



# CPS POLICY BRIEF 50

## Africa's Emerging Continental Governance Regime

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CPS gratefully acknowledges the generous financial support for this publication from the Royal Danish Embassy, Pretoria

**Policy Brief 50**

**September 2007**

Published by the Centre for Policy Studies, an independent research institution, incorporated as an association not for gain under Section 21 of the Companies Act.

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**Supported by the Royal Danish Embassy, Pretoria**



## INTRODUCTION

This policy paper analyses Africa's governance architecture, which has emerged since 1994. It aims to explain the origins and nature of some of the continent's key inter-state institutions and relations and their implications for continental governance and democratisation.

This policy essay deals essentially with what could be dubbed the "new" wave of Pan-Africanism underway in Africa - otherwise described here as the new "continentalism".<sup>1</sup> The essay considers what it sees as the policy and governance revolution in Africa over the recent past and looks at the continent's new norms, principles, values, mechanisms and structures, which are fundamentally different from the ones which prevailed during the era of the liberation struggle in countries such as South Africa and Zimbabwe.

During the course of the past decade, African state actors negotiated a new Pan-Africanism, one that makes a fundamental break with the past as characterised by the period of the Organisation of African Unity (OAU). The OAU placed a huge emphasis on unity, a struggle for political liberation, and non-interference in the domestic affairs of African states. In contrast, the "new" wave of inter-African co-operation puts the issues of development, governance, democratisation, economic growth and peace and security firmly on the continental agenda. It, therefore, espouses a progressive agenda, which seeks to build consensus on African development, governance and peace and security through articulating new norms, values, principles and policies and designing institutional mechanisms for implementing the new paradigm. Key leaders driving this process have dubbed it the "new African agenda"; it is geared towards breaking away from the decades-old regime of "non-interference," "non-intervention" and an obsession with "national sovereignty".<sup>2</sup> So it articulates a new interventionism in defence of democratisation, accountable governance and human rights.

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***The 'new African agenda' articulates a new interventionism in defence of democratisation, accountable governance and human rights***

## THE DRIVERS OF THE NEW CONTINENTALISM

The "new" Pan-Africanism came about through the efforts of key African leaders such as South Africa's Thabo Mbeki, Nigeria's Olusegun Obasanjo, Algeria's Abdulaziz Bouteflika, Mozambique's Joachim Chissano and Senegal's Abdoulaye Wade - all of whom have helped shape this new agenda.<sup>3</sup> In particular, Thabo Mbeki and his Nigerian counterpart, Olusegun Obasanjo, emerged as central actors seeking to put in place punitive measures against unconstitutional changes of government in Africa; this move against *coups d'état* was a bid to entrench democratic norms of governance.<sup>4</sup> The Nigerian and South African presidents had a major impact on the continent's emerging policy landscape. In the event of a coup the putschists would first be warned and urged to return to democratic rule. In the event of a failure to comply, such regimes would then be expelled from the OAU and face other punitive sanctions.<sup>5</sup> The OAU

subsequently barred the military regimes of Côte d'Ivoire and Comoros from attending its summit in Lomé in 2000 as the idea of "sovereignty as responsibility" increasingly took root in African diplomacy.

During the period 2000-2001, the process of restructuring Africa's governance architecture crystallized when four leading African states - South Africa, Nigeria, Senegal and Algeria - and their continental partners, undertook eight initiatives filled with new, and at times radical, policy directives including:

- The Africa Renaissance;
- The Conference on Security, Stability, Development and Cooperation in Africa and its formal incorporation into the OAU's conflict prevention, management and resolution machinery (established in 1993);
- The decision taken in Lomé in 1999 by the OAU to transform itself into the African Union;
- The acceleration of the OAU-mandated drafting of the Millennium Africa Recovery Plan under the leadership of Mbeki, Obasanjo, and Algerian leader, Abdelaziz Bouteflika;
- The merger of the Millennium Africa Recovery Plan (MAP) and the Omega Plan (the initiative spearheaded by Senegalese president Abdoulaye Wade) to create the New Africa Initiative;
- The launch of the New Partnership for Africa's Development (NEPAD);
- The African Peer Review Mechanism (APRM); and
- Africa's quest for a partnership with the industrialised world through seeking strategic relations with the G8 and other actors.

