economic development areas.<sup>210</sup>

APRM is unique in its scope and breadth. While the concept of peer review has precedents, its use by states has been limited only to sector- specific and financial audits.<sup>211</sup> But, The APR process is different since it is a mechanism where by countries voluntarily ‘open their books’ on various governance spheres to be examined within a format structure according to NEPAD

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<sup>202</sup> Id, p.160

<sup>203</sup> Ibid

<sup>204</sup> Ibid

<sup>205</sup> Rene Ngamau, "The Role Of NEPAD In African Economic Regulation And Integration," *Law And Business Review America's* 10, (2004):515-542, p.540

<sup>206</sup> Christopher Mbanzira, "A Dream Differed: An Assessment Of The Findings Of Uganda's Country Self Assessment Report Under The APRM", *HURIPEC working paper* No.19 (2008), p.9

<sup>207</sup> Ibid

<sup>208</sup> Training Workshops On 'Enhancing The Role of Effective Participation of Parliamentarians in the APR Process', (E/EC/GPAD/APRM/Int.1), United Nations Economic Commission For Africa, Governance And Public Administration Division (Nov 12-14, 2008), P.1

<sup>209</sup> Ibid

<sup>210</sup> Press release on present developments in the APRM in Kenya and the continental process, ( Oct 9, 2006), available at [http://aprm.krazyboyz.co.za/index.php?option=com\\_aprm\\_news&Itemid\\_35&page\\_news-detail&cid\\_31&id\\_10&nid\\_1&backid\\_1](http://aprm.krazyboyz.co.za/index.php?option=com_aprm_news&Itemid_35&page_news-detail&cid_31&id_10&nid_1&backid_1) (accessed on October 10, 2010)

<sup>211</sup> Aysha Kajeer, *NEPAD's APRM: A Progress Report, Practical Limitations And Challenges*, SA year book of international Affairs, (SAIIA 2003 04), p.243.

guidelines by assessing the countries political, social and economic, issues by teams of African experts to test the commitment of African leaders which they put on the NEPAD document.<sup>212</sup>

As clearly stipulated in the APRM base document, the primary purpose of the APRM is to foster the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration through sharing of experiences and reinforcement of successful and best practice, including identifying deficiencies and assessing the needs for capacity building.<sup>213</sup> The objective of APRM is mainly to: improve the standards of human rights; improve and enhance the economic development; monitor and track progress towards agreed NEPAD goals and codes of standards, and enhance African ownership of the development agenda.<sup>214</sup> The mechanism is intended to give a platform for African governments, civil society, NGOs, and their external partners to discuss and build consensus on the state of governance at the national level.<sup>215</sup>

APRM is not only participatory process but also a collective one where by the country would identify its weaknesses and strengthen and make appropriate adjustment.<sup>216</sup> APRM is not intended to be a governance watch dog; rather it aims to encourage engagement between different stake holders as well as to engage with like minded African states committed to improving their own institutions and governance practices.<sup>217</sup> The clear wish and expectations of APRM participants is that by subjecting themselves to such reviews they will voluntarily choose to become better governed over time and, so choosing, will individually and as a group of states, earn increased international respect, and the favor especially of international donors.<sup>218</sup>

Generally, APRM has been given the responsibility for ensuring that the policies and practices of participating states conform to the agreed political, economic and corporate governance values, codes and standards contained in the Declaration of Democracy, political, Economic and

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<sup>212</sup> Ibid

<sup>213</sup> APRM Base Document, para.3

<sup>214</sup> "Africa Peer Review is Taking Shape", *African Recovery*, 16:4 (2003)

<sup>215</sup> Strategies for Promoting Effective Stake Holder Participation in the APRM, United Nations Economic And Social Council UNECA, (E/ECA CHDCS,3/5), Third meeting of the Committee on Human Development and Civil Society, (May, 2005), para.5

<sup>216</sup> NEPAD Secretariat, Communiqué: APRM Support Mission to Rwanda',- APRM, (July 2005). Available at ([http://www.sarn.org.za/documents/d00000845\\_p958-Rwanda-APRM.pdf](http://www.sarn.org.za/documents/d00000845_p958-Rwanda-APRM.pdf)) (accessed on October 4, 2010)

<sup>217</sup> Grant Masterson, *Defining Civil Society In The Context Of The African Peer Review Mechanism*, (Democracy and Development eds, 2007), P.21

<sup>218</sup> Newell M. "African States Experiment With Peer Reviewing", p.1

Corporate governance<sup>219</sup> and meeting its responsibility is its underlying objective to enhance sustainable growth and development with stability in the continent.<sup>220</sup>

### 2.4.3. The Value of Peer review Exercise

It is true that countries because of the difference of historical context and stages of development start from different base lines and should not be expected to reach their highest level of performance at the same time.<sup>221</sup> So the main use of peer review exercise should be to encourage better performance if the country undergoing review has a 'political will' and 'good faith' to improve itself, rather than simply impose sanction and name and shame them on public for their current shortcomings.<sup>222</sup> Equally, peer reviews will and should result in greater public debate in many issues of governance. Public scrutiny and peer pressure will then provide the impetus for conscious efforts at improving public accountability for the ultimately needed development.<sup>223</sup>

In many contexts, the soft law nature of peer review can prove better suited to encouraging and enhancing compliance than traditional enforcement mechanism. Peer review can be beneficial in broad range of areas. In each of these areas, peer review, directly or indirectly, can be useful in different ways. To mention few among the many:

*Policy dialogue:* - during the peer review process countries systematically exchange information, attitudes and views on policy decision and their application.<sup>224</sup> This dialogue can be the basis for further cooperation.

*Transparency:*- the reviewed country has the chance, in the course of peer review, to present and clarify national rules, practices and procedures and explain the rationale. As a result such reviews results are made available to the public scrutiny.

*Capacity building:*- peer review is a mutual learning process in which best practices are exchanged. The process can, therefore, serve as an important capacity building instrument, not

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<sup>219</sup> APRM Base Document, para.2

<sup>220</sup> Adotey Bing-Pappoe, *Ghana and the APRM: A critical Assessment*, Africa Governance Monitoring and Advocacy Project (AfriMAP), (2007), p.27

<sup>221</sup> NEPAD/HSGIC-03-2003 APRM Guidelines, para. 1.4

<sup>222</sup> Ibid

<sup>223</sup> Kempe Ronald Hope, "Towards Good Governance And Sustainable Development: The APRM", *An International Journal of Policy, Administration, and Institutions*, 18:2, (April 2005): 283-311, p.299

<sup>224</sup> Fabrizio Pagini, *Peer Review: A Tool for Cooperation and Change*, p.11

only for the country under review, but also for countries participating in the process.<sup>225</sup> Such an exercise, therefore, presents an important learning opportunity for capacity building.

*Compliance*:- an important function of peer review is to monitor and enhance compliance by countries with internationally agreed policies, standards and principles through dialogue with the concerned state. Unlike legal enforcement mechanism, peer review works as sort of 'soft enforcement' system, resulting in non-coercive final reports and recommendations where the voice of the reviewed country is part and parcel of the report.<sup>226</sup> Thus, the reviewed state may comply better with it since it is part of it.

But the extent of the success of peer review exercise depends on the combination of a number of factors. Some of which could be summarized as follows:

*Value sharing*:- one precondition for an effective peer review is a strong common understanding on the standards or criteria against which to evaluate performance,<sup>227</sup> to prevent uncertainty or back tracking during the process.

*Adequate level of commitment*:- the participants must be fully engaged in the rules of the game and the process which requires massive human and financial resources.<sup>228</sup>

*Mutual trust*:- since peer review is, by its very nature, a cooperative, non- adversarial process, mutual trust is a crucial prerequisite for its success.

*Credibility*:- to ensure credibility, the review must be objective, faire and consistent.<sup>229</sup> In the same way, independence, transparency and quality of work must be guaranteed.<sup>230</sup>

If such conditionality are not respected and genuine commitment is not forth coming, such review exercises may end up of being a victim of government manipulation and political consumption loosing its true purpose.

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<sup>225</sup> Id, p.12

<sup>226</sup> Ibid

<sup>227</sup> Ibid

<sup>228</sup> Ibid

<sup>229</sup> Id, p.13

<sup>230</sup> Ibid

Coming to out research area, APRM, it is generally accepted that it has the potential of being a novel model of monitoring African governance.<sup>231</sup> It is a unique monitoring process that not only enables the assessment and review of African governance but also does so through African partnership.<sup>232</sup> By subjecting themselves to peer review, African countries will have their policy decisions and their application scrutinized.<sup>233</sup> Peer review, therefore, will stimulate better policy choices and lead to policy change if necessary.

One may ask what incentives there are fore joining up the APRM. Clearly, a country will join a voluntary mechanism if it is in its own interest to do so. Two broad incentives can be distinguished. First, where reviewed countries demonstrate a will to address their governance short comings, it will be incumbent upon participating governments to provide what assistance they can, as well as urge donor governments and agencies to also come to the assistance of the country reviewed.<sup>234</sup> The second incentive for acceding to the APRM is its potential use as an evaluative device to determine preferred investment and aid destination for investors, who may not have sufficient information when distinguishing between African countries which are generally considered as a 'high risk category'.<sup>235</sup> The review may provide investors with information on which countries are seriously committing themselves for good governance.<sup>236</sup> Already, the G8, the African Development Bank and a number of bilateral donors have made it known that they will boost Aid to countries that receive good peer reports and may cut aid to those that perform poorly.<sup>237</sup>

Most importantly, for African states and other External partners have faith in the system and its value revealed, APRM must try to balance two largely opposed imperatives. First, the APRM needs to set the standards for its reviews high enough so that the donor nations can comfortably

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<sup>231</sup> High-Level Task Force (HLTF) On The Implementation Of The Right To Development, Technical Support Mission, Aprm, (A/Hrc/8/Wg.2/Tf/ Crp.3), (2003), P.6

<sup>232</sup> Ibid

<sup>233</sup> Kempe Ronald Hope, *Towards Good Governance And Sustainable Development: The APRM*, p.297

<sup>234</sup> African Peer Review Mechanism: Africa's Innovative Thinking on Governance, the forum for the 8<sup>th</sup> gathering of the African partnership forum, (2007), p.9 . available at ([http://www.undp.org/oslocentre/docs07/workshop\\_day3\\_wed\\_290807/provided\\_materials/APRM.pdf](http://www.undp.org/oslocentre/docs07/workshop_day3_wed_290807/provided_materials/APRM.pdf)) (accessed on November 11,2010)

<sup>235</sup> Ibid

<sup>236</sup> Ibid

<sup>237</sup> Perceptions on APRM, available at [http://www.sahrit.org/index.php?op\\_news&aid=30](http://www.sahrit.org/index.php?op_news&aid=30) (accessed on September 1, 2010)

'abandon' their own monitoring process and accept the outcomes of the review process.<sup>238</sup> At the same time, care must be taken not to set the bar so high in the reviews that African countries which are lowly ranked are discouraged from participating in the review process for fear of being 'exposed'.<sup>239</sup>

#### 2.4.4. Structure of the APRM

The APR institutional structure is established both at continental and National level for smooth linkage and functioning of the APR process. At the continental level there are four structures which we shall put accordingly.

*The APR Forum-* the committee of participating Heads of state and Government, which is the APRM's highest decision making body is called the APR forum.<sup>240</sup> It includes the executive leaders of the countries that have acceded to the APRM.<sup>241</sup> The over all responsibility of the APRM is vested with the APR Forum.<sup>242</sup> Therefore, the APR forum has the ultimate responsibility for oversight of the APR processes; for exercising consultative peer dialogue and persuasion required to make the APRM effective, credible and acceptable.<sup>243</sup> It meets about twice a year, often on the margins of the AU summit.<sup>244</sup> In addition, the mandate of APR forum includes consider, adopt and take ownership of country review reports submitted by the APR panel; persuade development partners to provide technical and financial assistance; transmit APRM's reports to appropriate AU organs and make public the APR country review reports.<sup>245</sup>

*The APR Panel-* A peer review process is managed by a panel of 'eminent persons' of Africans called the APR panel.<sup>246</sup> There are 5 to 7 professionally distinguished individuals selected in part as representatives of the various principal regions of the continent by the APR Forum.<sup>247</sup> These

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<sup>238</sup> Newell M. "African States Experiment With Peer Reviewing," p.11

<sup>239</sup> Ibid

<sup>240</sup> Ross Herbert, *The APRM: Lessons From The Pioneers*, p.13

<sup>241</sup> Ibid

<sup>242</sup> AFRICAN Peer Review Mechanism Organisation And Processes, NEPAD HGSIC-3 2003/APRM Guideline/O&P (2003), para.2.1

<sup>243</sup> Ibid

<sup>244</sup> Ross Herbert, *The APRM: Lessons From The Pioneers*, p.13

<sup>245</sup> African Peer Review Mechanism Organisation And Processes, NEPAD/HGSIC-3 2003/APRM/Guideline O&P (2003), para.2.2

<sup>246</sup> Id, para 3.3

<sup>247</sup> Ross Herbert, *The APRM: Lessons From The Pioneers*, , p.13

individuals should have a high standing and integrity and are appointed for five years term.<sup>248</sup> The purpose of the APR Panel is to insulate the process from any political interference and ensure its political integrity.<sup>249</sup> One member of the Panel is responsible for overseeing each country review process, which includes supervising of country support mission, country review mission and the writing and review of the final country report.<sup>250</sup> Finally, the APR Panel submits all country review reports with appropriate recommendations on measures to be taken to the APR Forum for final deliberation and decision.<sup>251</sup>

*Country Review Team (APR Team)*- both the APR panel and the APR secretariat will have minimal capacity to carry out all the mandates of APRM and will require additional technical expertise.<sup>252</sup> To ensure that the APR process utilizes African technical expertise, the APRM Organization and Processes document calls for the establishment of a group of technical expertise during country review mission called country review team.<sup>253</sup> The country review team is temporarily constituted group of African experts who participate in the country review mission.<sup>254</sup> The APR Panel approves the composition of the APR Team and its terms of reference for each country review visit.<sup>255</sup> The Review team typically comprises 15 to 25 members including eminent academics, business leaders, the APR Secretariat, expert from strategic partners and independent consultants.<sup>256</sup> It visits the country under review for two or three weeks to consult with a variety of stake holders i.e civil society, business and government.<sup>257</sup> The APR Team is responsible for writing the final country report, under the supervision of the APR Panel and with the assistance from APR Secretariat.<sup>258</sup>

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<sup>248</sup> Ibid

<sup>249</sup> African Peer Review Mechanism Organisation And Processes, NEPAD/HGSIC-3 2003/APRM/Guideline/O&P (2003), para.3.1

<sup>250</sup> Ross Herbert, *The APRM: Lessons From The Pioneers*, p.14

<sup>251</sup> African Peer Review Mechanism Organisation And Processes, NEPAD/HGSIC-3 2003/APRM/Guideline/O&P (2003), para.3.1

<sup>252</sup> Guidelines for Countries to Prepare for and to Participate in the African Peer Review Mechanism (APRM) (NEPAD/APRM/Panel3/guidelines/11-2003/Doc8), para.42

<sup>253</sup> African Peer Review Mechanism Organisation And Processes, NEPAD/HGSIC-3 2003/APRM/Guideline/O&P (2003), para.5.1

<sup>254</sup> Ibid

<sup>255</sup> Id, para. 5.2

<sup>256</sup> Ross Herbert, *The APRM: Lessons From The Pioneers*, p.14

<sup>257</sup> Ibid

<sup>258</sup> Ibid

*The APR Secretariat*- the APR Secretariat lends administrative and research support to the panel and the Forum.<sup>259</sup> The secretariat is responsible for providing logistical support for peer review teams, and maintaining extensive data base information on political and economic developments in the participating member countries.<sup>260</sup> This information is used to prepare background documents for the various country review teams that would do the work.<sup>261</sup> The secretariat is also responsible for publishing the final review reports of reviewed countries. The secretariat is funded by voluntary contributions from countries that have acceded and by a trust fund to which development partners have contributed.<sup>262</sup>

On the other hand, there are also different levels of APR structure at the national level to have a speedy and effective review process and to take ownership of the process at the national level including:

*The APR Focal Point*- In February, 2004, the APR Forum approved recommendations that each APR country establish an APR Focal point at ministerial level or above as well as a National coordinating mechanism, where such a structures does not already exist.<sup>263</sup> The APR focal point is intended to play a pivotal communication and coordination role, serving as a liaison mechanism between the national structure and the continental one, such as the Panel and the Secretariat.<sup>264</sup> The APR focal point in conjunction with the coordinating mechanism will also develop, coordinate and implement the country mechanism of preparing for peer review and hosting the country review team during the review visit.<sup>265</sup> It is recommended that the APR Focal point be a high level office in order facilitate direct access to heads of state and to relevant directors and ministers, as and when this is required by the APR Panel and the country review team.<sup>266</sup>

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<sup>259</sup> African Peer Review Mechanism Organisation And Processes, NEPAD/HGSIC-3 2003/APRM/Guideline/O&P (2003), para.4.1

<sup>260</sup> Jakkie Cilliers, *NEPAD's Peer Review Mechanism*, p.4

<sup>261</sup> Ibid

<sup>262</sup> Ross Herbert, *the APRM: Lessons from the pioneers*, p.14

<sup>263</sup> The APR Forum communiqué issued at the end of the first summit of the committee of participating heads of states (APR Forum), Kigali, Feb 13, 2004, p.6 available at [www.eisa.org.za/aprm...APRM\\_CPHSG\\_Communique\\_1stSummit\\_Kigali%202004.pdf](http://www.eisa.org.za/aprm...APRM_CPHSG_Communique_1stSummit_Kigali%202004.pdf) (accessed on sept 24, 2010)

<sup>264</sup> Aysha Kajee, *NEPAD's APRM: A Progress Report, Practical Limitations and Challenges*, p.247

<sup>265</sup> Ibid

<sup>266</sup> Ibid

*The National Coordinating Mechanism*- this structure which is also called National Governing council is a system recommended by the APR Panel to the APR Forum.<sup>267</sup> To ensure that the peer review process is inclusive and credible, the APR MoU explicitly states that there must be broad-based and inclusive participations of key stake holders in the public and private sectors.<sup>268</sup> The National coordinating Mechanism must undertake broad based consultation with all the relevant stake holders groups, crucial factor for ensuring that the peer review process becomes 'owned' at national level.<sup>269</sup> It may be structured in various forms most suited to the country's needs and resources, provided that it fulfills its mandate of inclusive and broad based participation.<sup>270</sup> The National coordinating council is responsible for managing an inclusive national process to produce two key documents: a country self assessment report and PoA.<sup>271</sup> The supplementary guidelines say that the council should include government, business and civil society members and crucially it should have a non- government majority and civil society or private sector chairperson.<sup>272</sup>

*Technical Research Institute (TRI)*- the final appointment required to set the stage for the APR process is instituting TRI. These are organizations which under the terms of the APRM documents were to be given the responsibility to conduct the survey required for the self-assessment.<sup>273</sup> The norm was for non- state bodies to be engaged to conduct these surveys as long as they did so professionally and competently.<sup>274</sup> TRI will be collecting data, analyzing and presenting the views of the general population through agreement (contractual) with the national governing council.<sup>275</sup> But some states like Rwanda did not have such research institutes rather it appointed individuals to perform the task.<sup>276</sup>

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<sup>267</sup> Ibid

<sup>268</sup> Ibid

<sup>269</sup> Ibid

<sup>270</sup> Ibid

<sup>271</sup> Ross Herbert, *The APRM: Lessons From The Pioneers*, p.15

<sup>272</sup> Ibid

<sup>273</sup> Adotey Bing-Pappoe, *Reviewing APRM: A Seven Country Survey*, p.7

<sup>274</sup> Ibid

<sup>275</sup> Ross Herbert, *The APRM: Lessons From The Pioneers*, p.15

<sup>276</sup> Magnus Killander, *The African Peer Review Mechanism and Human Rights: The First Reviews and the Way Forward*, p.49

Finally, the APRM has three partners that provide support, advice and assistance to the APRM. They are UNECA, the UNDP and ADB.<sup>277</sup> Members of the country support mission and country review mission frequently are experts from these mentioned partner institutions.<sup>278</sup>

#### 2.4.5. The Mandate of APRM

The mandate of the African Peer Review Mechanism is the scope of coverage of the review process to ensure that the policies and practices of participating states conform to the agreed political, economic and corporate governance values, codes and standards contained in the Declaration on Democracy, Political, Economic and Corporate Governance.<sup>279</sup> Accordingly, the Declaration on Democracy, Political, Economic and Corporate Governance stipulates that the participating Heads of State and Government of the member states of Africa have agreed to work together in policy and action in pursuit of Democracy and Good Political Governance Economic and Corporate Governance and Socio-Economic Development.<sup>280</sup> From this one can deduce that APRM' mandate is not just limited to sector- specific like most other international peer review mechanisms,<sup>281</sup> rather its jurisdiction extends from Political and democratic governance to Economic and corporate governance.

