



# Promoting Peer Review as a Compliance Mechanism for Regional Integration

Catherine Grant Makokera & Steven Gruzd<sup>1</sup>

## RECOMMENDATIONS

- Regional economic communities in Africa should consider the establishment of a peer review system that enables the monitoring of compliance by member states with regional commitments.
- Peer review can provide a useful complement to other compliance mechanisms, such as dispute settlement processes, and should be used as a means to highlight regional best practice and lessons learnt.
- The APRM national process could be usefully supplemented by regional peer reviews.
- Several existing peer review mechanisms are familiar to African countries (eg, the WTO Trade Policy Review Mechanism) and could be referenced in the development of a regional approach.

## EXECUTIVE SUMMARY

Multilateral organisations have long used peer review as a means to encourage compliance with commitments made in the pursuit of various socio-economic goals. Africa established the African Peer Review Mechanism (APRM) as an indigenous system to monitor the progress of member states in the realm of governance and to provide support for their national development priorities. Although the APRM has focused mainly on national-level implementation, with careful planning and visionary leadership, this could be usefully supplemented by reports on the efforts of African countries to fulfil their regional commitments.

## INTRODUCTION: WHY PEER REVIEW?

Pagani defines 'peer review' as 'the systemic examination and assessment of the performance of a state by other states, with the ultimate goal of helping the reviewed state improve its policymaking, adopt best practices and comply with established standards and principles'.<sup>2</sup> Peer review is commonly used in international economic organisations, including the Organisation for Economic Co-operation and Development (OECD), International Monetary Fund (IMF), World Trade Organization (WTO) and, most recently, the Group of Twenty (G-20). The European Union (EU) also has a number of peer review processes, including the Internal Market Scoreboard. In addition, there is the APRM, developed in 2003, to which 34 African states have voluntarily acceded.

Why create a peer review mechanism? Peer review recommendations can become important measures against which to assess the progress of a country, and to highlight trends and fluctuations. It allows for the creation of a shared knowledge base, and the identification of best practices and policies. When effective, peer review builds trust among peers and promotes mutual learning. In the case of the WTO, Laird stresses the benefits of building up considerable

information resources through the Trade Policy Review Mechanism (TPRM) process.<sup>3</sup> In academic circles peer review of written work seeks to strengthen it. Peer review can also be a critical part of the policy development process of an organisation. It contributes to transparency and capacity building, especially if it includes extensive public participation.

Pagani contends that ‘the soft law nature of peer review can prove better suited to encouraging and enhancing compliance than a traditional enforcement mechanism’, including among poorly performing countries.<sup>4</sup> He suggests that ‘peer review can create a catalyst for performance enhancement which can be far-reaching and open-ended’.<sup>5</sup>

The TPRM has three goals, according to Woods and Narlikar, namely to:<sup>6</sup>

- increase the transparency and understanding of countries’ trade policies and practices, through regular monitoring;
- improve the quality of public and intergovernmental debate on the issues; and
- enable a multilateral assessment of the effects of policies on the world trading system.

While peer review can be used to judge the implementation of legally binding principles, it is most often based on assessing conformity with policy guidelines. In the WTO the TPRM is aimed at enhancing transparency. Legal compliance is dealt with separately under the Dispute Settlement Mechanism. Members<sup>7</sup> who have seen benefits from participation in terms of both their domestic policy processes and their understanding of global obligations have welcomed the WTO TPRM process. The TPRM has been used to identify and highlight incoherence in trade policymaking within the different departments in government.<sup>8</sup> It can also be used to remind foreign investors that the host nation’s state policies are locked in in external obligations such as the WTO agreement.