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*The continent is bound to experience a major implementation crisis over the next few decades*

The design and construction of these eight policy initiatives form the crux of the "new" African architecture. All these policy ordinances propose a major restructuring of Africa's development, governance and peace and security ethos; they come out in defence of intervention in the domestic affairs of states in four particular instances:<sup>6</sup>

1. genocide;
2. gross violations of human rights;
3. instability in one country which threatens broader regional stability;  
and
4. unconstitutional changes of government.

There has thus been a real break with the post-colonial past; but successfully implementing this new interventionism will require political commitment from states - a coalition of the willing, so to speak. It will require member states to form a consortium to act in defence of the new regime. Indeed, the continent is bound to experience a major implementation crisis over the next few decades. So while the policy designs and scope have been sorted out, there is little

guarantee that the continent will be successful at operationalising and implementing these new policy programmes and plans.

Key actors openly state that they favour an Africa that can be “critical” about its own weaknesses”.<sup>7</sup> The new architecture will depend heavily on political will, human and financial resources, respect for new norms, values and principles, the strengthening of institutions, intra-African co-operation, the forging of new strategic partnerships between Africa and the outside world (notably the industrialised powers and the continent), amongst others. In the words of the Chairperson of the AU Commission, Prof. Alpha Konare:

*“The resources that we need for the integrated Africa to become a force to be reckoned with, a force that we can all rely upon, include among other things, the political will to achieve integration, the leadership and commitment of the Commission, the accession of the people to the integration endeavour, the optimal use of all our assets (namely our population, culture, languages, dialogue, economies, and human and financial resources)”*.<sup>8</sup>

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***The once sacrosanct legal principle of the sovereignty of states and non-interference in their domestic affairs has been eroded and is now being balanced by a greater emphasis on the rights of peoples and the responsibility of governments towards their citizens***

The problem is that many of these fundamentals are in short supply on the continent, and this inadequacy will negatively impact on the chances of successful implementation. The once sacrosanct legal principle of the sovereignty of states and non-interference in their domestic affairs has been eroded and is now being balanced by a greater emphasis on the rights of peoples and the responsibility of governments towards their citizens.

## **THE MAJOR ELEMENTS OF AFRICA'S POLICY LANDSCAPE**

The policy landscape inherited by the new Pan-Africanism is characterised by poverty, underdevelopment, and massive socio-economic challenges. This landscape is complicated further by wars and deadly conflicts in some parts of the continent. Africa has experienced more wars and violent conflicts than any other region or continent.<sup>9</sup> Poor people are typically marginalized and excluded from policy, decision-making and governance process in Africa.<sup>10</sup> The economies of the continent has seriously under performed and, therefore, failed to produce the necessary growth and resources needed for development.<sup>11</sup> Africa's share of world trade has fallen from 6% in 1980 to less than 2% in 2002.<sup>12</sup>

Given this policy context, great emphasis has been placed on integration processes, especially at sub-regional levels. Integration bodies such as the Southern African Development Community (SADC), the Southern African Customs Union (SACU), the Common Market for East and Southern Africa (COMESA), the African Union (AU), and programmes like the New Partnership for Africa's Development (NEPAD), have all crucial roles to play in this regard.

Put simply, regional integration is the impulse toward creating a common approach, replete with institutions, by states in a region around economic, political or social issues. It is about liberation and self-determination, peace, security and development. Integration is transformatory, and calls for a radical approach to bringing together disparate states. This transformation depends heavily on regional cohesion in securing societal integration within a region; it builds regional awareness and identity. It requires inter-state co-operation and co-ordination in a region. But regional co-operation should not be confused with regional integration and unification. Regional co-operation is merely part of the process that leads to regional integration and unification.

Regional integration seeks to move beyond nation-state identities in order to develop new and common regional identities and citizenships. It leads to the emergence of cohesive and consolidated regional units.<sup>13</sup> Its ultimate goal is the creation of a single regional entity, such as one southern African bloc, out of many disparate groups. Real integration does not just mean the amalgamation of the various economies in the region; its longer term goals must of necessity include a common citizenship, such as a southern African citizenship; thus the free movement of both goods and people. Political integration, as witnessed in the European Union (EU), is an even longer-term goal of this process and is perhaps the most difficult aspect to achieve.