The Questionnaire is divided into four major sections corresponding to the four focus areas in the APRM document. Under the democratic and political governance, the APRM addresses the main objective of the APRM, which is the promotion of democracy and good political governance since Democracy and good political governance constitute an important prerequisite for successful economic, corporate and socio-economic governance.<sup>282</sup> It assesses the protection of the fundamental rights of the citizenry (both individuals and groups), the accountability of government to the governed, and the relative stability of the polity.<sup>283</sup>

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<sup>277</sup> Ross Herbert, *The APRM: Lessons From The Pioneers*, p.14

<sup>278</sup> Ibid

<sup>279</sup> APRM Base Document. Para.2

<sup>280</sup> the Declaration on Democracy, Political, Economic and Corporate Governance. (AHG 235 (XXXVIII) Annex I), para. 1

<sup>281</sup> One can see OECD, WTO and other international institutions which use peer review for monitoring compliance which only use it on specific sectors.

<sup>282</sup> See Country Self-Assessment for the African Peer Review Mechanism, questionnaire, section I. Available at ([www.aprm.org.za/docs/questionnaire.pdf](http://www.aprm.org.za/docs/questionnaire.pdf)) ( accessed on September 13, 2010)

<sup>283</sup> Ibid

The APRM also touches up on Economic governance and Management. As the Declaration on Democracy, Political and Economic Governance, African countries recognize that "good economic governance including transparency in financial management are all essential prerequisites for promoting economic growth and reducing poverty".<sup>284</sup> APRM, thus, reviews the critical aspects like the extent promotion of market efficiency, control of wasteful spending, consolidation of democracy and the encouragement of private financial flows.<sup>285</sup>

The other thematic area where APRM has a mandate is Corporate Governance.<sup>286</sup> The APRM assesses the discipline, transparency, independence, accountability, responsibility, fairness and social responsibility of Corporate Governance in the reviewed country.<sup>287</sup> Finally the APRM also checks on the endeavours undertaken by all stakeholders in the country to achieve Socio-economic development in the light of the NEPAD declaration which implies the continuous improvement in the well being and in the standard of living of the people in the reviewed country.<sup>288</sup>

#### 2.4.6. Basic Stages and Processes of APRM

The APRM review is carried out through five stages which have their own distinguishable characteristics.

Stage One involves the preparatory process both at the level of the APR Secretariat, and at the national level. This Stage is basically a familiarization phase.<sup>289</sup> This stage commences by the arrival of an APRM CSM to the reviewed state. The purpose of CSM is to assess the processes and mechanisms put in place by the country under preparation to undertake country self assessment.<sup>290</sup> The CSM also negotiates and signs a MoU<sup>291</sup> with the country to be reviewed.<sup>292</sup>

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<sup>284</sup> Declaration on Democracy, Political, Economic and Corporate Governance. (AHG/235 (XXXVIII) Annex I), para.16

<sup>285</sup> See Country Self-Assessment for the African Peer Review Mechanism, questionnaire, section 2

<sup>286</sup> Corporate Governance is a system by which corporations are directed, controlled and held to account. It embraces all forms of enterprise in the private and public sector.

<sup>287</sup> Country Self-Assessment for the African Peer Review Mechanism, questionnaire, section 3

<sup>288</sup> Id, section 4

<sup>289</sup> Zein Kebonang, "The African Peer Review Mechanism: Challenges And Prospects, AU, NEPAD and APRM," p.47

<sup>290</sup> Id, p.48

<sup>291</sup> This MoU is different from the accession MoU. The former includes specific on the level of support the country must provide to the country review team and time lines for completion of the stage of the process in the country under review where as the latter defines broad obligations of participant countries.

Then, Under the direction of the APR Panel, the APR Secretariat will send to the country to be reviewed a questionnaire on the four areas of the APRM, namely, Democracy and Political Governance, Economic Governance and Management, Corporate Governance, and Socio-Economic Development<sup>293</sup>. The country will develop a CSA report on the basis of the questionnaire<sup>294</sup> prepared by APR secretariat and given to the reviewed country and with the assistance, if necessary, of the APR Secretariat and/or relevant Partner Institutions.<sup>295</sup> Having completed the CSA, the country will formulate a preliminary PoA, which is the Action plan the country promises to take to overcome the shortcomings and governance problems discovered during the CSA with specific time bound, building on existing policies, programmes and projects.<sup>296</sup> Both the CSA and the preliminary PoA are subsequently submitted to the APR Secretariat,<sup>297</sup> which, during the same period, has developed a Background Document on the country through desk research and gathering all available current and pertinent information on the country's situation on governance and development status in economic, political, social and corporate areas.<sup>298</sup> The CSA document requires of each country that it 'carefully assesses its own situation through a broad participatory process that results in a PoA with time bound objective to guide all stake holders in the actions required by government, the private sector and civil society to achieve the 'country's vision'.<sup>299</sup> With the information provided in the CSA, the preliminary PoA, and the Background Document, the Secretariat draws up an Issues Paper that will guide the country review process.<sup>300</sup> On the basis of all the available data, i.e CSA under review with its PoA, the APR secretariat writes an issue paper identifying the major issues that will guide the

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<sup>292</sup> Kinfe Abraham, *The African Quest*, p.5

<sup>293</sup> Guidelines for Countries to Prepare for and to Participate in the African Peer Review Mechanism (APRM) (NEPAD APRM/Panel3/guidelines/11-2003/Doc8), para 21(i)

<sup>294</sup> The purpose of the questionnaire is two fold. First, to provide participating countries with a format that can serve as a check list to determine whether the various stake holders participating in the process have responded to their concerns. Secondly, as a convenient summary to provide an overview of the results of their own-self assessment processes (see the questionnaire document).

<sup>295</sup> Guidelines for Countries to Prepare for and to Participate in the African Peer Review Mechanism (APRM) (NEPAD APRM/Panel3/guidelines/11-2003/Doc8), para 21 (ii)

<sup>296</sup> Id, para 21 (iii)

<sup>297</sup> African Peer Review Mechanism Organisation And Processes, NEPAD HGSIC-3 2003/APRM/Guideline O&P (2003), para 7.6

<sup>298</sup> Id, para 7.5(c)

<sup>299</sup> Country Self Assessment For APRM, Questionnaire, para.1.1.4

<sup>300</sup> African Peer Review Mechanism Organisation And Processes, NEPAD HGSIC-3 2003/APRM/Guideline O&P (2003), para 7.5(d)

country review mission.<sup>301</sup> Stage One ends when the country to be reviewed has provided sufficient information on the country, including the draft country PoA to the APR Secretariat and the Secretariat has prepared a background document and issues paper on the country including the proposal on the APR Team to the APR Panel.<sup>302</sup>

Stage Two is the Country Review Visit. Under the leadership of the APR Panel, the Country Review Team (CRT) visits the country concerned where its priority order of business will be to carry out the widest possible range of consultations with the Government, officials, political parties, parliamentarians and representatives of civil society organizations including the media, academia, trade unions, business and professional bodies.<sup>303</sup> The main purpose will be to learn about the perspectives of the different stakeholders on governance in the country and to clarify the issues identified in the Issues Paper that are not taken into account in the preliminary PoA of the country, and to build consensus on how these could be addressed.<sup>304</sup>

Stage Three is the drafting of the Team's report. The report is prepared on the basis of the Background Document and the Issues Paper prepared by the APR Secretariat, and the information provided in the findings of the Country Review Visit by official and unofficial sources during the wide-ranging consultations and interactions with all stakeholders.<sup>305</sup> The Team's report is based in part on the findings of the Country Review Visit as well as on the findings of the research. The draft report must take into account the applicable political, economic and corporate governance and socio-economic development commitments made in the preliminary PoA<sup>306</sup>, identify any remaining weaknesses, and recommend on further actions that should be included in the final PoA. The draft report will need to be clear and specific on the required actions in instances where outstanding issues are identified. The draft report is first discussed with the Government concerned.<sup>307</sup> Those discussions will be designed to ensure the

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<sup>301</sup> In practice however, the issue paper is issued before the CSA and PoA are being given to the secretariat because of the very slow process of preparing CSA and PoA.

<sup>302</sup> African Peer Review Mechanism Organisation And Processes, NEPAD HGSIC-3 2003/APRM/Guideline/O&P (2003), para. 7.6

<sup>303</sup> APRM Base Document, paragraph 19

<sup>304</sup> Guidelines for Countries to Prepare for and to Participate in the African Peer Review Mechanism (APRM) (NEPAD APRM Panel3 guidelines/11-2003/Doc8), para.22

<sup>305</sup> African Peer Review Mechanism Organisation And Processes, NEPAD HGSIC-3 2003/APRM Guideline O&P (2003), para.7.12

<sup>306</sup> APRM Base Document, paragraph 20

<sup>307</sup> APRM Base Document, paragraph 21

accuracy of the information and to provide the Government with an opportunity both to react to the APR Team's findings and to put forward its own views on how the identified shortcomings may be addressed.<sup>308</sup> These responses of the Government will be appended to the Team's report.<sup>309</sup> The country at this stage finalizes its PoA taking into account the conclusions and recommendations of the draft Report.<sup>310</sup>

The Fourth Stage begins when the Team's report and the final PoA together with the government's reaction to the Team's findings are sent to the APR Secretariat and the APR Panel, and then submitted to the APR Forum of participating Heads of State and Government for consideration, peer pressure and formulation of actions deemed necessary in accordance with the mandate of the APR Forum.<sup>311</sup> If the Government of the country in question shows a demonstrable will to rectify the identified shortcomings, then it will be incumbent upon participating Governments to provide what assistance they can, as well as to urge donor governments and agencies to also come to the assistance of the country reviewed.<sup>312</sup> However, if the necessary political will is not forthcoming from the Government, the participating states should first do everything practicable to engage it in constructive dialogue, offering in the process technical and other appropriate assistance.<sup>313</sup> If dialogue proves unavailing, the participating Heads of State and Government may wish to put the Government on notice of their collective intention to proceed with appropriate measures within a given timeframe. Such measures should always be utilized as a last resort.<sup>314</sup> The interval should provide the opportunity to the Government to undertake the required actions and address the identified shortcomings in a process of constructive dialogue.

The Fifth Stage is the final stage of the APRM process. Six months after the report has been considered by the Heads of State and Government of the participating member countries, the report will be formally and publicly tabled in key regional and sub-regional structures such as the Regional Economic Commission to which the country belongs, the Pan-African Parliament, the

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<sup>308</sup> Ibid

<sup>309</sup> Magnus Killander, *The African Peer Review Mechanism and Human Rights: The First Reviews and the Way Forward*, p.51

<sup>310</sup> Guidelines for Countries to Prepare for and to Participate in the African Peer Review Mechanism (APRM) (NEPAD APRM Panel3/guidelines/11-2003/Doc8), para. 24

<sup>311</sup> APRM Base Document, para. 23

<sup>312</sup> Id, paragraph 24

<sup>313</sup> Ibid

<sup>314</sup> Ibid

African Commission on Human and Peoples' Rights, the envisaged Peace and Security Council and the Economic, Social and Cultural Council (ECOSOCC) of the African Union.<sup>315</sup>

In the official documents, the process sounds deceptively straight forward; establish and organize the relevant institutions, make a plan for research, write a country self-assessment report and define remedial actions for any governance gaps. Then, submit to a further review by a panel of experts, implement the plan and carry out subsequent reviews. But, experience in the pioneer countries has shown the process to be far more complex and time consuming than authorities imagined when they first asserted that each review should take six to nine months.<sup>316</sup> For Ghana, Rwanda, Kenya and South Africa the process has taken from 33 to 39 months, from the signing of the MoU until presentation of the final report before heads of state.<sup>317</sup> Many of the questionnaires require in depth research and are not easy to answer which needs more time and resources.

#### 2.4.7. Types of Reviews under APRM

There will be four types of reviews according to APRM base document: The first country review is the base review that is carried out within eighteen months of a country becoming a member of the APRM process.<sup>318</sup>

Then there is a mandatory periodic review that takes place every two to four years after the country has finished its base review.<sup>319</sup> It is to monitor and assess the implementation of the previous review PoA and to issue new PoA for the new challenges faced by the country in the subsequent review. The third type of review is requested review when a member country, for its own reasons, asks for a review that is not part of the periodically mandated reviews when it has a valid reason to do so.<sup>320</sup>

Early signs of impending political or economic crisis in a member country would also be sufficient cause for instituting a review called crisis prevention review. Such a review can be called for by participating Heads of State and Government in a spirit of helpfulness to the

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<sup>315</sup> Id, para. 25

<sup>316</sup> Ross Herbert, *The APRM: Lessons From The Pioneers*, p.7

<sup>317</sup> Ibid

<sup>318</sup> APRM Base Document, para. 14

<sup>319</sup> Ibid

<sup>320</sup> Ibid

Government concerned.<sup>321</sup> This review is different from the third type of Peer review because the former is done by the request of the reviewed country where as the later is through the initiative of the APR Forum.

#### 2.4.8. Funding of APRM

The APR secretariat does not currently have its own funding, nor has NEPAD/AU allocated any budget for it. States participating in the process are expected to bear the costs of such reviews<sup>322</sup> since as a matter of principle the cardinal aspect of being a member of an organization is acceptance of a financial obligation to fund the different functions of the organization.<sup>323</sup> In fact it has been agreed that, even though, various analysts estimated that this figure will be insufficient to adequately assess the governance situation in depth that is specified by the APRM documents,<sup>324</sup> each participating state should contribute 100,000 U.S dollars annually for the running of the secretariat.<sup>325</sup>

But many African countries have a difficulties meeting their membership dues to AU or its predecessor, OAU.<sup>326</sup> So it is doubtful that states that have not been regularly paid their obligations to the AU or its Predecessor, many of whom are in the throes of economic decline, will be able to honour their financial obligations to APRM. And with out sufficient funding the APRM runs the risk of collapsing. In this regard reliance on donor funding, however undesirable it may be, remains essential at least in the short term.<sup>327</sup>

The APRM is primarily funded by participating African member states. The total financial contribution from member represents 62 percent of the total amount since the inception of the APRM.<sup>328</sup> Bilateral and multilateral development partners have contributed the remaining 38

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<sup>321</sup> Ibid

<sup>322</sup> APRM Base Document, para 27

<sup>323</sup> Zein Kebonang, "the African Peer Review Mechanism: Challenges and Prospects, AU, NEPAD and APRM," p.49

<sup>324</sup> Aysha Kajee, *The AU organs and APRM: Implications for regional integration in the context of continental structures*, p.8. available at [http://www.sarpn.org.za/documents/d0001227/P1359-kajee\\_April2005.pdf](http://www.sarpn.org.za/documents/d0001227/P1359-kajee_April2005.pdf) (accessed on October 4, 2010).

<sup>325</sup> Zein Kebonang, "The African Peer Review Mechanism: challenges and Prospects, AU, NEPAD and APRM," p.49

<sup>326</sup> Ibid

<sup>327</sup> Id, p.50

<sup>328</sup> APRM: Africa's Innovative Thinking on Governance, the forum for the 8<sup>th</sup> gathering of the African Partnership Forum, p.5

percent through APRM trust fund established for this very purpose.<sup>329</sup> APRM stipulates that Support from external partners should be sought mainly for the implementation of the Country PoA and capacity building to improve performance in the weak areas<sup>330</sup> even though most of the regular functions of APRM use the support of external partners. Some argue that, with such huge amount of money coming from external donors the principle of African ownership of the APRM process and free from outside manipulation is highly unlikely. Adequate and regular funding is fundamental to the sustainability and independence of the process. By fulfilling their financial obligations to the APRM, participating countries should consolidate their intention of taking full ownership of the process. Africans should take matters to their own hands making APRM African in origin, African inspired and African owned.

The long term solution lies in NEPAD's generating its own resources. Funds that otherwise were channeled into private accounts of the African leaders should rather be channeled into the NEPAD budget and in this way the benefits would be enjoyed by the entire populace. African leaders are known for making noise about a newly established institution for a while and let it fall in line with other failed projects initiated in the past and it should not happen again for ARPM if Africans really mean business.<sup>331</sup> Africans put their action where their mouth is. At the same time relying disproportionately on resources from rich African states can also be used to bias the peer review. Such rich states may refuse to contribute its share as means of protesting against unfavorable review which could hold the APRM hostage.<sup>332</sup> So the APRM need to diversify its collection of financial resources.

## 2.5. Overview of Peer Review Mechanisms in Other International Organizations

The concept of peer review has its origin in professional bodies for reviewing an academic research and the evaluation of proposals and projects by selected experts, called reviewers.<sup>333</sup> It is also a mechanism of monitoring of state compliance with a provision in a treaty or some other

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<sup>329</sup> Ibid

<sup>330</sup> African Peer Review Mechanism Organisation And Processes, NEPAD/HGSIC-3 2003/APRM/Guideline/O&P (2003), para. 8.3

<sup>331</sup> Richard Ilorah, "NEPAD: The Need And Obstacle," *African Development Review* 16:2 (2004 ), p.246

<sup>332</sup> Dr. Dorina A. "Creating a Reliable APRM, Improving the Environment for Intercontinental Exchange," *U.S.A. Africa Institute*, 1:4 (2003), p.6

<sup>333</sup> Zein Kebonang, "The African Peer Review Mechanism: Challenges And Prospect, AU, NEPAD And APRM," p.39

instruments, which it is a party.<sup>334</sup> We are here concerned with the latter. Before appreciating the concept and design of APRM including its prospects and challenges, it is worthwhile to devote this section for a quick summary of some well known existing peer review mechanisms in international organizations to identify what could be considered to have emerged as best practices in these systems since APRM itself claimed to have gained its source and inspiration from the already established review mechanisms used by different international organizations to monitor state compliance and boost sharing their best practices. Understanding the purpose and processes of other international peer review mechanisms will surely help us to examine deeply whether the APRM is adopting these organizations' best practices for itself and how much it has learned from the relative success and short comings of these organizations' peer review mechanism and incorporate them into its own system of review.

The section will only select few organizations that use peer review mechanism as the major mechanism to monitor compliance and share best practices. There are other National and international organizations that use peer review but not mentioned in this paper. The writer mainly selected the most known organizations for their use of Peer review in their system. These organizations are, OECD, WTO, IMF, and ILO. Considering, albeit briefly, of these four working peer review mechanisms will help us identify some of the emerging principles that would enable us to appreciate the design, concept and processes of the APRM.

### 2.5.1. OECD Peer Review Mechanism

There is no other international organization in which the practice of peer review has been so extensively developed as the OECD, where it has been facilitated by the homogeneous membership and the high degree of trust shared among the Member countries.<sup>335</sup> The OECD has used this method extensively since its creation in 1961 and peer review has, over the years, characterized the work of the Organization in most of its policy areas for monitoring and evaluation of the policies of the member states.<sup>336</sup>

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<sup>334</sup> R. Ngamau , "The Role of NEPAD in African Economic Regulation and Integration," p. 540.