### EFFECTIVE PEER REVIEW

A credible peer review process must be seen as objective, fair and consistent. Follow-up and monitoring of changes and reform subsequent to any review are needed to ensure credibility of the process.<sup>9</sup>

Several points about effective peer review

mechanisms are worth noting in the context of a possible regional process:<sup>10</sup>

- Peer review is a non-adversarial process that relies heavily on mutual trust among the states involved and confidence in the process. It is based on the concept of peer pressure, both from other states and through public opinion (if the review process is open to the media and public).
- Peer review tends either to look at one country or sub-region (customs unions in the case of the WTO) at a time or focus on a specific thematic topic against which a group of countries is reviewed on a comparative basis.
- Peer reviews often overlap or complement other monitoring mechanisms, including judicial proceedings, fact-finding missions and reporting.
- An ideal peer review process combines both quantitative and qualitative assessment of performance.
- The success of a peer review process requires co-operation from the countries participating and a strong secretariat to support the different steps.
- OECD peer reviews include the following structural elements:
  - a basis for proceeding (eg, a provision in an agreement or a decision of council);
  - an agreed set of principles, standards and criteria against which the country performance is reviewed;
  - designated participants to carry out the peer review; and
  - a set of procedures leading to the final result of the review.

### MECHANICS OF PEER REVIEW

A TPR at the WTO is based on two documents – one prepared by the government under review and the other by the WTO Secretariat (Trade Policy Reviews Division). Both documents are made publicly available together with the Chair’s conclusions following the review meeting, which is open to all WTO members. Discussants are part of the review meeting.

The APRM also entails both an internal and external dimension. The system requires member countries to produce a Country Self-Assessment Report (CSAR), which examines a wide range of governance

issues. The CSAR informs the Country Review Mission, undertaken by African experts which, in turn, informs the final Country Review Report (CRR) discussed at heads of state level. The final CRR is made public.

The timing or frequency of reviews undertaken differs across organisations and mechanisms. In the OECD it ranges from one to seven years. In the WTO the reviews are conducted on a rotational basis with the countries with the largest share of trade subject to the most frequent reviews (every two years for the Quad countries of the US, EU, Japan and Canada). APRM reviews are meant to occur every three to five years, although to date only 17 countries have completed a first review, and none has as yet completed a subsequent review.

The resources of the WTO to undertake TPRs have been placed under increasing pressure with expanding membership.<sup>11</sup> Some technical assistance is provided to least-developed countries to support their participation in reviews.

## PEER REVIEW FOR REGIONAL INTEGRATION?

It is worth looking in more detail at the concept of mutual accountability and peer review to achieve compliance with regional integration commitments.

There is significant merit in exploring a peer review mechanism for regional economic communities (RECs) in Africa as a way to encourage greater levels of compliance with integration initiatives. At present, under its Economic Governance and Management Thematic Area, the APRM has one objective dealing explicitly with regional integration: 'Accelerate and deepen regional integration in the monetary, trade and investment domain.'<sup>12</sup> Questions are asked about membership of regional organisations, harmonisation of domestic economic policies with those of the RECs concerned, challenges faced with regard to RECs and cross-border transactions. The questionnaire also requires countries to comment on their compliance with many codes and standards related to regional integration.

However, at present, APRM reviews are conducted only on a national basis, while issues of regional integration, by their very nature, go beyond borders. APRM reports are not regularly discussed at REC level. Very little cross-country learning actually takes place

(eg, in examining the best practices outlined in CRRs), and there is little impetus to look holistically at regional integration commitments and progress across states.

A regional peer review process could be a useful soft law complement to the legal compliance mechanisms in the dispute settlement mechanism of the founding treaties of most RECs.

If such a process were to be developed at regional level, a number of issues would be important to consider:

- *Basis for proceeding:* This could possibly be done by a decision by the highest decision-making body of the REC. The buy-in and commitment to participate from all member states would be required. Given that no single REC has all its members in the APRM, this could prove difficult. The East African Community has four out of five members in the APRM (ie, Kenya, Rwanda, Tanzania and Uganda, with Burundi not an APRM state), while both the Economic Community of West African States (ECOWAS) and the Southern African Development Community (SADC) have roughly half of their member states in the APRM.
- *Scope: What would be reviewed?* One of the lessons from the APRM is that it is over-ambitious and tends to try to cover too much ground. Arguably, a more pointed and focused sectoral or thematic review would work more effectively to monitor regional integration.
- *Against what criteria?* The APRM contains an extensive list of African and international standards and codes that member states are encouraged to sign, ratify, domesticate and implement. The APRM questionnaire could be a useful starting point, as it contains indicators such as flows of formal and informal intra-regional trade, sectoral integration analyses and progress reports on regional integration. However, these indicators are somewhat vague and would need to be made more easily measurable.
- *What would be the role of the secretariat? What would be the resource implications? Would technical assistance and funding be provided to support the process, and to whom?* These are important considerations. Another lesson from the APRM is the need for a strong, capacitated and professional secretariat with dynamic, firm