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*The promise of great economic growth in the region has been overstated*

Regional integration is about states agreeing to live by common norms and values, the deepening of co-operation, the creation of common markets, the free movement of people in a region, and ultimately the creation of a shared governance architecture, replete with legislative and other governance competencies for the region.

One of the threats to successful regional integration on the African continent, especially in sub-Saharan Africa, is the HIV/AIDS pandemic. The pandemic threatens the human capital needed for economic growth as increasing numbers of skilled individuals succumb to it. And resources that would have otherwise have been deployed elsewhere have to be used to fight it and its effects. Added to this pandemic is continued economic difficulty. The region is confronted with a plethora of enormous developmental challenges. While in recent years economic growth rates in the region have reached levels of between 2 and 8 percent, the promise of great economic growth in the region has been clearly overstated. Many states have been compelled to become part of the cycle of 'donor democracy' in which most of their national budgets are supplied by donors, thus leaving them wide open to pressure, persuasion and the dictates of the donors at whose mercy their fragile economies lie. Many are forced to pursue economic policies dictated by these donors and termed by many analysts as 'neo-liberal'. Examples include Mali.<sup>14</sup> This has, on balance, not resulted in

sustainable growth paths in these countries. Even in countries where economic growth rates have been high, such growth typically has been off a low base. From a governance perspective, poor economic performance exacerbates poverty and compounds the daunting development challenges. Both these factors impact negatively on prospects for regional integration. HIV/AIDS threatens the health of the people in the region - impacting even on the military and governance machinery in member states and threatening to spill over into neighbouring states with the free movement of goods and people that regional integration brings. Similarly, economic meltdown in one or more states in a region may be viewed as a threat by prospective member states that are more economically balanced as they may fear being flooded by economic refugees from these countries moving freely across borders in such a regional community. Xenophobia and other inter-state tensions that could result from this may well threaten the prospect of regional integration. Ironically, however, regional integration may well be the cure for both of these "threats" to regional integration. A coordinated regional approach to combating HIV/AIDS may be the most effective way to fight the pandemic, while an integrated economic bloc *ala* the EU may well be the best way to create economic growth not just in one state, but in an entire economic community.

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## **THE POLICY DECISION-MAKING STRUCTURES OF THE NEW AFRICAN ARCHITECTURE**

During the era of the Organisation of African Unity (OAU), a single source of authority dominated policy-making, procedures and implementation; that source was the Assembly of Heads of State and government. Furthermore, Africa's most important Pan-African institution was purely a collaboration of governments of sovereign states, and operated on the basis of respect for national sovereignty and non-interference in internal affairs of African states. There was almost no public or private questioning of the actions and behaviour of governments, and no pooling of sovereignty was envisaged. The primary goal of states was the collective struggle for national liberation from colonialism and the defence of the national sovereignty of states. The OAU, therefore, followed a purely inter-governmental approach to African inter-state affairs.

The OAU's successor, the African Union, is a completely different organisation altogether, with fundamentally different policy sources to its predecessor. While the AU also places an emphasis on respect for national authority, it similarly makes a fundamental break with the past by spelling out a right to intervene in grave circumstances. This, break with the past, arises both from pressure from donor countries for African states to illustrate good governance in return for aid, as well as a genuine attempt by key African leaders (such as South Africa president Thabo Mbeki, Senegalese president Abdoulaye Wade, and

Nigerian president Olusegun Obasanjo) to develop and revive the continent economically, culturally and politically so that it is able to compete in an increasingly globalising world. As such, AU spells out provisions to suspend governments coming to power unconstitutionally; governments monitoring one another's behaviour through an African Peer Review Mechanism (APRM); and a continental development pan in the form of the New Partnership for Africa's Development (NEPAD). The primary goal of the AU is to enable Africa to meet the key 21<sup>st</sup> Century challenges of poverty and under development, and to strengthen the position of Africa *vis-à-vis* global economy and the international community.

The AU boasts multiple sources of authority, including executive structures such as the Assembly of Heads of State and government, and an Executive Council; legislative sources, namely the Pan-African Parliament (PAP); representative structures in the form of the PAP and the Economic, Social and Cultural Council of the AU (ECOSSOC); judicial instruments, namely the African Court of Justice and the African Court of Peoples and Human Rights; and the technical and economic structures. These multiple sources of power reflect the broadening of the AU mission from essentially a single issue (the liberation from colonialism) to multiple issues directed at transforming the continent's states in the economic, social and governance spheres.