<sup>335</sup> Fabrizio Pagini, *Peer Review: A Tool For Cooperation And Change*, p.7

<sup>336</sup> Zein Kebonang "The African Peer Review Mechanism: Challenges and Prospect, AU, NEPAD and APRM," p.42

At the OECD, peer review refers to the systematic examination and assessment of the performance of a State by other States, with the ultimate goal of helping the reviewed State improve its policy making, adopt best practices, and comply with established standards and principles.<sup>337</sup> The examination relies heavily on mutual trust among States, as well as on their shared confidence in the process.<sup>338</sup> The Secretariat of the Organisation also plays an important role in supporting and stimulating the process. OECD peer reviews cover a wide range of topics, from economics and governance to education, health, environment and energy.<sup>339</sup>

Peer review under OECD, directly or indirectly, serves the following purposes: Enhanced policy dialogue, cooperation and information exchange; Increased transparency, both between OECD member States and vis-à-vis the general public; Capacity building and exchange of best practices; enhanced compliance with internationally agreed policies, standards, and principles.<sup>340</sup>

The effectiveness of peer review under OECD relies on the influence and persuasion exercised by the peers during the process called peer pressure. The peer review process can give rise to such peer pressure through, for example: a mix of formal recommendations and informal dialogue by the peer countries; peer scrutiny, comparisons, and, in some cases, even ranking among countries; and the impact of all the above on domestic public opinion, national administrations and policy makers.<sup>341</sup> The impact will be greatest when the outcome of the peer review is made available to the public and to the media as is usually the case at the OECD.<sup>342</sup>

Within the Organization, peer review is carried out in several substantive areas and there is no standardized and common peer review procedure since most reviews are specific only focusing on particular sector and each sector has its own way of dealing with monitoring states performance in that specific sector.<sup>343</sup> Because of this, the cycle of peer reviews may range from 6-7 years (for environmental performance review) to 12-18 months (for the EDRC). However,

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<sup>337</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, Coordinated By: OECD, p.6. available at <http://www.oecd.org/dataoecd/42/34/43259703.pdf> (accessed on Sept 21,2010)

<sup>338</sup> Ibid

<sup>339</sup> Examples of Peer Reviews, available at [http://www.oecd.org/document/8/0,3343,en\\_21571361\\_37949547\\_37970056\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/8/0,3343,en_21571361_37949547_37970056_1_1_1_1,00.html) (accessed on Sept 21,2010)

<sup>340</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, Coordinated By: OECD, p.7

<sup>341</sup> Id, p.6

<sup>342</sup> Ibid

<sup>343</sup> Ibid

under the OECD all peer review share the following common structural elements: the basis for proceeding; an agreed set of principles, standards and criteria against which the country performance is to be reviewed; designated actors to carry out the peer review; and a set of procedures leading to the final result of the peer review.<sup>344</sup>

### 2.5.1.1. The Basis for the Process

Under the OECD convention reviews may be triggered by:

*Decision by or request to an OECD subsidiary body:-* subsidiary bodies of the Organisation can decide to undertake peer reviews which are within their scope of activities.<sup>345</sup> Subsidiary bodies may also carry out one-time peer review exercises at the request of the country to be reviewed;<sup>346</sup>

*Council / Ministerial Council:-* for far-reaching programmes of review, a decision at Council level is sometimes necessary and, in certain cases, the decision follows directly from the Ministerial Council Meeting.<sup>347</sup> The competent subsidiary bodies then implements such decision. The review on regulatory reform, for instance, which is based on a 1997 Ministerial request<sup>348</sup> and successive Council decisions, is carried out by a number of subsidiary bodies including the Ad Hoc Multidisciplinary Group on Regulatory Reform, the Public Management Committee and its Regulatory Management and Reform Working Party.<sup>349</sup>

*International norms:-* provisions in treaties or in other legally binding instruments can be the basis for peer review mandates.<sup>350</sup> One of the first systems of mutual review was established by the OECD Codes of Liberalization of Capital Movement and Current Invisible Operations, which have a binding status on all OECD members.<sup>351</sup> Another example is the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which provides, that "Parties shall co-operate in carrying out a programme of

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<sup>344</sup> Fabrizio Pagini, *Peer Review: A Tool For Cooperation And Change*, p.7

<sup>345</sup> Ibid

<sup>346</sup> Ibid

<sup>347</sup> Ibid

<sup>348</sup> See Meeting of the Council at Ministerial Level, Communiqué, Paris, 26 – 27 May 1997, SG/COM/NEWS(97) 45, para 15.

<sup>349</sup> Fabrizio Pagini, *Peer Review: A Tool For Cooperation And Change*, p.7

<sup>350</sup> Id, p.8

<sup>351</sup> Ibid

systematic follow-up to monitor and promote the full implementation of this Convention.<sup>352</sup> This provision has been the basis for the establishment of a rigorous process of multilateral surveillance, including peer review, to foster the effectiveness of the Convention and its related instruments.

### 2.5.1.2. Agreed Set of Principles, Criteria and Standards for the Review

The performance of the reviewed State can be assessed against principles, criteria and standards which widely differ in character and scope. But they may have similar features including:

*Policy recommendations and guidelines:* the assessment of the performance of a country in its implementation of policy recommendations and guidelines is the most common form of peer review.<sup>353</sup> This peer review can also include an examination of the consistency and coherence with respect to the country's own policies.<sup>354</sup> It is carried out in many of the Organization's activity areas, including economic policy, education, environment, energy, regulatory reform and development assistance.<sup>355</sup> For example, in the peer reviews, or surveys, carried out by the EDRC, country performance is assessed in relation to broad economic policy principles and best practices that have been developed over the years, the policy orientations of the OECD Growth Project, as well as specific guidelines such as those contained in the OECD Jobs Strategy.<sup>356</sup> The Education Committee also undertakes peer monitoring and assessment of countries on general policy guidelines.<sup>357</sup>

*Specific indicators and benchmarks:* indicators and benchmarks provide specific and often numerical targets to achieve, and they are more susceptible than policy guidelines to being assessed according to quantitative measures.<sup>358</sup> Indicators and benchmarks are used, for instance, in the environmental performance review, and in the regulatory reform and development assistance reviews.<sup>359</sup>

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<sup>352</sup> the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which provides, Article 12.

<sup>353</sup> Fabrizio Pagini, *Peer Review: A Tool For Cooperation And Change*, p.8

<sup>354</sup> Ibid

<sup>355</sup> Ibid

<sup>356</sup> Ibid

<sup>357</sup> Ibid

<sup>358</sup> Ibid

<sup>359</sup> Ibid

*Legally binding principles:* peer review can also be a mechanism to monitor compliance with international norms.<sup>360</sup> This review creates a sophisticated mechanism for monitoring compliance with Conventions, and it is widely regarded as an interesting model for monitoring and improving compliance with other international legal obligations. Peer review can also be conducted to assess a country's compliance with rules contained in its own national legislation or in non-OECD international instruments to which the country has adhered.<sup>361</sup> Within the same peer review, the assessment can be conducted against all these mentioned different measures.

In addition to all the above, When a peer review programme reaches a second round of reviews, it is quite common to refer to the conclusions adopted in the previous review of the country.<sup>362</sup> The recommendations and the outstanding issues noted in the earlier report become a very important part of the measures against which to assess the progress of the country, and to highlight trends and fluctuations.

### **2.5.1.3. Designated Actors for The Review**

Peer review is the combination of the activity of several actors: the collective body within which the review is undertaken, the reviewed country, the examiner countries and the Organisation's Secretariat.

*The collective body:* peer reviews are undertaken in the framework of the activities of a subsidiary body of the Organisation, such as a Committee or a Working Party.<sup>363</sup> For example, EDRC a subsidiary body of OECD which has the over all responsibility to carry out the review of the OECD's Economic Surveys in every 1½- 2 years for every OECD country.<sup>364</sup>

*The reviewed country:-* usually all countries which are members of the body are subject to the review. Certain peer reviews are considered an obligation of membership.<sup>365</sup> Moreover,

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<sup>360</sup> The OECD Committee on Capital Movements and Invisible Transaction assesses, through a peer review mechanism, the performance of each member in the application of the Codes of Liberalisation and examine its reservations or derogation. For a detailed description of the mechanism, see OECD, Introduction to the OECD Codes of Liberalisation of Capital Movements and Current Invisible Operations, Paris, 1995.

<sup>361</sup> As is the case of the Environment Performance Review under OECD peer review.

<sup>362</sup> Fabrizio Pagini, *Peer Review: A Tool For Cooperation And Change*, p.9

<sup>363</sup> Ibid

<sup>364</sup> Peer Review in Economic Surveys: the role of the EDRC, available at [http://www.oecd.org/document/23/0,3343,en\\_21571361\\_37949547\\_37970135\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/23/0,3343,en_21571361_37949547_37970135_1_1_1_1,00.html) . (accessed on October 21, 2010)

<sup>365</sup> Fabrizio Pagini, '*Peer Review: A Tool For Cooperation And Change*', p.9

Participation implies the duty to co-operate with the examiners and the Secretariat by, among other things, making documents and data available, responding to questions and requests for self-assessment, facilitating contacts and hosting on-site visits.<sup>366</sup> The individuals responsible for participating on behalf of the reviewed country could include civil servants from ministries and agencies at different levels of government.<sup>367</sup>

*The examiner countries:-* peer review implies by definition that officials in the relevant policy field from other countries (peers) will be involved in the evaluation process. Generally, the choice of examiners is based on a system of rotation among the member States, although the particular knowledge of a country relevant to the review may be taken into account while the rest of the group participates actively in the final discussion.<sup>368</sup> The role of the examiners is to represent the collective body in the early stages of the process and to provide guidance in the collective debate itself.<sup>369</sup> Hence their task includes the examination of documentation, participation in discussions with the reviewed country and the Secretariat, and a lead speaker role in the debate in the collective body.<sup>370</sup> While individual examiners generally carry out the reviews in their official capacity as representatives of their State, certain reviews require the participation of examiners in their personal capacity.<sup>371</sup> In either case, however, examiners have the duty to be objective and fair, and free from any influence of national interest that would undermine the credibility of the peer review mechanism.<sup>372</sup>

*The Secretariat:-* the Organisation Secretariat has the role of supporting the whole review process by producing documentation and analysis, organising meetings and missions, stimulating discussion, upholding quality standards, and maintaining continuity as the keeper of the historical memory of the process.<sup>373</sup> The independence, transparency, accuracy and the analytic

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<sup>366</sup> Ibid

<sup>367</sup> Ibid

<sup>368</sup> EDRC and the Secretariat: Responsibilities and Roles, available at [http://www.oecd.org/document/48/0,3343,en\\_21571361\\_37949547\\_37975664\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/48/0,3343,en_21571361_37949547_37975664_1_1_1_1,00.html) (accessed on October 24, 2010)

<sup>369</sup> Fabrizio Pagini, *Peer Review: A Tool For Cooperation And Change*, p.10

<sup>370</sup> Ibid. In some cases, the examiners also participate in missions to the country.

<sup>371</sup> Ibid

<sup>372</sup> Ibid

<sup>373</sup> EDRC and the Secretariat: Responsibilities and Roles, available at [http://www.oecd.org/document/48/0,3343,en\\_21571361\\_37949547\\_37975664\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/48/0,3343,en_21571361_37949547_37975664_1_1_1_1,00.html) (accessed on October 24, 2010)

quality of work of the Secretariat are essential to the effectiveness of the peer review process.<sup>374</sup> Normally, the most labour-intensive part of the work is carried out by the Secretariat, which may also have the most expertise in the substantive area of the review.<sup>375</sup>

#### 2.5.1.4. The Process and Procedures of The Review

The procedures of each peer review are outlined in documents adopted by the responsible subsidiary body.<sup>376</sup> That means there could be different procedures depending on the sector for which the review is undertaken. The level of procedural detail provided can vary widely, with certain reviews relying more on well-established practice than on formally adopted rules of procedure.<sup>377</sup> Although each peer review has its own procedure, it is possible to identify a common pattern, consisting of three phases:

*The preparatory phase:* the first phase of the review often consists of background analysis and of some form of self-evaluation by the country under review.<sup>378</sup> This phase includes work on documentation and data as well as a questionnaire prepared by the Secretariat.<sup>379</sup> The questionnaire, which can be a sophisticated instrument, is sent to the country for responses by the competent authorities or as an agenda for a dialogue in the next phase.<sup>380</sup> In short, this phase constitutes a background study of the country being reviewed.

*The consultation phase:* During this phase, the Secretariat and the examiners maintain close contact with the competent authorities of the reviewed country, and in some cases, they carry out on-site visits.<sup>381</sup> The examiners and the Secretariat are also free to consult with interest groups, civil society and academics.<sup>382</sup> At the end of this phase, the Secretariat prepares a draft of the final report, which usually follows a standardised model comprising an analytical section, where the country performance is examined in detail and individual concerns are expressed, and an evaluation or summary section setting forth the conclusions and recommendations.<sup>383</sup> The

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<sup>374</sup> Fabrizio Pagini, 'Peer Review: A Tool For Cooperation And Change', p.10

<sup>375</sup> Ibid

<sup>376</sup> Ibid

<sup>377</sup> Ibid

<sup>378</sup> Ibid

<sup>379</sup> Id, p.11

<sup>380</sup> Ibid

<sup>381</sup> Ibid

<sup>382</sup> Ibid

<sup>383</sup> Ibid

Secretariat, in most peer review processes shares the report in draft with the examiners and with the reviewed country and may make adjustments it considers justified before the draft is submitted to the members of the body responsible for the review.<sup>384</sup>

*The assessment phase:* the draft report is discussed in the plenary meeting of the body responsible for the review.<sup>385</sup> The examiners lead the discussion, but the whole body is encouraged to participate extensively.<sup>386</sup> Following discussions, and in some cases negotiations, among the members of the body, including the reviewed State, the final report is adopted, or just noted, by the whole body.<sup>387</sup> Generally, approval of the final report is by consensus, unless the procedures of the particular peer review specify otherwise.<sup>388</sup> In some cases, the procedures may call for the final report to state the differences among the participants.<sup>389</sup> In some cases, NGOs also have the opportunity to influence the discussion by submitting papers and documents.<sup>390</sup> As already mentioned, the final report and particularly its recommendations form an important basis for follow-up monitoring of the performance of the State and, ultimately, for a subsequent peer review.<sup>391</sup> Often, the final report is followed by a press release, which summarises the main issues for the media, and press events or dissemination seminars are organised to publicize the findings of the review.<sup>392</sup>

As it has been already discussed in the above sections, the OECD peer review and monitoring activities are sector- specific by which each sectors review could have its own distinct ways and procedures of review. the OECD establishes a committee or a subsidiary body which is responsible for the whole review process. In the same way, the organization's secretariat employs experts who have different academics and experience ranging from Economics, environment, public service management, trade and financial affairs, technology and so on based on the type of review it intends to undertake.

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<sup>384</sup> Ibid

<sup>385</sup> Zein Kebonang, "The African Peer Review Mechanism: Challenges and prospect, AU, NEPAD and APRM," p.42

<sup>386</sup> Fabrizio Pagini, *Peer Review: A Tool For Cooperation And Change*, p.11

<sup>387</sup> Ibid

<sup>388</sup> Ibid

<sup>389</sup> Ibid

<sup>390</sup> Ibid

<sup>391</sup> Ibid

<sup>392</sup> Zein Kebonang, "The African Peer Review Mechanism: Challenges and Prospect, AU, NEPAD and APRM," p.42

### 2.5.2. The World Trade Organisation Trade Policy Review Mechanism (TPRM).

The rights and obligations embodied in the WTO include both on agreement on Tariffs and Non-tariff Barriers. Adherence to these obligations is also reinforced by procedures for the settlement of disputes and for the regular monitoring of the policies of WTO members through TPRM.<sup>393</sup> The World Trade Organisation's Trade Policy Review Mechanism (WTO-TPRM) was established in 1989 on a provisional basis under the General Agreement of Tariffs and Trade.<sup>394</sup> Subsequently, it became a permanent feature of WTO when the latter organization was created in 1995 pursuant to the Marrakech agreement.<sup>395</sup> TPRM constitutes one of the main functions of WTO.

Accurate, timely and easily accessible information on countries' trade regimes are important for policy makers, businesses and civil society involved in the business. In this respect TPRM plays a crucial role. TPRM is a collective review process that aims to monitor trade policies and practices of WTO member states.<sup>396</sup> Its intended purpose is to contribute to improved policy adherence by all members to rules, discipline and commitments made under the WTO in order to enhance the smooth functioning of the multilateral trading system through enhanced transparency of their trade policies.<sup>397</sup> The TPRM provides that trade policies of all members shall be subject to periodic review.<sup>398</sup> In carrying out its mandate, the TPRM is not intended for the enforcement of specific obligations under the WTO agreements or for dispute settlement procedures or to impose new policy commitments on members.<sup>399</sup> The most important value of the TPRM is particularly its promotion of transparency and increased stability, for investor confidence in member countries since it is helpful to recall that for much of the postwar period a common characteristic of most developing country trade regimes was their ingenuity in combining policy instability with lack of clarity.<sup>400</sup> In other words, investors were faced with a mix of risk that policies would change unfavorably, combined with uncertainty about the exact

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<sup>393</sup> Joseph F. Francois "Trade Policy Transparency And Investor Confidence, The Implication Of An Effective TPRM," *Review of International Economics* 9:2 (May 2001):303-316, p. 315

<sup>394</sup> Ibid

<sup>395</sup> See Marakash Agreement Establishing WTO, Annex III

<sup>396</sup> Zein Kebonang, *The African Peer Review Mechanism: Challenges and prospect*, AU, NEPAD and APRM, p.40

<sup>397</sup> Marakesh agreement, Annex III, (A, ii)

<sup>398</sup> *Review of Tools And Mechanisms for Assessing Economic And Social Policy Instruments*, coordinated by: OECD, p.9

<sup>399</sup> Zein Kebonang, *The African Peer Review Mechanism: Challenges and prospect*, AU, NEPAD and APRM, p. 40

<sup>400</sup> Ibid

nature of this process. Thus, TPRM provides a forum for states to monitor and investigate the state of trade policies of their fellow members and give recommendations for policy reform when it is necessary.

Under TPRM, the responsibility for carrying out trade policy reviews is left to the trade policy review body (TPRB),<sup>401</sup> which is actually the WTO General Council comprising the WTO's full membership operating under special rules and procedures.<sup>402</sup> which essentially performs two basic functions. First, it examines the impact of members' trade policies and practices on the multilateral trading system and second, it increases the transparency of members' trade policies and practices.<sup>403</sup> The benefits of TRPM involve reduction in policy uncertainty especially by developing countries and restoring investors' confidence in the predictability and extent of trade policy changes.