and visionary leadership. It would also be vital to endow such a system with the requisite funding, especially from African sources, in order for it to be sustainable and owned by the countries participating, without undue outside interference or influence.

- *What is the ideal frequency of reviews?* This could be determined in line with resources available and also differentiate between members, depending on their share of intra-regional trade. The APRM reviews have taken an inordinate amount of time, often due to inaction, lack of resources and waning political will at national level.
- *How would the process unfold?* What is the best system to employ to ensure transparent outcomes and the meaningful inclusion of non-state actors such as business organisations and civil society formations?

A challenge for accountability in the IMF is the perception that the institution is too accountable to its largest shareholder, the US.<sup>13</sup> This would be something for SADC to guard against with regard to the role of South Africa in any kind of SADC review mechanism and, similarly, this would apply to Nigeria in ECOWAS.

What would be the role of non-state actors in a regional peer review process? In the multilateral examples considered, there is no direct role for non-governmental organisations or business to participate unless the government under review chooses to involve them. The WTO Secretariat also consults with a broad range of stakeholders if it undertakes missions when preparing TPR reports. To date, one of the main results of the APRM has been the active engagement of non-state actors in the process.

## CONCLUSION

Peer review systems have proliferated over the decade from 2004–2014, and hold out the potential for encouraging greater compliance with regional commitments. RECs should seriously consider developing a customised peer review process that focuses on regional integration among their members. An ideal process should be participatory, transparent

and well funded. There are many positive lessons to draw from existing peer review processes that could be built upon to develop an effective and efficient system that produces tangible and measureable results. Such an initiative could make a real contribution to achieving the regional integration objectives of the African continent by promoting greater levels of accountability and transparency among member states.

## ENDNOTES

- 1 Catherine Grant Makokera was formerly Programme Head: Economic Diplomacy, South African Institute of International Affairs (SAIIA). She conducts research on regional integration, trade and state–business relations in Southern Africa. Steven Gruzid is Head: Governance and African Peer Review Mechanism (APRM) Programme, SAIIA. He has published extensively on governance in Africa and the APRM.
- 2 Pagani F, 'Peer review as a tool for cooperation and change', *African Security Review*, 11, 4, 15–24, 2002, p. 15.
- 3 Laird S, *The WTO's Trade Policy Review Mechanism: From Through the Looking Glass*. London: Blackwell Publishers, 1999.
- 4 Pagani F, *op. cit.*, p. 21.
- 5 *Ibid.*, p. 22.
- 6 Woods N & A Narlikar, *Governance and the Limits of Accountability: The WTO, the IMF, and the World Bank*. London: UNESCO, 2001, p. 578.
- 7 Laird S, *op. cit.*, p. 754.
- 8 Francois JF, 'Trade Policy Transparency and Investor Confidence: The Implications of an Effective Trade Policy Review Mechanism', CIES (Centre for International Economic Studies) Discussion Paper 99/17. Adelaide: CIES University of Adelaide, August 1999, p. 8.
- 9 Woods N & A Narlikar, *op. cit.*, p. 575.
- 10 Pagani F, *op. cit.*; see also Qureshi AH, 'Some lessons from developing country trade policy reviews in the GATT framework: An enforcement perspective', *The World Economy*, 18, 3, May 1995, pp. 489–503.
- 11 Pagani F, *op. cit.*
- 12 APRM Secretariat, 'Revised Country Self-Assessment Questionnaire for the African Peer Review Mechanism'. Addis Ababa: African Union, 2012, p. 37.
- 13 Woods N & A Narlikar, *op. cit.*, p. 576.

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