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The comprehensive policy organs of the African Union when fully established will look as follows: **The Assembly of the Union**, the supreme organ of the Union is composed of Heads of State and Government or their duly accredited representatives. This organ meets at least once in extraordinary session.

**The Commission of the African Union:** This is the Secretariat of the Union and is composed of the Chairperson, his or her Deputy and Commissioners. It represents the Union and defends its interests under the direction of the Assembly and the Executive Council. It can initiate proposals for submission to the other organs of the Union and executes decisions taken by them. It assists member states in executing the policies and programmes of the Union, particularly the CSSDCA and NEPAD, formulates common positions of the Union and coordinates the work of member states during international negotiations.

**The Executive Council:** This is composed of the Foreign Ministers or such other Ministers or representatives as are designated by the governments of Member States, is responsible for coordinating and taking decisions on policies in areas of common interest to Member States.

**The Permanent Representatives' Committee:** Composed of Permanent Representatives or other Plenipotentiaries of Member States, it is responsible

for preparing the work of the Executive Council and acting on the latter's instructions.

**The Peace and Security Council:** Is composed of 15 Member States and is responsible for the promotion of peace, security and stability in Africa, preventive diplomacy and restoration of peace. It is also responsible for disaster management and humanitarian activities. To enable it to discharge its responsibilities with respect to deployment of peace support missions and interventions in the event of genocide, war crimes and crimes against humanity, the Council may consult a *Panel of the Wise* composed of five African personalities, and mobilize a Standby Force.

**The Pan-African Parliament:** This is a unicameral structure but represented by all Parliaments of the countries of Africa. It adopts legislation by a two-thirds majority of its members. It is composed of five members per country with at least one of these being a woman.

**The African Court of Justice:** This court will adjudicate in civil cases and be responsible for human right protection and monitoring human rights violations. It will also constitute itself into a real criminal court in the long term.

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**The Economic, Social and Cultural Council:** An advisory organ composed of different social and professional groups from Member States of the Union, particularly youth and women's associations.

**The African Court of Human and People's Rights:** Adopted at the Ouagadougou Summit in 1998, it has jurisdiction in cases of human rights violation by any State party, the African Commission on Human and People's Rights and African intergovernmental organizations. The Court can hear the cases filed by individuals and nongovernmental organizations with observer status in the Union, when the State party concerned makes a declaration to this effect. It is composed of 11 Judges elected by the Assembly for a mandate of 6 years renewable only once.

**Three Financial Institutions:** These institutions are the African Central Bank; the African Monetary Fund; and the Investment Bank.

**Specialised Technical Committees:** Composed of Ministers or senior officials responsible for the sectors falling within their respective areas of competence. There are seven Technical Committees, the number and composition of which are not limited. These are the Committee on Rural Economy and Agriculture; the Committee on Monetary and Financial Matters; the Committee on Trade, Customs and Immigration Matters; the Committee on Industry, Science and Technology, Energy, Natural Resources and Environment; the Committee on

Transport, Communications and Tourism; the Committee on Health, Labour and Social Affairs; and the Committee on Education, Culture and Human Resources.

## **MAJOR CHALLENGES OF THE NEW CONTINENTAL ARCHITECTURE**

While there is no gainsaying the fact that the African continent boasts a new policy revolution which came about in less than a decade, it is just as clear that the continent will face a protracted policy implementation crisis. During this phase, African states, and key inter-state bodies will struggle to give operational effect to policy decisions and deliver on policy promises made. Just six of these policy implementation challenges are singled out here.