The frequency of reviews under TPRM depends on a member's share of world trade. The first four members with the greatest share of world trade are reviewed every two years (presently the EU, US, Japan and China), the next 16 every four years and all others every six years.<sup>404</sup> However, longer periods may be set for Least Developed Countries.<sup>405</sup> In exceptional circumstances, a member may, after due consultation, be requested by TPRB to bring forward its policy report, for extra ordinary review, if changes to its trade policies and practices are likely to have a significant impact on its trading partners.<sup>406</sup>

The TPRB shall establish a basic plan for the conduct of the reviews.<sup>407</sup> There are fairly three stages in the review process under TPRM. The first is preparation of reports. For carrying out its reviews, the TPRB relies on two reports: a) the country report, prepared and supplied by the member under review, which spells out its trade policies and practices. This report consists of detailed chapters examining the trade policies and practices of the Member and describing trade policymaking institutions and the macroeconomic situation.<sup>408</sup> Full reports shall describe the trade policies and practices pursued by the Member or Members concerned, based on an agreed

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<sup>401</sup> See Marakash Agreement Annex III, (C,i)

<sup>402</sup> Review of Tools and Mechanisms For Assessing Economic And Social Policy Instruments, p.10

<sup>403</sup> Zein Kebonang, The African Peer Review Mechanism: Challenges and prospect, AU, NEPAD and APRM, p.40

<sup>404</sup> See Marakash Agreement Annex III, (C,ii)

<sup>405</sup> Ibid

<sup>406</sup> Ibid

<sup>407</sup> Id, Annex III, (C,IV)

<sup>408</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, p.10

format or questionnaire to be decided upon by the TPRB.<sup>409</sup> And b) the secretariat's report, drawn up by the secretariat based both on the information available to it and that provided by the member being reviewed.<sup>410</sup> The TPRM reports are prepared by the WTO's Trade Policies Review Division (the TPRD).<sup>411</sup> This Division, at full strength, consists of only one Director, sixteen professional and eleven support staff.<sup>412</sup> The TPRD writes its reports on the basis of Member replies to a questionnaire, discussions with officials during mission visits, and information collected from other (unofficial) sources.<sup>413</sup> The process involves exchanges, questions and replies; bilateral/plurilateral consultations; and statements in the relevant committees/Councils on notifications submitted aimed at seeking more information or understanding a Member's trade policies and practices and persuading the Member to adhere to relevant rules.<sup>414</sup>

The next stage is the actual reviewing process. The designated WTO body, The Trade Policy Review Body, then meets to review the policy statements presented by the Member under review and a report prepared by economists in the Secretariat's Trade Policy Review Division.<sup>415</sup> This examination is led by two reviewing countries.<sup>416</sup> Once the reports have been prepared, a meeting between TPRB and the member state being reviewed is held to discuss the report and come to an understanding as to the Trade policy of the reviewed state how the country under review should amend its trading policy, if necessary.<sup>417</sup>

The final stage is publication. Following these discussions, the reviews, including the Secretariat report and the Member's policy statement as well as the meeting material, along with the minutes of the meeting and the text of the TPRB Chairperson's Concluding Remarks delivered at the conclusion of the meeting will be published promptly after the review.<sup>418</sup> Between reviews, members are expected to provide brief reports on any significant changes in their trading

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<sup>409</sup> See Marakash Agreement Annex III, (C,V)

<sup>410</sup> Ibid

<sup>411</sup> Joseph F. Francois "Trade Policy Transparency And Investor Confidence, The Implication Of An Effective TPRM," p.318

<sup>412</sup> Ibid

<sup>413</sup> Ibid

<sup>414</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, Coordinated By: OECD, p.10

<sup>415</sup> Fabrizio Pagini, 'Peer Review: A Tool For Cooperation And Change', p.6

<sup>416</sup> Ibid

<sup>417</sup> Zein Kebonang, the African peer Review Mechanism: Challenges and prospect, AU, NEPAD and APRM, p.40

<sup>418</sup> Marakash Agreement (1995), Annex III, (C,VI)

policies.<sup>419</sup> The entire process usually takes about ten months.<sup>420</sup> Although the reviews under TPRM are not meant to enforce specific obligations or impose new commitments, they serve to provide information and play an important transparency role on the basis of which WTO can monitor the behaviour of member states.<sup>421</sup>

The information supplied becomes available and reduces the information costs of both the WTO and other member states. Such information, and indeed the results of the reviews, also provides “ammunition” for trading partners to use in demanding changes in the policies and practices of the country reviewed.<sup>422</sup> The information made available through these reviews can trigger other implementation mechanisms, such as supervision or enforcement, especially when the information reveals some WTO inconsistent behaviour.<sup>423</sup>

### 2.5.3. The International Labour Organisation’s Monitoring and Follow Up Process

Established in 1919 as part of the Versailles Treaty, the International Labour Organisation (ILO) is responsible for a broad range of labour and social issues. Its main responsibility is to formulate and enforce through monitoring basic international labour standards that must be observed by states.<sup>424</sup> Compliance with basic labour standards is achieved either through the adoption and implementation of conventions or recommendations.<sup>425</sup>

ILO conventions are enforced through a process of regular reporting and the utilisation of various complaint procedures. Member states are bound under the ILO constitution to submit annual reports about their laws and practices in respect of the conventions they have ratified.<sup>426</sup> The reporting system is the principal way in which the ILO enforces its conventions.<sup>427</sup>

ILO experience is that two elements in particular contribute to the strength of the ILO's supervisory processes. One is the participation and input of non-governmental actors in the system, which adds depth and perspective to the information available and consideration of it

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<sup>419</sup>Id, Annex III (D)

<sup>420</sup> Joseph F. Francis, “Trade Policy Transparency And Investor Confidence, The Implication Of An Effective TPRM,” p.318

<sup>421</sup> Zein Kebonang, The African Peer Review Mechanism: Challenges and prospect, AU, NEPAD and APRM, p.40

<sup>422</sup> Ibid

<sup>423</sup> Ibid

<sup>424</sup> See Art 2 of the ILO Constitution

<sup>425</sup> Zein Kebonang, The African Peer Review Mechanism: Challenges and prospect, AU, NEPAD and APRM, p.41

<sup>426</sup> See Art 22 of the ILO Constitution

<sup>427</sup> Zein Kebonang, The African Peer Review Mechanism: Challenges and prospect, AU, NEPAD and APRM, p.41

and the other is examination of the reports by independent, impartial and objective bodies, most notably the Committee of Experts, which is appointed by the ILO Governing Body.<sup>428</sup> These allows the accumulation of experience, good practices and precedent, which both increases the reliability and authority of the normative processes and ensures its relevance to real problems encountered. Finally, the peer review provided by the tripartite Conference<sup>429</sup> of the governing Body enables all due weight to be given to political dimensions and broad means of obtaining cooperation to ensure the implementation of the relevant standards, which is the desired outcome.<sup>430</sup>

Two types of monitoring mechanism are applied in the ILO system. The first is the reporting mechanism. Under this mechanism all states are obliged to make annual reports and send it to the ILO.<sup>431</sup> The report focuses on the measures taken by member states to ratify and implement the conventions adopted by the ILO.<sup>432</sup> The other procedure of the ILO to monitor compliance is through special procedure called compliant procedure. A tripartite (governments and employers' and workers' organisations) committee of the Governing Body receives complaints from employers' or workers' organisations or governments alleging infringement of rights by any government of a member State, under any ratified Convention. The Fact-Finding and Conciliation Commission (nine independent persons) examines complaints referred to it by the Governing Body.<sup>433</sup> Governments concerned are invited to reply and have discussion on the matter during the tripartite conference. Then the reports containing recommendations are published.<sup>434</sup> National organisations of employers and workers receive copies of reports and have the opportunity to provide their own comments on governments' fulfillment of their obligations.<sup>435</sup> The involvement of worker and employer representatives affords them the opportunity to comment on the reports of their own governments. This is especially valuable during discussions on whether national laws have actually been put into practice.

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<sup>428</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, p.3

<sup>429</sup> Tripartite Committee Made Up Of Government Officials, Worker And Employer Representatives. The. (ILO Constitution, articles 24-25)

<sup>430</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, p.3

<sup>431</sup> See ILO constitution, Art.19

<sup>432</sup> Article 24 of the ILO constitution

<sup>433</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, p.3

<sup>434</sup> Ibid

<sup>435</sup> ILO Constitution, article 23

Furthermore, because governments, worker and employer organisations have equal representation on the committee, debates are not compromised or defeated either by block voting or forum shifting by states.<sup>436</sup> The ability of the different stakeholders to interact “as equals” creates a meaningful and constructive dialogue between the country and ILO supervisory bodies and promotes greater transparency about states’ compliance with different ILO conventions.<sup>437</sup>

Apart from the annual submission of reports by states a complaint may be made to the ILO by an industrial association of employers or of workers if a state “has failed to secure in any respect the effective observance within its jurisdiction of any convention to which it is a party”.<sup>438</sup> If the grievance is deemed to so merit, the ILO governing body will notify the government against which the complaint has been made and invite it to comment on the subject matter.<sup>439</sup> If no statement is received within a reasonable time from the government in question, or if the statement is not deemed satisfactory by the governing body, the latter may publish the complaint and any statement made in reply to it.<sup>440</sup>

Additionally, any member can file a complaint with the International Labour Office if it is not satisfied that the other member is effectively observing any convention that both have ratified.<sup>441</sup> Equally, the ILO may on its own initiative or on receipt of a complaint from a delegate to the conference call a member to give an account of the progress it has made in implementing the conventions it has ratified.<sup>442</sup> Once a state has ratified a convention, it is expected to file a report that must be accompanied by comments from employers and workers’ organisations indicating its level of compliance with such convention (five-yearly down to annual).<sup>443</sup> The report filed by the state is first examined by the committee of experts on the application of conventions and recommendations. The comments made by the committee on the degree of compliance may either be in the form of “observations,” which are published in the committee’s report, or of

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<sup>436</sup> John Braithwaite and Peter Drahos, “Zero Tolerance, Naming and Shaming: is There a Case for It with Crimes of the Powerful?” *The Australian and New Zealand Journal of Criminology* 35:3, Australian University (2000): 269-288, p. 273.

<sup>437</sup> Ibid

<sup>438</sup> Article 24 of the ILO constitution

<sup>439</sup> Zein Kebonang, *The African peer Review Mechanism: Challenges and prospect*, AU, NEPAD and APRM, p.41

<sup>440</sup> Article 25 of the ILO constitution

<sup>441</sup> See art 26.1 of the ILO Convention

<sup>442</sup> Art 26.4 of the ILO Convention

<sup>443</sup> ILO Constitution, article 22

“requests.”<sup>444</sup> Requests deal with more technical questions and are addressed directly to the government concerned.

The International Labour Office acts as the secretariat in all these procedures, ensuring maximum information, and providing assistance to governments and non-governmental parties to promote fulfillment of obligations and roles.<sup>445</sup> In instances where ILO supervisory mechanisms identify that a country has difficulties in complying with a convention, technical assistance is offered to that country to solve those difficulties.<sup>446</sup> Where a country continues to fail to implement or willfully flouts ILO conventions or processes, it may be “blacklisted” for ‘naming and shaming’<sup>447</sup> prior to the imposition of the above sanction, two intermediate options can apply. First, a state can request “direct contacts,” that is, request a site visit by ILO officials to enable them to ascertain the difficulties on the ground.<sup>448</sup> Second, it may be listed in a “special paragraph,” which in essence is a notice to the delinquent state that it risks being blacklisted if it does not change its ways.<sup>449</sup> Special paragraphs identify steps that the country can take to avoid being blacklisted. Some contend that the special paragraph has become one of the most effective ways of dealing with recalcitrant states, “where, rather than being written off as defectors, they remain subject to continued pressure within the ILO in the annual discussions of the Conference Committee”.<sup>450</sup>

#### **2.5.4. The International Monetary Fund Article IV Consultations**

The IMF has currently 187 members.<sup>451</sup> Its main focus is on monitoring and promoting stability of the global financial system; to promote international monetary cooperation through a permanent institution which provides the machinery for consultation; and collaboration on international monetary problems.<sup>452</sup> A principal objective of IMF is the continuing development

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<sup>444</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, Coordinated By: OECD, p.3

<sup>445</sup> Id, p.4

<sup>446</sup> Zein Kebonang, “the African peer Review Mechanism: Challenges and prospect, AU, NEPAD and APRM,” p.41

<sup>447</sup> Id , p.42

<sup>448</sup> Ibid

<sup>449</sup> Ibid

<sup>450</sup> Ibid

<sup>451</sup> Members of IMF, available at [http://simple.wikipedia.org/wiki/International\\_Monetary\\_Fund](http://simple.wikipedia.org/wiki/International_Monetary_Fund) (accessed on Nov 30, 2010)

<sup>452</sup> Articles of Agreement of the IMF, Art I

of the orderly underlying conditions that are necessary for financial and economic stability.<sup>453</sup> Thus, each member should undertake to collaborate with the Fund and with other members to assure orderly exchange arrangements and to promote a stable system of exchange rates.<sup>454</sup>

Article IV of the International Monetary Fund (IMF) primarily deals with the control and stability of exchange rates systems for economic and financial stability. The IMF seeks to ensure that countries do not disrupt orderly world economic growth by manipulating their exchange rate systems or the international monetary system.<sup>455</sup> All member countries are, therefore, expected to comply with the requirements of section 1 of IV of the IMF Articles of Agreement.

The provisions of section 3 of Article IV is quite instructive saying:

a) *The Fund shall oversee the international monetary system in order to ensure its effective operation, and shall oversee the compliance of each member with its obligations under Section 1 of this Article.*

b) *In order to fulfill its functions under (a) above, the Fund shall exercise firm surveillance over the exchange rate policies of members and shall adopt specific principles for the guidance of all members with respect to those policies. Each member shall provide the Fund with the information necessary for such surveillance and when requested by the Fund, shall consult with it on the member's exchange rate policies...*

The IMF, thus, monitors its members' obligations under the Article IV of the Articles of agreement through a process known as bilateral surveillance.<sup>456</sup> Under the Articles of agreement, Article IV, members commit to a code of conduct on exchange rate policies and domestic economic and financial policies.<sup>457</sup> The IMF monitors the adherence of its members to this code of conduct, which is mandatory.<sup>458</sup> In particular, it assesses whether the economic and financial

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<sup>453</sup> Ibid, Art I

<sup>454</sup> Ibid, Art IV, section I

<sup>455</sup> Ibid

<sup>456</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, Coordinated By: OECD, p.5

<sup>457</sup> Ibid

<sup>458</sup> Ibid

policies of its members are consistent with both the health of individual economies and the interest of the international community.<sup>459</sup>

This Bilateral surveillance is a continuous process and involves peer review. The IMF's surveillance of its members, the so-called Article IV consultations, is carried out through annual discussions between the Fund's staff and member governments and the central bank officials.<sup>460</sup> IMF has endorsed twelve internationally recognized standards on transparency, financial sector, market integrity, e.t.c. which are the basis for monitoring a state under Art.IV consultations.<sup>461</sup> IMF staff monitors member countries' economies on a continuous basis, and visits each member usually on an annual basis to exchange views with the government and the central bank.<sup>462</sup> These annual visits are also part of what is referred to as Article IV consultations which is conducted on the countries observance of each principle under each standard.<sup>463</sup> During these Article IV consultations, the IMF staff also meets with other stakeholders, including parliamentarians, business groups, labor unions, and civil society.<sup>464</sup> Based on the information gathered by IMF staff during site or country visits, a report is presented for discussion by the IMF executive board.<sup>465</sup> The Board's discussion with the state concerned formally concludes the consultation. A summary of the board's views is then sent to the reviewed state.<sup>466</sup> The Article IV staff report is published only with the reviewed country's authorities consent.<sup>467</sup>

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<sup>459</sup> Ibid

<sup>460</sup> Ibid

<sup>461</sup> Ibid

<sup>462</sup> Zein Kebonang, "The African peer Review Mechanism: Challenges and prospect, AU, NEPAD and APRM," p.44

<sup>463</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, coordinated by: OECD, p.5

<sup>464</sup> Ibid

<sup>465</sup> Zein Kebonang, "The African peer Review Mechanism: Challenges and prospect, AU, NEPAD and APRM," p.44

<sup>466</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, Coordinated By: OECD, p.5

<sup>467</sup> Ibid

## Chapter Three

### **Benchmarks for Good Peer Review under International Institutions that use Peer Review and Assessment of APRM under These Benchmarks**

The paper has already established that APRM is not the only mechanism in the world that uses peer review for adoption of best practices in the participating countries; rather a wide range of international organizations use peer review as a principal means of mechanism to monitor the governance of a member states. Among the many international organizations that use peer review the writer has selected the most known for their use of this mechanism which are OECD, WTO, IMF and ILO and has discussed their peer review mechanism and how their process of peer review works and how such mechanisms monitor the behaviour of their member states in these organizations.<sup>468</sup>

Most good review mechanisms, including the international review mechanisms we discussed in the previous chapters, suggest that there are important benchmarks for them to observe strictly in order to operate successfully. These benchmarks are considered to be a basic framework for a good peer review mechanism to exist. This chapter focuses on these different benchmarks international organizations use to have a progressive and relatively effective peer review mechanism and how well these important benchmarks are observed under the APRM. As we already have been saying the APRM has adopted the experiences of these different international organizations that use peer review to monitor adherence, especially OECD, and has assimilated them in its own system, it claims, to make the APRM more effective. But, the writer questions whether APRM has really domesticated these important principles in their fullest sense into its own system or it has just dragged them without incorporating their true meaning and value as such to making the mechanism not be a success story. Peer pressure by other participating states, the extent of competence of the Mechanism, independence of the different institutions of the mechanism, full participation of stake holders in the process, and publicity and openness of the process are the selected main bench marks for any good review mechanism. Such bench marks will help as a tool to assess and determine the real value and success of APRM for it to have any significant credibility in the African governance architecture.

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<sup>468</sup> See the previous chapter, Last section for detail.

### 3.1. Peer Pressure

#### 3.1.1. Peer Pressure under Other International Peer Review Mechanisms

The effectiveness of any peer review relies on the influence and persuasion exercised by the peers during the process on the state being reviewed.<sup>469</sup> This cumulative effect is known as “peer pressure”.<sup>470</sup> The peer review process can give rise to peer pressure through, for example: (i) a mix of formal recommendations and informal dialogue by the peer countries; (ii) public scrutiny, comparisons, and, in some cases, even ranking among countries; and (iii) the impact of all the above on domestic public opinion, national administrations and policy makers.<sup>471</sup> The impact of peer pressure will be greatest when the outcome of the peer review is made available to the public both during and after the review, as is usually the case at the OECD and many other international peer reviews.<sup>472</sup> Public scrutiny often arises from media involvement and when the press is actively engaged with the story, peer pressure is most effective.<sup>473</sup> It is that public scrutiny that is most likely to influence change and bring about corrective actions. In addition, the East Asian experience under OECD suggests that peer pressure provides an effective incentive to commit member countries to perform the required activities and take the necessary actions for common policy objectives.<sup>474</sup>

Peer pressure does not take the form of legally binding acts, as sanctions or other enforcement mechanisms. Instead, it is a means of soft persuasion which can become an important driving force to stimulate the State to change, achieve goals and meet standards.<sup>475</sup> OECD does not have any decision making power over its members, as such.<sup>476</sup> Therefore, OECD peer reviews must exercise their political influence through ‘peer pressure’ as a form of ‘soft enforcement’.<sup>477</sup> Peer

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<sup>469</sup> Fabrizio Pagini, ‘Peer Review: A Tool For Cooperation And Change’, p.5

<sup>470</sup> Ibid

<sup>471</sup> Ibid

<sup>472</sup> Id.p.6

<sup>473</sup> Ibid

<sup>474</sup> Wang, Y., and D. R. Yoon, “Mechanisms of Regional Surveillance in East Asia and Its Prospects,” Kobe Research Project, *Institute for International Monetary Affairs*, Japan Tokyo(2002), p.14

<sup>475</sup> Fabrizio Pagini, *Peer Review: A Tool For Cooperation And Change*, p.6

<sup>476</sup> Herald Heubaum, “Making the APRM work: A Rough Road Ahead For NEPAD’s Key Component”, *German Institute For International And Security Affairs*, Working Paper FG 6 (2005), p.1

<sup>477</sup> Ibid

pressure comes from both the regularity of the program checks and from the way in which the OECD members deal with a review findings.<sup>478</sup>

Peer pressure is particularly effective when it is possible to provide both qualitative and quantitative assessments of performance.<sup>479</sup> The quantitative assessment might take the form of a ranking of countries according to their performance, and the drawing of real score boards reflecting such rankings.<sup>480</sup> An example is the OECD Jobs Strategy, a programme which sets out principles and benchmarks, carries out quantitative analysis and ranks country according to their performances in reducing unemployment.<sup>481</sup> Another very good example is the ILO practice of peer pressure. Where a country continues to fail to implement or willfully flouts ILO conventions or processes, it may be “blacklisted” for ‘naming and shaming’.<sup>482</sup> Or it may be listed in a “special paragraph,” which in essence is a notice to the delinquent state that it risks being blacklisted if it does not change its ways.<sup>483</sup> Thus, the ILO uses such methods to pressure delinquent states to fully implement the recommendations of the Organization and they are mostly effective since states would normally avoid being black listed as poor performers. However, these methods are appropriate and produce positive results only when the “rules of the game” are clear and the participating countries accept them. Thus, even though there are no sanctions prescribed if the results of the review and the commitment of the reviewed government is less than satisfactory or the recommended changes are not implemented, the effect of active peer pressure, publication of results and the governments will to improve its policies as well as the reviewed governments concern about its standing among the peers are often enough to trigger the necessary reforms.<sup>484</sup>

In case of IMF the peer pressure is exercised during the report’s discussion between the country reviewed and the IMF executive Board. The Board’s recommendation usually entails strong tones, and if a reviewed state deviates from it there will be political and financial consequences

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<sup>478</sup> Ibid

<sup>479</sup> Fabrizio Pagine, *peer review: A Tool For Cooperation and Change*, p 6

<sup>480</sup> Id, p.6

<sup>481</sup> See The OECD Jobs Strategy: Progress Report on Implementation of Country-Specific Recommendations, OECD Economic outlook Economics Department Working Paper 196 (1999).

<sup>482</sup> Zein Kebonang, “The African peer Review Mechanism: Challenges and Prospect, AU, NEPAD and APRM,” p.42

<sup>483</sup> Ibid

<sup>484</sup> Herald Heubaum, “Making the APRM work: A rough road ahead for NEPAD’s key component”, p.1

most countries can not afford to risk. This is especially the case for developing nations which use the Funds money for their development programs and have no other viable alternative.

The same is also true with WTO review mechanism. Once the reports have been prepared, a meeting between TPRB and the member state being reviewed is held to discuss the report and come to an understanding as to the Trade policy of the reviewed state as well as how the country under review should amend its trading policy, if necessary.<sup>485</sup> The review serves to provide information and play an important transparency role on the basis of which WTO can monitor the behaviour of member states.<sup>486</sup> The information made available through these reviews can trigger other implementation mechanisms, such as supervision or enforcement, especially when the information reveals some WTO inconsistent behaviour.<sup>487</sup> Thus, the review exerts pressure on the state to make its trading policy public and most importantly consistent with the WTO rules otherwise it will trigger other enforcement mechanisms.

### 3.1.2. Peer Pressure under APRM

Many puzzle on the issue whether there is any real peer pressure exercised in the APRM by participating states on the state being reviewed. The APR Team's report and the final PoA together with the government's reaction to the Team's findings are sent to the APR Secretariat and then submitted to the APR Forum of participating Heads of State and Government for consideration and formulation of actions deemed necessary in accordance with the mandate of the APR forum.<sup>488</sup> It is at this stage that peer pressure is or should be exerted by APR forum on the reviewed state by seriously questioning the latter's way of governance and how it should implement its PoA in light of the recommendations of the APR Panel. In order to have a successful peer pressure the APR forum should exert its political influence to make the reviewed state accept and implement its PoA and the recommendations of the APR panel.

But the basic question remains, are they putting enough peer pressure to implement the review results? The writer holds the position that they are not exerting enough influence to bring about compliance on the part of the state being reviewed. This is because; the APR forum seems to

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<sup>485</sup> Zein Kebonang, *The African peer Review Mechanism: Challenges and prospect*, AU, NEPAD and APRM, p.40

<sup>486</sup> *Ibid*

<sup>487</sup> *Ibid*

<sup>488</sup> APRM Base Document, paragraph 23

have no enough interest to exert pressure. The APR forum peer review is done only one day before the AU Assembly meeting, which is held only once or twice a year, and held only at the margins of the AU meetings. Equally only small numbers of the participating countries' Heads of states or governments are present in such meetings and others only send their representatives which highlights that APR forum is giving only the minimal attention to the peer pressure aspect of the mechanism.<sup>489</sup> In addition to this most of the leaders usually arrive late, the meeting takes place simultaneously with the HSGIC or will be preoccupied with an intervening current crisis that they may not have enough time to deal with the review. For instance, during the 2008 AU meeting the leaders were more interested in the Zimbabwe's crisis that they did not have time to even roughly review the reports presented before them.<sup>490</sup> Three countries, Uganda, Nigeria and Burkina Faso were slated for peer review at that meeting in Sharm El Sheik, Egypt in June 2008. But the forum only reviewed the Ugandan report and they postponed the peer review of Nigeria and Burkina Faso to their next meeting.<sup>491</sup>

Equally, most of the APRM participating countries lack the required political will to seriously challenge the way of governance in the reviewed country. This has been the culture of many African leaders for decades. They just want to scratch each others back and appreciate each other. APR leaders fear that if they throw stones at their neighbor's house, the others might also throw back in the future at their glass houses and break them. So they want to follow the saying "a person with a glass house does not try to throw stone at his neighbours". The best illustration is that After President Kagame and the APR panel representative made their presentation with regard to the Rwandan review, president Obasanjo of Nigeria and the then chair of the APR forum noted that 'the areas of divergence do not seem very serious'.<sup>492</sup> The chair said this despite the critical comments made by the APR panel in the report on political indecency, grave human rights abuse, no real separation of power between the three branches of the Rwandan government and many more.<sup>493</sup> What is more surprising is that only one other member commented on the

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<sup>489</sup> In the APR Forum held its 9th Summit on 29 June 2008 in Sharm El Sheik, Egypt. Only 13 Heads of state out of the 28 participating countries were present. (APRM News Letter, Vol. 7, August 2008, p.1.) The same is also true in the Cotonou's Extra Ordinary Summit where by only 7 out of the 29 heads of states were present. (APRM News Letter, Vol. 8, October 2008, p.2)

<sup>490</sup> The APRM Monitor, News And Views On The African Peer Review Mechanism, No.6, Oct, 2008,

<sup>491</sup> Ibid

<sup>492</sup> Reports on MDG, The Annual UNDP Human Development report and World Bank World Development Report, p.55

<sup>493</sup> Ibid

review report of Rwanda by appreciating the Rwandan government saying ‘he is impressed that corruption is not a big issue in Rwanda’.<sup>494</sup> Others were totally reserved from making any comment on the report. In the same way, Critics point out that Kenya’s president has never been asked to explain his country’s post-election violence; nor have the leaders of Algeria and Uganda been questioned about alleged constitutional manipulation to extend their terms of office.<sup>495</sup> One journalist summarized the APR forum meeting saying ‘All the APR forum leaders praised the review report and commended Kenya for being candid, thorough, and open then pledged to support Kenya in seeking whatever they can but no one posed a question for Mr. Kibaki, the Kenyan president, about any of the real issues in the review report’.<sup>496</sup> This is an indication that the members of the forum are either totally disinterested in commenting, criticizing or reiterating any reports made by the Panel or they felt that they have no moral standing to criticize governance of other member countries before putting their own house in order.

The other thing for having an effective peer pressure is the availability of the review report on time so that the leaders of the APR forum will deliberate on the issue before coming to the actual peer review. But this was not mostly happening in the APRM. The review reports on Kenya, Algeria and South Africa were presented and discussed by the peers directly at the forum meeting at which the reports were presented.<sup>497</sup> Thus, the discussion on the reports and the subsequent peer pressure is not very substantial but rather superficial because the reports were presented before the leaders just on the day of the discussion which has negatively affected the quality of peer pressure.<sup>498</sup> This may be the result of the APR’s secretarial lack of coordination and competence which the writer will discuss in the next section.

Generally, Peer pressure does not take the form of legally binding acts, as sanctions or other enforcement mechanism rather it is a means of soft persuasion which can become an important driving force to stimulate the state of change, achieve goals and meet standards.<sup>499</sup> But some observers question the APRM’s soft enforcement mechanisms is very delicate indeed that it may

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<sup>494</sup> Ibid

<sup>495</sup> Steven Gruzd, “Ten Reasons to Keep Faith with Africa’s Peer Review Process,” Governance and APRM Programme, *SALLA Policy Briefing* 17, (2010), p.2

<sup>496</sup> Bronwen Manbay, “Was The APRM Process In Kenya A Waste Of Time? Lessons that Should be Learned for the future”, *AfriMap*, (2008), p.2.

<sup>497</sup> Reports on MDG, the annual UNDP human development report and World Bank world development report, p.55

<sup>498</sup> Ibid

<sup>499</sup> Fabrizio Pagine, *Peer Review: A Tool For Cooperation And Change*, p.6

not have enough influence to pressure in enforcing governance principles outlined under NEPAD.<sup>500</sup> Critics say that the peer review mechanism will never be stringent and penetrating enough especially where they are opposed to the interests of the ruling elites.<sup>501</sup> One of the most obscure aspects of the APRM process concerns the consequences that will follow the refusal or failure, for whatever reason, by a participating state to take the necessary measures to correct shortcomings exposed by the review process.<sup>502</sup> It is only when dialogue and peer pressure have failed that APR forum can take 'appropriate measures' against the failed state.<sup>503</sup> This provision is vague as to whether or not sanctions can be imposed on member states who fail to comply with the recommendations.<sup>504</sup> Could 'appropriate measures' mean a fine, or economic and political sanctions or even suspension or expulsion? The APR forum must first be clear as to the meaning of 'appropriate measures' stipulated under the APRM base document.

There are different comments made whether sanctions of some sort is necessary for APRM to have any meaningful effect. Some commentators argue that the weakness of the current review process is that it does not prescribe sanctions or penalties. So, it runs the risk of being ineffective.<sup>505</sup> African leaders are known for adoring each other even in the face of apparent human right abuse, economic mismanagement and deep rooted corruption, as it is seen in the case of Darfur and Zimbabwe.<sup>506</sup> None of the African leaders exert any meaningful pressure on other states because they do not have the moral, political or economic leverage to do so.<sup>507</sup>

However, those opposed to sanctions contend that sanctions will not provide an incentive for countries to join the review process.<sup>508</sup> Peer review is a learning process and once the review has been made, self interest dictates that the state being reviewed act on the recommendations made.<sup>509</sup> They say, one can not link the peer review to the carrot and stick approach since peer

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<sup>500</sup> Herald Heubaum, *Making The APRM Work: A Rough Road Ahead For NEPAD's Key Component*, p.4

<sup>501</sup> Len Virway, "NEPAD And Civil Society Participation In The APRM", *IDASA occasional paper*, (2005), p.3. available at <http://www.un-ngls.org/cso/cso8/nepad.pdf>. (accessed on November 06, 2010)

<sup>502</sup> Zein Kebonang, *The African Peer Review Mechanism: challenges and Prospects*, AU, NEPAD and APRM, p.51

<sup>503</sup> APRM Base Document, Para 24

<sup>504</sup> Zein Kebonang, *The African Peer Review Mechanism: challenges and Prospects*, AU, NEPAD and APRM, p.51

<sup>505</sup> *Ibid*

<sup>506</sup> *Ibid*

<sup>507</sup> *Ibid*

<sup>508</sup> *Ibid*

<sup>509</sup> *Ibid*

review is not punitive, and if it is, then it loses its objective.<sup>510</sup> A country that fails to act on the recommendations stands to lose out because the peer review will shape the way in which donors and developed countries deal with such states and that is a sufficient incentive to comply.<sup>511</sup>

The writer holds that it is true peer review is a mutual learning process to improve the participating countries governance and it should stick to its soft law enforcement mechanism. But, seeing the behaviour of most African states towards their peers one may question whether such soft enforcement mechanism works. African states may not seriously use the peer pressure strongly to make states comply which could in turn very much diminish the anticipated use of peer review in Africa's governance practice.

### **3.2. Institutional and Technical Competence**

#### **3.2.1. Institutional Competence of Other International Peer Review Systems**

The institutional and technical competence is another vital feature of any successful review mechanism.<sup>512</sup> Forming an organization without making sure of its institutional and technical competence is just like designing it to fail. Every organizations success or failure is mostly attached to its capability to cope up with its given mandate. Organizations create different organs to make sure that the organization is up to its task. To be technically competent, the review body must be sufficiently resourced both in terms of funding as well as in the technical expertise of the staff. But, whether or not the review mechanism is competent to discharge its functions will depend not only on the resources at its disposal but also on the amount of the actual task that has been assigned to it.<sup>513</sup> No matter how technically competent the staff of the review body is, if it is asked to do too much and is stretched too thin, it will be ineffective in delivering what is required of it.<sup>514</sup>

The OECD has different actors that could boast the competence of the organizations peer review mandate. Peer review is a joint operation involving the reviewed country, the examining countries and staff from the OECD Secretariat.<sup>515</sup> OECD peer reviews cover a wide range of

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<sup>510</sup> Ibid

<sup>511</sup> Id, p.52

<sup>512</sup> Zein Kebonang, *The African peer Review Mechanism: Challenges and prospect*, AU, NEPAD and APRM, p.44

<sup>513</sup> Ibid

<sup>514</sup> Ibid

<sup>515</sup> See the previous chapter.

topics, from economics and governance to education, health, environment and energy.<sup>516</sup> As it has been already discussed in the preceding chapter, the OECD peer review and monitoring activities are sector- specific by which each sectors review could have its own distinct ways and procedures of review. The OECD establishes a committee or a subsidiary body for that sector specific review which is responsible for the whole of that review process. In the same way, the organization's secretariat employs experts who have different academics and experience ranging from Economics, environment, public service management, trade and financial affairs, technology and so on based on the type of review it intends to undertake. This increases the competence of the OECD to concentrate all its efforts in a specific area at a time which gives it the maximum capacity to do its job competently and effectively. For instance, the examination of the economic developments and policies of each member state is reviewed by EDRC; DAC assesses the members' development cooperation and assistance and Environmental performance review committee reviews the environmental performance of a member states. Accordingly, the frequency of the reviews depends on the programme of work of the body and the importance of the review, and it can range from the 6-7 year cycle for the Environmental Performance Reviews to the 12-18 months cycle for the Economic and Development Review.<sup>517</sup>

The secretariat of the OECD also plays irreplaceable role in assisting the whole review process. Normally, the most labour-intensive part of the work is carried out by the Secretariat, which may also have the most expertise in the substantive area of the review.<sup>518</sup> The secretariat works very closely with the reviewers and reviewed country to make sure the whole process has gone very smoothly by producing background report, outline of the review, organizing meetings and missions, stimulating discussion, upholding quality standards, and maintaining continuity as the keeper of the historical memory of the process.<sup>519</sup> In the same way, the Secretariat must guarantee independence, transparency and quality of work done during the review.<sup>520</sup> In order to do this difficult task, huge amount of resources, both human and financial, are allocated to it.<sup>521</sup>

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<sup>516</sup> Peer review at a glance, available at [http://www.oecd.org/document/26/0,3343,en\\_21571361\\_37949547\\_38012314\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/26/0,3343,en_21571361_37949547_38012314_1_1_1_1,00.html), (accessed on October 14, 2010)

<sup>517</sup> Zein Kebonang, "The African Peer Review Mechanism:Challenges and Prospect, AU, NEPAD and APRM" p.42

<sup>518</sup> Fabrizio Pagini, *Peer Review: A Tool For Cooperation And Change*, p.10

<sup>519</sup> *Ibid*

<sup>520</sup> *Id*, p.13

<sup>521</sup> *Ibid*

In the same way The TPRM provides that trade policies of all members shall be subject to periodic review.<sup>522</sup> Here also the institutional competence of the WTO's TPRD, the division that effectively act as the secretariat, is essential to have a successful review of member countries' trade policies. The secretarial work is done by TPRD including writing reports about the reviewed country's trade policies and its inconsistency, if there is any, to the WTO rules.<sup>523</sup> The peer review under WTO is also sector- specific focusing only on the member countrys' trade rules and policies. This, definitely, boasts the ability of the TPRD competence since WTO has an army of experts dealing with trade and trade related areas which makes it competent to deliver useful and timely results. The WTO review is also cautious about the frequency of reviewing its members by apportioning the duration of review based on the country's world trade share. The first four members with the greatest share of world trade are reviewed every two years (presently the EU, US, Japan and China), the next 16 every four years and all others every six years.<sup>524</sup> However, longer periods may be set for Least Developed Countries.<sup>525</sup> All This is to make sure that the review is not too ambitious and too stretched to have no meaningful results from the peer review.

The IMF also assesses whether the economic and financial policies of its members are consistent with both the health of individual economies and the interest of the international community.<sup>526</sup> Since the main task of IMF is only related to monitoring economic and financial policies of countries, it has enough staff and resources to do the review competently and comprehensively. The same is also true for ILO experience which is that two elements in particular contribute to the strength of the ILO's competence. One is the participation and input of non-governmental actors in the system, which adds depth and perspective to the information available and consideration of it and the other is examination of the reports by independent, impartial and objective bodies, most notably the Committee of Experts, which is appointed by the ILO Governing Body to boost the competence of its review mechanism.<sup>527</sup>

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<sup>522</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, p.9

<sup>523</sup> Josheph F. "Trade Policy Transparency And Investor Confidence, The Implication Of An Effective TPRM," p.13

<sup>524</sup> See Marakash Agreement Annex III, (C,ii)

<sup>525</sup> Ibid

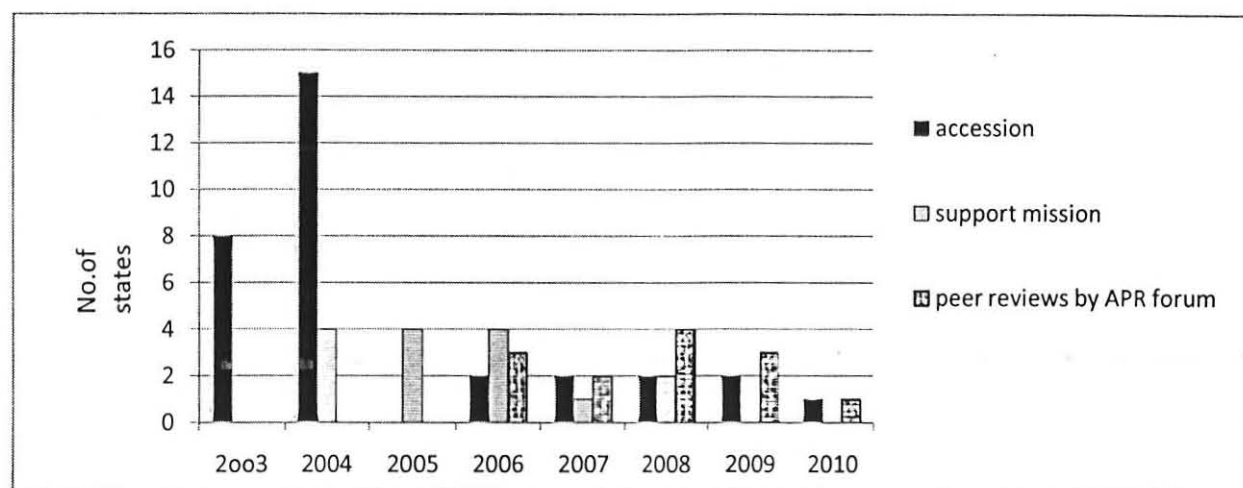
<sup>526</sup> Ibid

<sup>527</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, p.3

### 3.2.2. Institutional Competence of APRM

When we come to our main issue, i.e. the competence of APRM in performing its task according to the mandates given to it in the APRM base document and other relevant documents, it is essential to first take a grasp of the records of facts as to what it has done so far from the chart and the three tables compiled below.

Chart I- The APRM take up rates



source- APRM secretariat, as of July 2010.

Table 1: the original proposed calendar for APR team visit and its actual date

	2004	2005	2006	2007	2008	2009
Ghana	x(Q <sub>2</sub> )	✓ (Q <sub>1</sub> )				
Rwanda	X(Q <sub>2</sub> )	✓ (Q <sub>1</sub> )				
Kenya	X(Q <sub>2</sub> )	✓ (Q <sub>2</sub> )				
Mauritius	X(Q <sub>2</sub> )	✓ (Q <sub>2</sub> )				
Mali	X(Q <sub>2</sub> )			✓ (Q <sub>2</sub> )		
Ethiopia		X(Q <sub>2</sub> )			✓ (Q <sub>2</sub> )	
Egypt			X(Q <sub>1</sub> )			N
Nigeria		X(Q <sub>1</sub> )			✓ (Q <sub>2</sub> )	
Benin		X(Q <sub>1</sub> )		✓ (Q <sub>2</sub> )		

Source- APRM document (NEPAD/APRM/Panel5/04-2004/calendar/Doc7b)

Key X- the year that the country was proposed to be visited by APR review team

✓ the year that the country actually received the APR review team

Q<sub>1</sub>-first half of the year

Q<sub>2</sub>-second half of the year.

N-Not yet received the APR team in 2009.

Table 2- Country Status in the APRM Process

Status in the APR process	Countries in that that stage
Countries waiting to conduct 2 <sup>nd</sup> CSA	Ghana and Kenya.
Countries Implementing 1 <sup>st</sup> PoA	Algeria, Benin, Burkina Faso, Nigeria, Lesotho, Mali, Mozambique, Rwanda, South Africa and Uganda.
Countries that have completed CSA, country review and await the APR forum Peer Review.	Ethiopia and Mauritius*
Countries that have received CSM and have thereby commenced CSA process	Tanzania.
Countries that have acceded but are yet to receive 1 <sup>st</sup> Country Support Mission	Angola, Cameroon, cape Verde, Republic of Congo, Djibouti, Egypt, Gabon, Malawi, Mauritania, Sao Tome & Principe, Senegal, Sierra Leone, Sudan, Togo and Zambia.
Countries yet to accede to APRM Countries	Botswana, Burundi, Central African Republic, Chad, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Eritrea, Gambia, Guinea, Guinea Bissau, Liberia, Libya, Madagascar, Namibia, Niger, SADR, Seychelles, Somalia, Swaziland, Tunisia, and Zimbabwe.

Source: Compiled from data from the APRM Continental Secretariat Status as at October 2009<sup>528</sup>

\* the APR forum peer review of these countries was planned to be done in August 2010 but the writer is unable to verify whether it was done according to the schedule since the APRM official website says nothing about it from August till December 2010.

Table 3- The peer review journey of Sample countries

<sup>528</sup> Status of Countries. Available at <http://www.uneca.org/aprm/CountriesStatus.asp> (accesses on July 11,2010)

	Accession	(CSM) and signing of MoU	Self assessment and PoA completed	Country review missions(CRM)	Time between CSM and CRM	Date peer reviewed
Ghana	2002 Nov.3.	2004 May 24-29.	2005 March.	2005 June.	15 months.	2006 January
Kenya.	2003 March	2004 July 26	2005 August	2005 October.	15 months.	2006 June
Rwanda	2003 march	March 2004	March 2005	April 2005	13 months	2006 June
South Africa	2003 March	2005.Nov.9-11.	2006 March	2006.July.11-25	9 months	2007.July
Benin.	2004 March	2005, Nov 14-17		2007 July.16-Aug.4.	20 months	2008.January
Nigeria.	2003 March	2005 March.	2007.	2008 Feb.3-March.2	36 months	2008..July
Burkina Faso	2003 March	2006 June.19-22.	2007 Oct.	2008 Feb 18-Mar 16	19 months	2008 October
Ethiopia.	2003 March	2008 June 10-14.		2008 Dec.	6 months	unpublished
Mauritius	2003 July	2004 June	2005 march	2009	More than 4 years	unpublished

Source: Compiled from data from the APRM Continental Secretariat and country review reports.

Where as the APRM guideline notes that the whole review process, from the start of Stage One and the end of Stage Four, should take from 6- 9 months,<sup>529</sup> so far no nation has done it even close to this time plan (see table 3). Ghana took 15 months to complete its CSA from its public launch of the program, and another 8 months before the report was presented and defended in front of the heads of state (see table 3). Rwanda took 12 months from the launch to completion of the CSA and another 15 months before the APR forum review while Kenya took 18 months from the formation of its ministerial task team to completion of the CSA and it took another 8 months before review by the APR forum(see table 3). These examples are just an indication to show how close the better performers came in terms of meeting their deadline. Even these so called ‘better performers’ are way far from meeting the deadline stipulated by APRM base document, which is from 6-9 months. The duration of other reviewed countries took much longer than the above ‘better performers’ (see table 3). Let’s take the case of the worst case scenario, Mauritius, one of the pioneer signatories of the APRM review process. The country does not still finish, up until the writing of the paper, the process or publish its review report seven six years of review process by giving itself of several excuses for doing so (see table 3).<sup>530</sup> The same can also be said on Ethiopian peer review. The country, even though joined the process in its early stage, doesn’t still finish its peer review or its reports are not yet published at the time of writing the paper (see table 2 and 3).

The APRM base document also makes clear that peer reviewing of countries acceding to the APRM to be commenced within eighteen months of a country becoming a member of the APRM process.<sup>531</sup> But, apart from the three pioneering countries, Ghana, Rwanda and Kenya, it seems like no one really took the pain even try to meet these time tables (see table 3). For instance, Nigeria and South Africa took more than two years to commence their base review (see table 3). Burkina Faso took three years to start its peer review after signing to the document. There are other countries which took longer years to commence their peer review after being party to the APRM. Ethiopia, which is one of the pioneer countries to the APRM, commenced its peer review after 5 years from its being party to the APRM (see table 3). What is more shameful is that half of the participating countries do not still start their base review by the end of 2009 (see

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<sup>529</sup> APRM guidelines, NEPAD APRM Panel3 guidelines 11-2003/Doc8, para.28

<sup>530</sup> Mouloud Boumghar, Gilles Badet et.al, *The African Peer Review Mechanism: A Compilation of Studies of The Process In Nine African Countries*, (An Open Society Foundations Publication, 2010), p. 243

<sup>531</sup> APRM Base Document, para.14

table 2).<sup>532</sup> On average only approximately two countries are peer reviewed each year since the establishment of APRM (see chart I). Simply put APRM is way behind its schedule that if more countries join the mechanism it will be more difficult, if not impossible, to practically keep up with its time table put by APRM document for commencing base review.

As table 1 tells us, no country has received its APR team in time as originally proposed by the APRM calendar even during the earlier years of APRM when the countries party to it were small in number to which is beneficial to speed up its pace. Apart from Ghana and Rwanda which only took less than a year from their proposed time to be visited by APR team others took more that a year, at least, from the original proposed date putted under APR calendar to receive APR team (see table 1). Countries like Ethiopia and Nigeria took more than two years from the proposed date to receive the team. Worse, Egypt did not yet received its CRT even though the APR calendar planned it to take place in the first half of 2006 (see table 1)

The APRM base document also governs how the periodic review should be done after the base review. It stipulates that there is a periodic review that should takes place every two to four years after the base review.<sup>533</sup> So far no country has done this periodic review even though, at least, pioneer countries like Ghana, Kenya and Rwanda should have gone through their 2<sup>nd</sup> review. At the present pace, it would take another decade to complete the states waiting to be base reviewed, with out taking into consideration new entrances or pioneer countries up for their second review. Equally, only after the base review is completed that countries would get the chance for their periodic review which is highly unlikely to happen within a decade or so. Generally, the very ambitious timetable recommended in the APRM base document is fictitious and will simply not be attainable if the process continues to go at the current pace.

Why is APRM doing its job way behind the schedule? There are different reasons for this. The first reason could be lack of adequate resources both expertise and finance to sensibly discharge its duties. Speaking of APRM competence, a lot will depend on the quality of the APRM secretariat and APR panel as well as APR review team. It is partly a matter of resource, but also

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<sup>532</sup> So far only 12 out of 30 participating countries finished their base review; 3 under the review process and another 15 yet to commence the base review process. (see table 2)

<sup>533</sup> APRM Base Document, para.14

a matter of hiring staff based solely on the criteria of technical competence.<sup>534</sup> The APR secretariat is supposed to provide the secretarial, technical, coordinating and administration support service for APRM.<sup>535</sup> It is also required to work with other units of the AU organs and AUC for its effective functioning.<sup>536</sup> It must have both the technical and administrative capacity to undertake and manage the analytical work that underpins the peer review process and also conforms to the principles of the APRM.<sup>537</sup> In addition to this there is a long list of tasks that should be managed by the APRM to make the mechanism work effectively.<sup>538</sup>

But there is a severe staff and financial shortage for APRM to meaningfully perform its mandate.<sup>539</sup> This directly undermines the competence and credibility of its mandated task. The shortage of staff and funding explains a lot for the very much delay of country reviews reports that we have seen above. One writer explains the shortcomings of Uganda's review report by saying 'the problem in Uganda's APRM report was that the report only bases its conclusion on compliance by only looking at ratification of international instruments that incorporate these standards. But in reality, Ratifying an instrument is one thing and Domesticating and actually implementing the standards it prescribes is totally another.'<sup>540</sup> He also added that the reason for such superficial review is attributable a highly shortage of staff during the country review visit making it unable to deeply appreciate the practice other than the written law focusing on only desk based research'.<sup>541</sup> The staff shortage is particularly visible on APR panel members. There are only 5-7 panel members and only one member is assigned together with CRT for each country. The APR document states that apart from the chair person all the members of the panel work on part-time basis which further weakens the competency of the panel's task.<sup>542</sup> It is naïve to expect this one panel member will competently handle and oversee the entire one country

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<sup>534</sup> Kanbur, Ravi, *The African peer review mechanism (APRM): an assessment of concept and design*, p.164

<sup>535</sup> African Peer Review Mechanism Organisation And Processes, NEPAD HGSIC-3 2003/APRM/Guideline O&P (2003), para.1.1 (c)

<sup>536</sup> id, para.4.4

<sup>537</sup> Id, para.4.1

<sup>538</sup> Id, para. 4.2 for this long list.

<sup>539</sup> Participating countries are required to pay \$100,000 annually ( see Zein Kebonang, "The African Peer Review Mechanism: challenges and Prospects, AU, NEPAD and APRM," p.49), but it is short a budget to undertake all the mandates of APRM sensibly and effectively.

<sup>540</sup> Christopher Mbazira, *A Dream Differed? Democracy and Good Governance: An Assessment Of The Findings Of Uganda's Country Self Assessment Report Under The APRM*, Human Rights & Peace Centre, working paper 19 (2008), p.37

<sup>541</sup> Ibid

<sup>542</sup> African Peer Review Mechanism Organisation And Processes, NEPAD HGSIC-3 2003/APRM/Guideline O&P (2003),para 3.7

review and will be able to give detail instruction to the APR team how to do their job and prepare a thorough and timely country review report. Its simply a mission impossible for one person.

Equally, in Ghana, the APR team was made up of 16 members comprising from different partner institution and APR secretariat.<sup>543</sup> The team stayed for 14 days to explore the salient issues identified in the issue paper and to discuss the PoA.<sup>544</sup> It could be said that the number of persons assigned for the mission is too small to competently and rigorously assess all the issues outlined in the four thematic areas of the APRM base document within this short period of time to be worthy of any credibility. Such staff and resource shortage on the secretariat and APR team may create the temptation to rely on background papers and desk based information, rather than exhaustive and comprehensive process of actual consultation with a wide range of stake holders.<sup>545</sup> That's why in most country reviews the different stake holders complain that they were not adequately consulted, if they were consulted at all, by the APR team during the visit. It may also create minimizing probing and rely on official versions of 'the way things are'.<sup>546</sup>

It may also be argued that the 2-4 years periodic review time allocated by the APRM document is simply too short to finish all the participating states with such dire financial and human resource constraint. It may be reasonable to have the review every ten years interval but this directly contradicts the purpose of peer review, which is continuous assessment of the performance of a state and one can not say ten years is a continuous time interval. Unless the APRM leaders come up with a solution it is inevitable that the duration and interval between of peer review will lag behind as well as its thoroughness negatively affected. On the same token, the duration of for every stages of the review process will take longer time than it should have and the reports will not be detail and participating enough to be of any significant importance.

These all shows the incompetence of the APRM to dig deeper into the country's real situation during its country review. In addition, given the current dire shortage of resources and human

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<sup>543</sup> Brief report issued at the end of the APRM CRM to Ghana, (April 04-16,2005), Accra, Ghana. Available at [http://www.eisa.org.za/aprm/pdf/Countries APRM Brief Report end Ghana 2005.pdf](http://www.eisa.org.za/aprm/pdf/Countries%20APRM%20Brief%20Report%20end%20Ghana%202005.pdf) (accessed on Nov 30,2010)

<sup>544</sup> Id, para 3

<sup>545</sup> Len Verway, "NEPAD and Civil Society Participation in the APRM," *IDASA Occasional Papers* (November 2005), p.11. available at <http://www.un-ngls.org/cso.cso8.nepad.pdf> (accessed on Sep 06, 2010).

<sup>546</sup> Ibid

capacity, it is impossible to periodically review each of the current 30 members every two to four years, as stated in the base document.

With regards to allocating funds to the APRM, each participating state should contribute 100,000 U.S dollars annually for the running of the secretariat.<sup>547</sup> Various analysts estimated that this figure will be insufficient to adequately assess the governance situation in depth that is specified by the APRM documents.<sup>548</sup> There is also a fear that even this small amount of budget allocated to the process will not be properly collected since most African states are known for not paying their annual arrears in time, if they pay at all. This also creates another problem for the secretariat to effectively handle its business.

The other crucial issue is not just a technically incompetent staff, but that the review mechanism takes too much and is stretched too thinly across a very wide range of issues to competently perform its mandate. No matter how technically competent a staff is, if it is asked too much and is stretched too thin, it will become incompetent to deliver what is expected of it. The reviews to be undertaken within the scope of APRM are concerned with the following areas. Firstly, democracy and political governance; secondly, economic governance and management, which involves macroeconomic management, public finance accountability, corruption and regulatory oversight bodies; thirdly, banking and financial standards, which includes the entirety of corporate governance; and fourthly, socio-economic development, which concerns itself with the provision of basic needs and improvements in the quality of life in the country under review.<sup>549</sup> The APRM is uniquely, and may be undesirably too broad in its scope. Many of the other organizations that use peer review peer review are very sector- specific as we have seen in the previous chapter. OECD reviews its members performance on one sector at a time and with different sector review in other times. WTO review only focuses on the trade policy of the reviewed state. IMF also monitors only relating with the control and stability of exchange rates systems for economic and financial stability. But the APRM covers all imaginable area of governance ranging from political governance to economic management and from corporate governance to socio- economic development. A comparison with other peer reviews instituted

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<sup>547</sup> Zein Kebonang, "the African Peer Review Mechanism: challenges and Prospects, AU, NEPAD and APRM," p.49

<sup>548</sup> Aysha Kajee, *The AU organs and APRM: Implications for regional integration in the context of continental structures*, p.8

<sup>549</sup> APRM Base Document, para.2

worldwide including OECD which invented the modern peer review process, that APRM is, its leaders' brag, unprecedented and unique both in scope and depth, with the review process extending to all levels of government as well as the private sector and civil society.<sup>550</sup> May be the very area APRM proud itself is the source of all its weaknesses.

No review mechanism could be reasonably expected to properly review all these areas even with the best staff and all the available resources before it. Ironically, the APRM has chosen to achieve ambitious results with all these governance areas even if it is seriously struggling with both human and financial shortages. From the illustration of the chart and the tables its not that hard how much incompetent APRM has become mainly because of its over stretched burden in scope to review all aspects of governance of the reviewed country which it apparently unable to perform both in depth and quality of the analysis including delivering the review in due time. Many agree that the APRM is too broad in its coverage and too detailed to be sensibly handled by a single review. One could, thus, reasonably ask whether the designers had set up the mechanism knowing it will fail; since this has happened in with other African institutions, whose ambitions far outweigh their capacity to effect change and died a gradual death as a result of it.<sup>551</sup>

The too broad and too detailed scope of APRM's weakness is exaggerated by the acute shortage of staff in the APRM.<sup>552</sup> The review process which is supposed to be done in a short period of time would certainly taste even the ability of technically competent staff to the limit.<sup>553</sup> There is, thus, a danger that the quality of the review will seriously be compromised by an over stretched and under staffed APRM secretariat that is expected to do too much too soon. APRM should learn its important lesson form the relative success stories of other international institutions especially with regard to their being sector- specific in their peer review exercise. It is absolutely crucial for APRM to narrow its scope of review and focus on the most critical areas of governance, where it is bound to have comparative advantage, rather than attempting to spread itself as thinly as it is presently doing and finding it impossible to cope with requests for

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<sup>550</sup> APRM: Africa's Innovative Thinking On Governance, The Forum For The 8<sup>th</sup> Gathering Of The African Partnership Forum, p.7

<sup>551</sup> Steven Gruzd, *SALLA round table: APRM- progress and prospects*, occasional paper No.59, (2010), p.6

<sup>552</sup> Zein Kebonang, "the African Peer Review Mechanism: challenges and Prospects, AU, NEPAD and APRM,"

p.50

<sup>553</sup> Ibid

reviews.<sup>554</sup> There is urgent need for the focus of the review to be narrowed before its unrealistic scope leads to review reports that are too superficial to be of any value. We should not think that the mere tabling of a self- assessment report constitutes, by itself, proof of determination and commitment of African countries to change the status quo. Unfortunately, the timid and lost APRM creates the danger that the APRM would simply turn into an instrument for bestowing legitimacy for non-performing and oppressing governments.<sup>555</sup>

The lack of competence of APR secretariat is also visible in its weakness to adequately monitor and evaluate the post review progress reports submitted by countries on the implementation of their PoA even though the most important part of any peer review mechanism is monitoring and follow up of a country's progress in between reviews.<sup>556</sup> The best case scenarios are Kenya and South Africa. The APRM report for Kenya had anticipated the potential ethnic unrest whereas the South African report had warned against xenophobic tensions in the country.<sup>557</sup> However, the reports do not deter the anticipated problems from materializing. One of the main reasons for this are the very weak monitoring mechanism by APRM to implement the recommendations of APRM reports and its minimal post review impact to shape the reviewed states' behaviour.

The incompetence of APR secretariat is also manifested in its low level ability of publishing important documents in due time. Currently, it is difficult to find the most updated documents, data and reports of the APRM and its activities in the official website of APRM which is a clear sign of incompetence on the side of APRM secretariat. Most of the data must have been updated on regular basis but was not done by the APRM. For instance the APRM official website released only Ghana's post review progress reports among the 12 of the already reviewed countries.<sup>558</sup> It also seems that it has lost track of even those of the published post review reports which the writer manages to locate in the websites of the respective countries. It seems like APRM is yet to discover the procedures how best to structure post- review follow up including

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<sup>554</sup> Id, p.53

<sup>555</sup> Eduard Jordan, "In Adequately Self Critical: Rwanda's Self Assessment For The APRM," *African affairs* 105:420 (2006), p.351

<sup>556</sup> Adotey Bing-Pappoe, *Reviewing APRM, A Seven Country Survey*, p.20

<sup>557</sup> Marge Chene, "African Peer Review Mechanism, How Does APRM Operate?" *U4 expert answers, anti-corruption resource center*, p.2, available at <http://www.u4.no/search/?q=African+Peer+Review+Mechanism%2C+How+Does+APRM+Operate> (accessed on Oct 18, 2010)

<sup>558</sup> Recent APRM Documents & Reports ,available at <http://www.aprm-international.org/> (accessed on November 27, 2010)

monitoring and evaluation. It was also difficult for the writer to collect up to date data about the current task of the APRM. Most of the important APRM data and reports are not there and even if the ones that are published on the APRM website are mostly from the year 2009 which is not updated for the year 2010. So, the writer is obliged to go into other partner institutions website, like UNECA, to trace recent data which is mostly unsuccessful. This is mainly because post-review monitoring were not adequately elaborated and were not given much emphasis in the APRM base documents; hence implementation was made mere ad-hoc to the mechanism which resulted in little emphasis in monitoring the implementation of PoA and of inadequate allocation of financial, human resources to the APR secretariat to follow up post review progress.<sup>559</sup>

Perhaps the most serious for the APRM is the fact that with things going with such slow pace, there is a real danger that there is a slow down in momentum both in acceding to the mechanism and the loss in appetite for being reviewed. Only two countries per year are acceding to the mechanism in the last three or four years compared to 10 or more in the first two years of its establishment and the number is still falling (see the chart I). What is worse is that even the number of acceding countries that make themselves ready for the review process are also falling from time to time even if there are 15 of them that should do so at the end of 2009 but none have done it which is an indication of real disinterest in the process from African governments (see chart I and table I). This could be a warning sign of the beginning of the end of APRM proving that African governments are letting the mechanism starve to death with their reluctance to change the way the process works.

### **3.3. Independence**

#### **3.3.1. Independence under Other International Peer Review Mechanisms**

The independence of the whole process in general and the reviewers involved in particular is a very important aspect for an effective peer review mechanism. The integrity of the review process would be seriously compromised where it is possible for the country being reviewed or by forces external to the review to unduly influence the reviewers or the review process.<sup>560</sup> Thus, the review mechanism must be insulate from state interference and be forth right in their

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<sup>559</sup> Steven Gruzd, "SAIIA Round Table: APRM- Progress And Prospects," p.8

<sup>560</sup> Zein Kebonang, "the African peer Review Mechanism: Challenges and prospect, AU, NEPAD and APRM," p.45

assessment of states. Lack of independence and candour compromises the credibility of whole review mechanism.

In academic review, anonymity of the reviewers assures this independence, as well as the professional stature of reviewers and editors. It is important to keep the anonymity of the reviewers, because this is meant to provide independence of the review.<sup>561</sup> Of course, the notion of anonymity of peer review is not particularly feasible in case of country reviews and may be not desirable, what is needed is the independence that anonymity gives to the academic journal reviewers.<sup>562</sup> Under the OECD review process, in the analysis and fact- finding stage, there is independence of the technical work.<sup>563</sup> This is because the OECD review mechanism is not the only one that reviews the country's progress rather different international organizations and the country's CSOs conduct their own survey of the progress on the similar issues routinely.<sup>564</sup> So, the government is not too much nervous about the OECD peer review to be tempted to interfere in the process because its not the only mechanism everything depends, it's just one of the many review mechanisms the country undertakes.<sup>565</sup> In addition, the OECD reviews are conducted by permanent staff as opposed to short term consultants since short term employees have a less chance of being accountable and are more susceptible to bribes. This will boost the independence of the OECD peer review mechanism.

### 3.3.2. Institutional Independence of APRM

One of the core principles of APRM is that every review exercise carried out under the authority of the Mechanism must be technically competent, credible and free from any political manipulation.<sup>566</sup> On independence of the APRM, much depends initially on the personal authority of the APRM Panel. Any sign of bias or cover up will compromise the entire APRM. Hence, the establishment of the APR panel is aimed basically at ensuring the process is not unduly influenced by the review country's government.<sup>567</sup> The independence of the review process also depends on the composition and professionalism of different stake holders involved

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<sup>561</sup> Ravi, Kanbur, *The African peer review mechanism (APRM): An Assessment Of Concept And Design*, p.160

<sup>562</sup> Ibid

<sup>563</sup> Id, p.164

<sup>564</sup> Id, 162

<sup>565</sup> Id, p.62

<sup>566</sup> APRM Base Document, para.4

<sup>567</sup> APRM Base Document, para.10

in the preparation of the CSA report and PoA. The APRM document stresses that the governing council, the one responsible for preparing the CSA report, must be composed of among the different stake holders in the country. It is also recommended that the head of the governing council should be elected out side the government to protect the integrity of the process.<sup>568</sup> In addition the guideline instructs that there should be a sound model based on civil-society leadership and the use of independent research bodies to conduct the study for the preparation of CSA report since the government can not be both player and referee at the same time.

But there is a worry that as the APRM is the only review mechanism for most African countries and since domestic CSOs have no enough capacity and independence to conduct their own parallel review, the government is likely to interfere in the APR process as there is much at stake.<sup>569</sup> There is also complain that the APR panel members are not totally independent because of the appointment of panel members who are still active in their home countries' politics. Some of these political appointees are readily vulnerable to manipulation and bias.<sup>570</sup> The existence of undue government influence on the process shows that the APRM might turn out to be hopelessly ineffective if the participating states fail to guarantee the independence of the APRM process.<sup>571</sup>

No government should attempt to interfere with the review process or leave the impression that it tried to do so even though what African governments seems doing is the total opposite. The Uganda's self – assessment report was not totally objective and independent of political forces or government influence.<sup>572</sup> The difficulty of the APR team to work deeply on the issue paper and find out the hard truth because of resource and time shortage makes the Ugandan and other review reports as well to be highly susceptible to manipulation by the state with out the APR panel or APR team knowing it.<sup>573</sup>

The same interference of government forces has also occurred in the Rwandan review report since there were little civil society groups in the writing of CSA report and the government has a

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<sup>568</sup> supplementary document to APRM guidelines for country review –The APRM national structure, para III

<sup>569</sup> Ravi Kanbur, *The African peer review mechanism (APRM): an assessment of concept and design*, p. 165

<sup>570</sup> Zein Kebonang, "the African peer Review Mechanism: Challenges and prospect, AU, NEPAD and APRM," p.51

<sup>571</sup> Herald Heubaum, *Making the APRM work: A rough road ahead for NEPAD's key component*, working paper FG No.6 (2005), p.4

<sup>572</sup> Christopher Mbazira, *A Dream Differed? Democracy and Good Governance: An Assessment Of The Findings Of Uganda's Country Self Assessment Report Under The APRM*, p.12

<sup>573</sup> Ibid

free ride to say what ever it likes in the report which puts a big question on the independence of the whole process. The four thematic areas of APRM were allocated to different committees that were effectively government dominated, particularly the committee entrusted with drafting political and democratic governance was simply an extension of the government.<sup>574</sup> The Rwandan government was advised that its process was too government-dominated and it should cut the commission down to about 10 members with just a few government representatives.<sup>575</sup> However, the government declined to follow this advice by putting its own justification.<sup>576</sup>

In the South African self assessment preparation the government put a serving minister in charge of the governing council in spite of very clear verbal advice and written guidelines that say the government cannot be in charge of a process that is reviewing itself.<sup>577</sup> In addition the governing Council members were largely politically allied to government and selected through a non-transparent process.<sup>578</sup> Publicly, the government claimed the process was built on extensive consultation, but it was, in practice, often extremely superficial.<sup>579</sup> And after the CSA report was publicly validated, the text was heavily edited to remove or downplay significant problems in the South African governance which clearly shows the direct interference of the government in the review process.<sup>580</sup>

Unlike South Africa, Kenya has a better record in this regard. It duly opted for a governing body with a civil society leader and majority, but the process was marred by disputes over the extent of government control.<sup>581</sup> Before naming its Governing Council, the Kenyan government involved a wide variety of stakeholders in planning conferences and solicited input about how the council should be composed and the process managed.<sup>582</sup> On the contrary, it is alleged that Ethiopia gave the task to prepare a CSA report of the whole thematic area to one government

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<sup>574</sup> Ross Herbert and Steven Gruzd, "Taking stock of the African peer review mechanism", *South African Journal of International Affairs*, 14:1 (2007):5 – 28 available at <http://bigtest.co.za/governance-and-the-aprm-programme-governance-and-aprm-publications.html>. (accessed on August 23,2010), p.20

<sup>575</sup> Ibid

<sup>576</sup> Ibid

<sup>577</sup> Ross Herbert, "SA's peer review tactics dishonest", *South African Institute of International Affairs*, (May 2007), p.2 available at <http://www.saiia.org.za/governance-and-aprm-opinion/sas-peer-review-tactics-dishonest.html> (accessed on November 21, 2010)

<sup>578</sup> Ross Herbert and Steven Gruzd, "Taking stock of the African peer review mechanism," p.12

<sup>579</sup> Id, p.23

<sup>580</sup> Ibid

<sup>581</sup> Id,p.20

<sup>582</sup> Ibid

agency which may really undermine the independence of the assessment report as it is naïve to expect a government agency will criticize its own government's policies and be genuine about the state of its own faults of governance.<sup>583</sup>

What is worse is The APR Panel and the APR secretariat have been reluctant to publicly challenge and defend their independence against governments even when the latter's conducts are in clear violation to the APRM written and verbal guidelines.<sup>584</sup> The African Peer Review Secretariat always sides with any African government even in the face of apparent interference.<sup>585</sup> They do not criticize any African government that unduly interferes with the process.<sup>586</sup> So, the Peer Review sometimes looks like just another extension of the executive branch of African governments. If the review mechanism has to be really independent it should be more than just mere 'presidents reviewing other presidents' through different stake holders getting enough chance to be heard with out any undue influence from the government in the different stages of the APR process and the review should be conducted by impartial experts who could do their job professionally and independently.

### 3.4. Publicity and Ownership of The process

#### 3.4.1. The Extent of Publicity under Other International Peer Review Systems

Publicity means that reliable, relevant, and timely information about the activities of government is available to the public.<sup>587</sup> This creates the culture of openness whereby public participation in shaping and implementing government policy is encouraged and guaranteed.<sup>588</sup> Transparency through publicity in government is a good thing, for governments in Africa have the most potential for going unchecked given their monopoly on power and the ease with which they use and abuse that power. Where there is transparency, government officials will be prevented from exercising discretionary powers. Transparency through publicity, therefore, complements and reinforces predictability, reduces uncertainty, and inhibits the delivery of accurate information to the general public about what the government is doing.

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<sup>583</sup> Adotey Bing-Pappoe, *Reviewing APRM, A Seven Country Survey*, p.9

<sup>584</sup> Ross Herbert and Steven Gruzd, 'Taking stock of the African peer review mechanism', p.24

<sup>585</sup> Akumu G, former Kenyan National Governing Council chairperson, quoted by J Butty, 'African Peer Review Criticised for Inaction', Voice of America website, [www.voanews.com](http://www.voanews.com), 3 May 2007.

<sup>586</sup> Ibid

<sup>587</sup> Kempe Ronald Hope, *Towards Good Governance and Sustainable Development: The APRM*, p.296

<sup>588</sup> Ibid

The vital move under peer review system is the publication of the peer review inputs and outcomes before, during and after review. It ensures that the information is available to all stakeholders, be they government officials, NGO's or the general public.<sup>589</sup> Publication makes it easier for states not only to assess themselves against certain benchmarks, but it also enables constituents and international partners to evaluate the state's compliance.<sup>590</sup> In all peer review mechanisms, whatever type it may be, publication plays a vital role by feeding sufficient information to the public so that the latter will have a chance to take ownership of the process, which is crucial part to the process. The success of any review mechanism for that matter, depends on the seeds of its assessment of a country falling on the fertile soil of the vibrant public dialogue in the peer reviewed country through full and timely publication of the process and its results to bring the required public dialogue and ownership of the process. Under OECD, the final report is followed by a press release, which summarizes the main issues for the media, and press events or dissemination seminars are organized to publicize the findings of the review and to facilitate its implementation.<sup>591</sup> The impact of peer review will be greatest when the outcome of the peer review is made available to the public, as is usually the case at the OECD peer review. On the same way National organizations of employers and workers, under the ILO review system receive copies of draft reports so that they will have the opportunity to provide their own comments on governments' fulfillment of their obligations before the final report is written.<sup>592</sup>

### **3.4.2. The Extent of Publicity under APRM**

One of the major tasks of APR secretariat is to ensure full documentation and publication of the APR processes at country, sub-regional and continental levels to facilitate learning.<sup>593</sup> But so far only the final version of country review reports and PoA are currently published by the APR secretariat, and only done after six months of the review process is finished. The CSA report and country implementation progress are not officially and consistently published by the secretariat or by the reviewed country. This will definitely have a negative effect on the public's right to

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<sup>589</sup> Zein Kebonang, "the African Peer Review Mechanism: challenges and Prospects, AU, NEPAD and APRM,"

p.45

<sup>590</sup> Ibid

<sup>591</sup> Id, p.42

<sup>592</sup> ILO Constitution, article 23

<sup>593</sup> African Peer Review Mechanism Organisation And Processes, NEPAD HGSIC-3 2003/APRM/Guideline/O&P (2003), para.4.2 (k)

information and also to fully take sense of ownership in the process as the public knows little about the process and its outcomes. Ownership of the APRM process is dependent on timely and factually correct information flows between the official structures and all stakeholders in the process, at continental and national levels.<sup>594</sup>

Public scrutiny often arises from media involvement on the subject and when the press is actively engaged with the story, peer pressure is most effective. But all this could only happen when there is enough information of the process out there and results of the review are made public in the earliest time possible. A major criticism frequently expressed by CSOs and the media against the APRM has been the shortage of information to the public and the subsequent lack of ownership of the APRM by African citizens.<sup>595</sup> This has been echoed even within government's structure; parliamentarians complain that the process has been housed within the executive level of government with no defined role for the legislature.<sup>596</sup> Currently, stake holders across the civil society and parliamentarians are deprived of information and are therefore unaware of the potential opportunities for involvement at various stages of the peer review process.<sup>597</sup> Even most of the country review reports highly recommend putting greater emphasis on providing access to information about the conduct of the APRM, as well as on ensuring the publication of the self assessment report at national level. The communication problem is directly a result of the hijacking of the process by the government and the incompetence of the APR secretariat to make sure that information is flowing to and from different stake holders. The APRM peer review reports are normally made public after six months of the country being peer reviewed by the APR forum. By this time most of the media and the general public has lost its appetite to actively engage in the story and make any comments and critique. It seems as if it is an intentional move by the government to diffuse the active engagement of the public and the media from the review process.

Shortage of information, created by concealment of review and progress reports, creates serious challenge to meaningful participation and ownership of the process. Because of this there is still fairly pervasive lack of awareness of APRM among the different stake holders in many, if not

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<sup>594</sup> Ayesha Kajee, "NEPAD's APRM: A Progress Report, Practical Limitations and Challenges," p.256

<sup>595</sup> Id, p.255

<sup>596</sup> Id, p.256

<sup>597</sup> Ibid

most, of African countries.<sup>598</sup> Many say that it may not be an exaggeration to say that NEPAD/APRM remains better known in the west than in many African countries.<sup>599</sup> This lack of awareness of the process down plays the potential ownership of the program. The general conclusion is that awareness is still too low because of very less information about APRM, to set in motion the process of active participation on the part of different stake holders. In the absence of adequate information about APRM because of the African states policy of maximum secrecy regarding information, it is unlikely the CSOs will take up the 'window of opportunity' created by the process and use it to make their voice heard.

### 3.5. Participation of Various Stake Holders in The Process

Broad public participation is not only essential to a successful peer review, it is arguably the most important advantage of the APRM system. All of the benefits of the APRM hinge on it. Public participation can open a national conversation about priorities and principles that often is opaque to ordinary citizens. Without exposure to public debate, national problems, and particularly the weaknesses in the systems of government administration, can get worse and will give a blank cheque to a government to write what ever it wishes on it.<sup>600</sup>

These consultations and participation under APRM are intended to serve a number of purposes. First, they provide an opportunity for the APR Team to interact with the key stakeholders in the country and to brief them on the APRM processes, spirit and guiding principles.<sup>601</sup> Second, the consultation is an opportunity for the APR Team to discuss the draft PoA that the country has drawn up to improve its governance and socio-economic development and to provide positive reinforcement for the sound aspects and to address identified weaknesses and shortcomings in the various areas of governance and development.<sup>602</sup> Third, the consultations will also serve to build consensus with the stakeholders on the remaining issues or challenge areas and the steps that need to be taken to address them.<sup>603</sup> These findings would then form the basis for the APR Team's recommendations on the required improvements in the final draft Country PoA. Then,

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<sup>598</sup> Len Verway, "NEPAD and Civil Society Participation in the APRM," p.25

<sup>599</sup> Ibid

<sup>600</sup> Ross Herbert, *The APRM: Lessons From The Pioneers*, p.22

<sup>601</sup> African Peer Review Mechanism Organisation And Processes, NEPAD/HGSIC-3 2003/APRM/Guideline/O&P (2003), para.7.9

<sup>602</sup> Id, para.7.10

<sup>603</sup> Id, para.7.11

the report is prepared on the basis of the Issues Paper prepared by the APR Secretariat, and the information provided in country by official and unofficial sources during the wide-ranging consultations and interactions with all stakeholders.<sup>604</sup>

The consultation and participation of stake holders is also crucial during the preparation of CSA report and PoA by a reviewed country. The organisation of public participation in the APRM process is by itself a central aspect of enhancing the state of governance and socio-economic development in the participating country. Such interactions can build trust. Even the purpose of the Questionnaire is to provide participating countries with a format that can serve as a checklist to determine whether the various stakeholders participating in the process have responded to their concerns and making sure that there is active participation of all stakeholders in providing responses to the questionnaire.<sup>605</sup>

One may wonder why the involvement and participation of SCOs is crucial for the success of APRM. There are a number of reasons why CSO participation in the APRM process matters. Firstly, CSOs participation is vital to the credibility of the review process as it will help ensure that the review report represents a consensus of views on a country's quality of governance, rather than being limited to what the government in question would like to make public.<sup>606</sup> CSOs are potentially uniquely placed to act as a watchdog over political manipulation of the process by the government if they are granted their rightful place.<sup>607</sup> Thus, CSOs have an important role to play in reinforcing both to the credibility and informational quality of the peer review process since Civil societies have informational advantage in the local circumstances or in the local issues to add both depth and range of the peer review.<sup>608</sup>

Whether a peer review mechanism works well or poorly also depends on the provision and availability of accurate information about the country being assessed.<sup>609</sup> This information may be obtained from the states being reviewed, studies compiled by the review organizations

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<sup>604</sup> APRM guidelines, para 23

<sup>605</sup> Country Self-Assessment For APRM, Questionnaire, p.1

<sup>606</sup> Len Verway, "NEPAD and Civil Society Participation in the APRM," p.20

<sup>607</sup> Id, p.21

<sup>608</sup> Ibid

<sup>609</sup> Zein Kebonang, "The African Peer Review Mechanism: Challenges And Prospects, AU, NEPAD and APRM," p.44

themselves or from credible third parties, like CSOs.<sup>610</sup> In Africa states may not be forthcoming about their policies, particularly if they think such disclosure will portray them in a bad light. Equally, states may be selective about the kind of information by disclosing self-serving information and conceal which they perceive is unfavourable to them. On such situations, the role of other stake holders especially of civil society is paramount by feeding the accurate information on the country being reviewed if they are granted full participation in the process.

Its very important that all stake holders are actively involved in the review process for the success of APRM or any other review mechanisms, for that matter. In underlining this significance, APRM document stipulates that in Stage two, the Review Team will visit the country concerned where its priority order of business will be to carry out the widest possible range of consultations with the Government officials, political parties, parliamentarians and representatives of civil society organizations (including the media, academia, trade unions, business, professional bodies).<sup>611</sup> Similarly, Other APRM document outlines the inclusiveness of the APRM process by saying that The APR Team will interact and consult extensively with government officials, parliamentarians, representatives of political parties, the business community, representatives of civil society (including media, academia, trade unions, NGOs, community-based organisations(CBOs)), rural communities and representatives of international organizations.<sup>612</sup>

On the APRM documents the participation and consultation of stake holders seems picture perfect. But, the reality on the ground is anything but perfect. In many African countries where opposition parties, human right groups, and civil society are routinely labeled as ‘enemies’ to the government, there is only little, or no, room for dissenting opinion by suppressing any opposition to the incumbent, making the mechanism difficult, if no impossible, to achieve its outlined objectives.<sup>613</sup> There is indisputable evidence which shows that there is a major problem in fully involving CSOs in the review process and the attempt to participate NGOs have not worked well

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<sup>610</sup> Ibid

<sup>611</sup> APRM Base Document, para.19

<sup>612</sup> African Peer Review Mechanism Organisation And Processes, NEPAD HGSIC-3 2003/APRM/Guideline/O&P (2003), para.7.8

<sup>613</sup> Steven Gruzd, “Ten Reasons To Keep Faith with APRM Process,” p.4

at all.<sup>614</sup> African governments remain highly suspicious of NGOs and have devised several ways to neutralize their effective participation.<sup>615</sup> Either carefully selected pro-government NGOs are involved or those brought in are given so little information that they are practically unable to play a constructive role in the process.<sup>616</sup> For instance, one writer comments that The Rwandan review report depicts only the rosy parts of government and inadequately addresses a number of serious political problems in the country, such as Rwanda's involvement in Eastern DRC, the flawed separation of power between the three branches of government, racial tension in Rwandan society, and the defective presidential and parliamentary election of 2003.<sup>617</sup> This writer explained that such inadequate and pro government reports came to picture because the dissenting political voice of CSOs and opposition parties were marginalized and only stake holders who are inclined to the government are fully included in the process.<sup>618</sup> Even the APR team has raised the objection that there were too many government officials on the process to make the report less credible and participatory though these comments met the deaf ears of the Rwandan government.<sup>619</sup>

The Rwanda's review report illustrates how the state easily takes control over the process where there is no room for effective participation. Unfortunately, there are many other similar African countries among those which have signed the APRM that lack strong civil society or more importantly they are unlikely to give existing organizations any real say in the process.<sup>620</sup> Of course when we think of CSOs in Africa, we need to understand the notion of significant asymmetries of power between government and CSOs. In most, if not in all, African countries there is no strong interest groups who are well positioned to influence the government or its process.<sup>621</sup> For effective participation, there is a need for free and strong national civil society which apparently seems not to exist in Africa.

The APRM document itself seems to acknowledge and even aggravate this very situation. The very APRM documents which in one hand puts that CSOs to be included in the review process

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<sup>614</sup> Zein Kebonang, "The African Peer Review Mechanism: Challenges and Prospects, AU, NEPAD and APRM," p.53

<sup>615</sup> Ibid

<sup>616</sup> Ibid

<sup>617</sup> Eduard Jordan, "Inadequately Self Critical: Rwanda's Self Assessment For the APRM," p.333

<sup>618</sup> Id, p.339

<sup>619</sup> Ibid

<sup>620</sup> Magnus killander, "The APRM and Human rights: The First Reviews and The Way Forward," p.45

<sup>621</sup> Len Verway, "NEPAD and Civil Society Participation in the APRM," p.24

takes away the right by giving the right to choose which CSOs gets in and which doesn't to the mercy of the government discretion. The CSA document indicates that the APR focal point, which is an appointee of the reviewed government, will 'draw up a list of the stakeholders that would participate in responding to the questionnaire.'<sup>622</sup> This surely enables the government hijack the whole involvement of stake holders that would participate in the process by removing those who happen to be critical to the government. SCOs are not also represented in the APRM forum meetings unlike the case in OECD and ILO where the CSOs have a right to influence the final review decisions by the reviewing countries during the period of peer pressure to boost the participation of stake holders even to the top level.<sup>623</sup> In the same token, the ILO reviewing mechanism, a tripartite (governments and employers' and workers' organizations) committee of governing body represents all the stake holders and interest groups under the same level making all the parties able to influence the final outcome of the report.<sup>624</sup>

It is not only the CSOs but the ordinary citizens should have the chance to make their voice heard and fully participate in the process. But this is not happening because many African governments have intentionally hidden the process from the eyes of the public. Most of the time the general mass were not even aware about what is going on let alone adequately consulted before, during and after the review.<sup>625</sup> Even though people would like to be involved in decisions that affect their development, in Africa, it is the government that decides what projects should go and which policy is the best for the citizen and most of the decisions come from top to down. Lack of access to the process diminishes the potential influence of interest groups on the process and it backlashes the participation of the process by the people in general.<sup>626</sup> This directly enables the government hijacks the whole process and put away most of the preliminary results from the eyes of the public.

Equally, there is only minimal consultation with parliamentarians, despite their crucial role as they are key institution of democracy.<sup>627</sup> The APRM guidelines require that parliamentarians

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<sup>622</sup> Country Self Assessment of APRM, para. 2.1.2

<sup>621</sup> Steven Grudz, "SAIIA round table: APRM- progress and prospects," p.8

<sup>624</sup> Review Of Tools And Mechanisms For Assessing Economic And Social Policy Instruments, Coordinated By: OECD, p.4

<sup>625</sup> Bing-Pappoe, *Ghana and the APRM: A critical Assessment*, p.23

<sup>626</sup> Reports on MDG, the annual UNDP Human development report and world bank development report, p.51

<sup>627</sup> Enhancing the role and effective participation of parliamentarians in the APRM process, (E/ECA/GPAD/APRM/Inf.1), (2008), p.2

should play a key role in the APRM as stake holders in governance and development. Despite their crucial role, due to lack of consultation with the government ministries and agencies and with various stake holders, parliaments have not been able to effectively assume their role and worse they are left entirely out of the picture in the APR process.<sup>628</sup>

The same issue of poor level of consultation occurs during the visit by APR Team is raised by different stake holders in the process. In conjunction with extreme time and resource pressure the APR team is likely to be under during its visit, neither there will be in depth discussion and debate between stake holders will be generated and if there are any decisions it will likely be superficial one nor the team will verify whether all important stake holders are included in the process.<sup>629</sup>

The APRM base document also provides that the report should be 'formally and publicly tabled in key regional and sub regional structures such as PAP, the African commission on human rights, the African peace and security council and ECOSOCC of the AU'.<sup>630</sup> But, so far, the only action taken under this principle is the APR secretariat gave short presentation on the APRM review reports on Ghana, Kenya and Rwanda to the PAP and the later were given the opportunity to comment.<sup>631</sup> Other than this very minimal attempt are made to consult with the above AU organs. Other AU organs were not given any opportunity to participate in the process and comment on the review either before or after the review process which shows the very serious default of the process to consult with different AU organs.<sup>632</sup>

Despite much talk about civil society participation and partnership with APRM, the latter remains government driven process with the participating governments rarely exposing themselves with brutal honesty.<sup>633</sup> Signing up to the APRM is nothing if its not translated into showing a real commitment in forging a head at many levels of the APR process proving that African governments are ready to change their thinking of 'business as usual'. The first step is to open its door to participate other stake holders who have interest in the betterment of governance and make them have the capacity to do so and to effectively challenge the misdealing of the

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<sup>628</sup> Ibid

<sup>629</sup> Len Verway, "NEPAD And Civil Society Participation In The APRM," p.24

<sup>630</sup> APRM Base Document, para.25

<sup>631</sup> Magnus killander, "The APRM and Human Rights: The First Reviews And The Way Forward," p.53

<sup>632</sup> Ibid

<sup>633</sup> Eduard Jordan, "In Adequately Self Critical: Rwanda's Self Assessment For The APRM," p.249

government. Equally APRM document should clearly draw a line somewhere regarding how much consultation should take place, and what exactly 'inclusively' means and should mean.<sup>634</sup> Currently, APRM can be rightly criticized for remaining closed, elite-driven processes with little room for the critical voices that would be essential to making the process genuinely accountable and the one that could effect real change.

### 3.6. Summing-up

From seeing all the above fault lines of APRM, it's not away from the truth to say that African leaders rushed to put such a weak institution in place knowing it will have little to show. African leaders could not wait to bring their proposal about NEPAD/APRM to the west but did not even bother to consult their parliaments about the program even after its establishment. Maybe their true intention for establishing such an institution is just to please their western richer counterparts to continue pouring more money into the continent in the form of Aid and loan since the final destination of such money will be assessed through the newly created APRM, which would convince donors to continue to give more money for African states.<sup>635</sup> If this were their motive it seems it paid off because the APRM's central philosophy of African states taking responsibility for their own development and politics has been greeted enthusiastically by the donor community.<sup>636</sup> Thus, it's not surprising if such purely superficial programs and institutions have little or no real impact on the African way of governance as its motive was not purely better governance in the first place. It seems like NEPAD/APRM has been sold as a bargain between the donor community and African elites where democracy has been used as a 'bargaining chip' by African elites and that this does not signal a genuine commitment to democratic reform on their part, as such. Until the policy makers behind the NEPAD and APRM face up to the current realities on the continent, and to the serious flaws contained within both the NEPAD initiative and the AU's current peer review mechanisms, APRM will become yet another false start to democracy and good governance in Africa.

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<sup>614</sup> Len Verway, "NEPAD And Civil Society Participation In The APRM", p.28

<sup>615</sup> Continental Alignments, African Union: Quiet Revolution, The African Peer Review Mechanism is intent on changing the continent's negative image, Africa Research Bulletin, No.16637, (May 1st-31st 2006), p.II.

<sup>616</sup> Patrick Bond, "Removing Neocolonialism's APRM Mask: A Critique of the African Peer Review Mechanism," p.600.

## Chapter Four

### Making APRM a Real Hope for Africa: Lessons to be Learned and Way Forward

APRM is a very ambitious project of NEPAD bringing new hope to the continent. It tries to monitor virtually all aspects of the participating countries governance in a way which was never tried before in the continent where sovereignty above all was the slogan of many African nations. The mechanism comes at times when the continent was experiencing chronic development and governance problems. Consequently, during the inception of APRM, political systems fell into 'a vicious cycle, in which economic decline, reduced capacity and poor governance reinforce each other,' as the NEPAD framework document put it.<sup>637</sup> That's why much expectations is put on NEPAD/APRM to radically change the way of governance where African leaders are accountable to each other for the better governance in the continent. But such an ambitious project needs a radical change of mind from African leaders and sufficient resources at its disposal to even dare try to properly manage and implement any of its aspirations.

In the above chapter the writer has tried to indicate the different benchmarks used in other similar peer review mechanisms to taste their effectiveness and how well the NEPAD's peer review mechanism scores according to those benchmarks. As we already seen, if such benchmarks and preconditions are not observed, it is difficult, if not impossible, to bring out anything worthy out of the system and the review mechanism will have no utility and its reports loose its credibility if such important conditions are not strictly observed. The review process will also have no value other than adding to the other numerous list of government and continental reports and recovery plans which were starved to death by the continents leaders lack of genuine commitment to be governed by those principles and values they created.

The previous chapters and sections have given enough highlights that the current structure and capacity of the APRM is not bringing the mechanism no where near to its outlined objectives. From seeing the APRM in the last eight years or so of its lifespan, it looks like the leaders of Africa didn't change much regarding their old thinking of manipulating a system they create to their own selfish benefit and subdue it to their own political game. The mechanism has no enough institutional and technical competence, independence and there is only minimal popular

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<sup>637</sup> NEPAD Base Document, (2001), p.6

participation to take full charge of its duties and perform its task properly. Thus, serious reform is needed if there is any hope to the mechanism to survive from continuous failure and bring about a credible and honest report. Other wise the mechanism may end up being as just one of the many government reports which only depicts the government actions and policy as picture perfect and conceals the voice of other important stake holders who happen to speak the truth. If Africans really meant business at this time, they should abandon their usual method of 'business as usual' and rally behind the APRM so that the latter could meet its objective of fostering development and strengthening dialogue among stake holders in the reviewed country.

The question is, then, what do African leaders should do to show their commitment to the mechanism? The writer has put some very important steps that need to be taken by African states and by different APRM institutions both at continental and national level if African leaders really aspire change through APRM. The outlined recommendations are not exhaustive rather it's only the important ones as the writer sees it.

#### **4.1. Revitalizing the Importance of Peer Pressure**

As it is already said, peer pressure is the major means of assuring compliance of a state performance since under peer review there is no formal enforcement mechanisms to monitor adherence to the recommendations of the review. Peer pressure is, thus, the major, if not the only, mechanism that is practiced by states to influence states adhere to the recommendations made by peers. Many international organizations which have used peer review mechanism for decades rely upon the use of this soft persuasion mechanism to monitor compliance by the reviewed state. Without the proper exercise of peer pressure the policies and recommendations made during the review process will face the fate of being unimplemented and does not trigger the reform needed.

But, as discussed above, the use of peer pressure by participating states in the APRM is very minimal, if not non-existent, which led to a low level of implementation of the review recommendations and the PoA. There are different measures that must be taken for implementing peer pressure to make the mechanism a success story. First, there should be a serious commitment from the heads of states of the APRM participating countries to exert pressure on the reviewed state to take action on the recommendations given during the review.

The pressure should be exerted by APR forum on the reviewed state by seriously questioning and commenting on the latter's way of governance and how it should implement its PoA and by designing a mechanism to monitor compliance during post-review stage. In order to have a successful peer review the APR forum should exert its utmost political influence to make the reviewed state accept and implement its PoA and the recommendations of the APR panel.

APR forum should also allocate special session to meet for deliberating on for this purpose other than the AU summit side line talks which is currently practiced twice a year maximum. The Forum should drop the reviewing of country review report very roughly and start to deal with it in detail and in substance. The forum should have a strong political will to seriously challenge the reviewed country's way of governance. They should drop to scratch each others back and appreciate each other and start questioning each others performance if they really meant business.

It is common for African leaders to do something terrible in the eyes of the international community and get away with it with absolute impunity. The leaders of APRM, if they don't want to repeat such mistake, need to bring some form of real teeth to the APRM system so that the reviewed states would not afford to risk. Thus, the principle of 'carrot and stick' may be relevant here. For instance the mechanism can use comparison among states in their implementation of the recommended policy changes and may put a rank of best and poor performers even though such action could increase the political interference of reviewed states fearing the risk of being bad performer and also peer review is not about bringing back the traditional enforcement mechanism rather it is a mutual learning system from best practices, as some argue.<sup>638</sup> Still there should be some incentive and disincentive attached to the performance of states. The incentive could be made, for good performers, in the form of funds or expert assistance. Otherwise it may run the risk of being totally ineffective since African states would not listen unless there is some form of stick behind the mechanism.

#### **4.2. Re-enforce the Competence of APRM**

The competence of any institution is crucial for bringing out any fruitful job. Its competence should be both in terms of its institutional structure and availability of its technical staff that can

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<sup>638</sup> Zein Kebonang, "the African Peer Review Mechanism: challenges and Prospects, AU, NEPAD and APRM" p.51

do the job properly. The APRM, unfortunately, seems to lack both. Its institutional structure is too poor to be able to perform its too stretched and too wide mandate. It is also in dire resource problem to hire enough professionals who can do the job in a manner it needs to be done.

The first thing APRM should do to enhance its competence is by staffing the APR secretariat with enough expertise to do what is expected of it. The APR secretariat is the central part of the process mandated to provide the secretarial, technical, coordinating and administration support service for APRM.<sup>639</sup> If the secretariat is unable to do its job properly the entire process will inevitably be affected. It must have enough staff to undertake and manage the analytical work that underpins the peer review process. If APRM has to do both comprehensive and exhaustive review process enough financial and human resource is vital. Participating states should discharge their membership dues in time and other AU organs must also coordinate with APRM if they really want the mechanism to stand on its feet.

The other crucial issue is not just a technically incompetent staff, but that the review mechanism takes too much and stretched too thinly across a very wide range of issues. The basic reason why APRM could not deliver tangible results is its coverage simply is too vast to be sensibly handled. No review mechanism could be reasonably expected to properly review all these areas even with the best staff and all the available resources before it let alone a poor institution like APRM. The APRM's ambitions seem to outweigh its competence to effect any change. The solution is simply to seriously narrow its scope and focus on where there are critical governance problems. There are two ways to do this: cut down on the broad thematic areas and cut down on coverage within each theme or areas of governance. This will help both the quality of the review report to be more credible and to pick up the pace of the review process from its current stagnation.

The APRM should also develop its ability to monitor countries' post review implementation performance. Currently it seems neither the APRM nor the reviewed countries bother much about post review implementation progress as if preparing the review reports is the end of the process. But, without continuous progress report the whole review is like a tedious exercise of preparing a farm land and sow the seed then expect the land to bear fruits by itself with no follow up, clear up and watering during the interval. It is only the farmer to be blamed if the land

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<sup>639</sup> African Peer Review Mechanism Organisation And Processes, NEPAD/HGSIC-3 2003/APRM/ Guideline O&P (2003), para.1.1 (c)

doesn't bear fruits at the time of harvest. The same is also true with APRM. It cannot expect the countries being reviewed to implement the recommendations with out continuous monitoring from the APRM. More detailed rules and strategies need to be designed to enhance the follow up of post review process to which the reviewed states must adhere to.

### **4.3. Guard The Independence of The APRM**

In the preceding discussions it is said that independence of a peer review mechanism is a very crucial part of any review mechanism. But as already mentioned, the APRM lacks both institutional as well as personal independence from the influence of the government being reviewed to have credible and independent report. In order to assure independence the most important thing is to make the government see the APR review as just one of the many review and monitoring mechanisms. This is done by enabling other CSOs and international organizations to conduct their own review on similar issues where APRM has a mandate. When there are different kinds of reviews held by different institutions, the government will not intend to influence or interfere one particular kind of review process which in turn boosts the independence of the review process and its results. The APRM review should not be the only game in town all things depend. The government being reviewed should prepare the ground to create enough capacity and independence for other CSOs to conduct their own parallel review.

The APRM independence is also depend on the personal integrity of the APR panel members. Such individuals should possess the highest moral and ethical ground and they should not be in any way connected with the political elites of the reviewed state or other participating state. Since the very purpose for the establishment of APR panel is basically to assure the independence of the review process, APR panel should be granted independence in performing their task. Equally, The APR review team should also be selected and remunerated in a manner that will protect the independence of the country review report.

The independence of the review process also depends on the composition and processes of members during the preparation of the CSA report at the national level. If the review is meant to be independent most of the members of the governing council, those who are responsible for the preparation of the CSA and PoA, should be composed of mostly from stake holders other than the government and its head be outside the government with its own independent secretariat. The

research groups which conduct the actual research should also be independent from any undue influence from the government and its agencies. APRM should be very careful not to be considered, by outsiders, as another government report.

#### **4.4. Give Power to The People**

All stakeholders' participation in every peer review mechanism in general and in APRM in particular plays a very crucial role in the effectiveness of the mechanism. With out proper participation from the stake holders APRM may end up being as one of the many government projects which are drafted, discussed and executed only by government officials. But, the very purpose of peer review especially APRM is to involve others in the decision making process and use the input of other stake holders. Under peer review every stages of the process needs to be participatory for the final report to have any credibility at all. The government can not be both a player and a referee at the same time if the game is to be called fair.

But what APRM currently seems doing is exactly the opposite. Major stake holders like parliamentarians, opposition parties, SCOs and the media is marginalized from the process. The reviewed governments hide the whole process from the eyes of the media and make it a secret government mission which is contrary from the spirit and objective of the APRM. So, there should be a radical change in the attitude of incumbents towards participatory review if they have any intention to make it work.

First, it should be a full stretched consultation with and involvement of all stake holders during the preparation of the CSA and PoA. The government should stop thinking that governance is the exclusive business of the executive branch of the government as popular participation by itself is the central part of any good governance. The stake holders should be allowed to voice their concerns and inputs to build and such important opinions should be properly included during preparation of the CSA. The CSOs also has an important role to play in contributing both to the credibility and informational quality of the peer review process since they have informational advantage in the local circumstances or in the local issues to add both depth and range of the peer review. The different CSOs may also act as a watchdog over political manipulation of the process by the government if it is granted its rightful place. More efforts should also be made to enlist media as a strategic partner especially during the sensitization process.

The same participatory atmosphere should be extended not only during the preparation of the CSA and PoA but also during the country review visit by the APR team. The main job of the team is to interact with the key stakeholders in the country about the reviewed countries level of governance and an opportunity for the APR Team to discuss the draft PoA with the stake holders that the country has drawn up to improve their governance and socio-economic development.<sup>640</sup> Thus, such an important opportunity should be used to seriously involve the public so that vital opinions are included in the documents prepared.

The participation and involvement should not only be restricted during the APR process rather it should be extended to post- review implementation phase. The public in general and CSOs in particular need to be consulted in the implementation of PoA. The government can not be expected to succeed in implementing the PoA all by itself with out building consensus with other stake holders for the steps that need to be taken to address the problems outlined under the review report. It is difficult, if not impossible, to build the trust needed for continuous consultation when opposition parties, human right groups, and civil society are routinely labeled as 'enemies' to the government, and where there is only little, or no, room for dissenting opinion by suppressing any opposition to the incumbent. Governments should get rid of their habit of avoiding critical opinions if it wants to build trust with such organizations and guarantee the latter's effective participation. The government should use the inputs of such stake holders to check where it stands in the implementation of its PoA.

But above all there must be strong, free and vibrant national CSOs for any effective participation. The government should prepare the environment for such CSOs to exist and be well positioned in the country's structure to influence the government and should avoid suffocating CSOs who are critical to the government. Without free and strong CSOs, participation in the whole APRM review process will be on the mercy of the government, which is close to impossible to get, in many African countries.

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<sup>640</sup> Guidelines For Countries To Prepare For And Participate in APRM, NEPAD/APRM/Panel3/guidelines/11-2003/Doc8, para 22

#### 4.5. The Role of The International Community

APRM is an African self-monitoring mechanism and so far the only attempt is by African themselves to take the lead.<sup>641</sup> Under APRM, all reviews are to be African led and any peer pressure is expected to come from African leaders themselves.<sup>642</sup> It is said that the exclusion of other international community is essential, for any thing short of that would undermine African ownership and the authenticity of the APRM as a truly African initiative.<sup>643</sup> On the other hand, it must be recognized that the international community could play an important role. It is a fact that many current African leaders are hardly answerable or accountable to any one, are highly corrupt and autocratic and therefore lack the moral standing to act as peers.<sup>644</sup> Thus, as almost all African countries look to the EU, US and other developed states for trade, aid and investment, it is only these states that can exert meaningful pressure on African leaders to undertake the necessary reforms. Equally, one can not say APRM is a solely African initiative owned by Africans when the considerable amount of its budget (38%)<sup>645</sup> comes from out side donors to properly fund the institutions of APRM.

The international donors must use their strong bargaining power to influence APRM members to implement the recommendation of the review report through giving incentive for those called better performers and with hold funds which are stubborn to change their way of governance according to the results of the review process. This will make the reviewed states to go with the review recommendations because ignoring it will not worth the risk. More, other international institutions, like OECD should also help the APR secretariat by providing with the necessary technical and professional assistance since the former has plenty of experience in the area of peer review which it could share to infant institution like APRM.

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<sup>641</sup> Zein Kebonang, "The African Peer Review Mechanism: Challenges and Prospect, AU, NEPAD And APRM", p.52

<sup>642</sup> Ibid

<sup>643</sup> Ibid

<sup>644</sup> Ibid

<sup>645</sup> APRM: Africa's innovative thinking on governance, the forum for the 8<sup>th</sup> gathering of the African partnership forum, (2007),p.5

#### 4.6. Final Remarks

APRM cannot be broadly based and fully participatory if it is not visible, and understandable by the society of the reviewed country. The African governments should be more open to their citizens about what is going on in the APRM process than to their western counterparts.

It is not too late for APRM to reform itself with the much needed adjustments. The participating countries must take the required changes to the mechanism if they really want it to be anything different from the previous programs and initiatives. African leaders should change their set of mind by making the benefit of their citizens a priority. Without such radical change in African leaders' mind the exercise would be just like putting a new wine in the old bottle which dilutes the sweetness of the new wine. They need to stop to consider every thing that come from organizations other than their own government itself as inherently bad for them and bad for the country they rule. They should start to consider others as partners rather than enemies.

The Senegalese president, One of the for runners of NEPAD admitted honestly the failure of NEPAD/APRM by saying "I am disappointed. I have great difficulties explaining what we have achieved when people at home and elsewhere ask me. We're spending a lot of money and, above all, losing time with repetition and conferences that end and you're not quite sure what they have achieved".<sup>646</sup> This is an indication that the whole thing about APRM need to be re-thought if any useful outcome is expected from the process otherwise APRM will just be one example in a long line of developmental plans that thus far have failed to yield a decisive breakthrough in terms of progress towards either democracy or development in the continent.

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<sup>646</sup> Ba, Diadie. "Senegal's Wade slams Africa Development Body." 13 June 2007. 3 November 2008. Available at <http://www.reuters.com/article/latestCrisis/idUS13876054> (accessed on October 19, 2010).

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