### **Personnel and Financial Challenges**

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*A challenge for the AU and sub-regional organisations is to make it worth the while of member states to pay their dues; they must be seen to be getting value for their money*

Notwithstanding the fundamental overhaul of the policy landscape in Africa over the past seven years, the transition from the OAU to the AU remains a complex and challenging process, especially with regard to human and financial resources and the setting of policy priorities. The AU continues to face the challenge of increasing, professionalizing and equipping its staff with the necessary skills while simultaneously making its structures effective and efficient. Moreover, there continues to be tensions between the AU and NEPAD over integrating the latter into the former. These tensions have ensured that NEPAD, like the AU, also has staffing and human resources problems because NEPAD has put all such policy and procedural matters, such as appointing staff and creating necessary structures on hold because of uncertainly deriving from the NEPAD/AU tension. Limited financial resources, especially for the AU and sub-regional organisations, remains a major problem impacting on all facets of these institutions' operations. The AU, for example, has inherited huge financial shortfalls. Many member states do not pay their dues in full and/or on time, and this creates huge financial problems for the AU. While some cash-strapped states are incapable of paying, many others, who continue to contribute their dues to the UN and other international organisations, lack the political will or interest to pay their AU dues. Consequently, the institutions remain heavily dependent on donor funding. Such dependency (especially if it becomes entrenched) can be detrimental to the interests of an African-inspired and owned agenda.

A challenge for the AU and sub-regional organisations is to make it worth the while of member states to pay their dues. They must be seen to be getting value for their money; this means that the AU will have to begin to seriously

operationalise its lofty protocols, agendas and ideals - moving them from the realm of promises and vision to that of reality on the ground. It will have to do this if it is to finally break with the image associated with its predecessor, the OAU. This will be the organisation's most challenging task.

The REC's are regarded as the implementing agents of the new continental architecture; yet all of them, without fail, face serious financial constraints and struggle to execute their ambitious policy mandates. Many REC's are also jealous about their status as older and more experienced than the AU, and are reluctant to cede leadership to the AU.

### **Challenges of Institution-building**

The AU, NEPAD, and the REC's also battles with serious institution-building challenges. These bodies are tasked with taking the lead in establishing new institutions and organs, and overhauling weak structures, while simultaneously establishing their own structures and building up their own financial and human resource bases and communications strategies. In so doing, the AU Commission, for example, may be torn between internal institutional reform and external demands by member states to continue setting up new organs. This will make for some uncomfortable policy and implementation choices.

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### **Challenges of Operationalisation**

In addition to challenge of acquiring the necessary human and financial resources and -building new institutions, Africa continues to grapple, *inter alia*, with problems of peacebuilding, democratic governance, and development. One of the most serious challenges facing the AU Commission is that of closing the gap between the formulation of policy and treaty commitments and their actual implementation and operationalisation. Indeed, the OAU had long faced a crisis of implementation, and a serious risk still exists that, over the next several years, the AU Commission could find itself bogged down by a backlog of unimplemented decisions.

### **Challenges of Unity and Sovereignty**

There is clearly a major contradiction here. On the one hand greater development requires that the continent foster unity amongst its divergent states. Another gap that must be closed is the challenge of the continent marshalling its disparate institutional voices so that it can begin to speak with a common and unified voice on key development challenges. However, many governments remain reluctant to empower the Commission with such powers

and responsibilities. The Commission should, therefore, brace itself to address tensions between itself and some governments in this regard.

Many African states remain jealous of their sovereignty and are not keen to surrender or even pool some of it. So, although member states have ratified the Constitutive Act, the risk remains that many governments would prefer the *status quo* even at the risk of creating a weak AU. Some misunderstanding also seems to exist in the general public over the status of the AU and its constitutive bodies. Is the AU a supranational body or an inter-governmental organisation?

### **Relations with RECs as the Building Blocks of Integration**

The relationship between the AU and Africa's regional economic organisations remains somewhat ambiguous and, at times, contentious, in spite of a protocol signed by the OAU and five of the existing RECs. There is, first of all, a proliferation of regional bodies, many with overlapping and sometimes contradictory mandates, roles and memberships. Presently, there are at least forty different regional bodies in Africa, all with their own economic integration and security arrangements. This state of affairs often creates confusion, so the need for harmonisation of efforts cannot be overemphasised. However, the possibility cannot be ruled out that some of the better-resourced RECs - such as the Southern African Development Community (SADC) and the Economic Community of West African States (ECOWAS) - will fiercely protect their autonomy, and many, including the weaker and less well-organised RECs, may resist the Commission's involvement in decision-making and operational matters in their region.

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The AU's protocol relating to the Peace and Security Council calls for defining relations and rationalising the organisation's links with the RECs. However, this may be a difficult task, not least because the existing regional security arrangements have been set up and mandated by a decision of their Heads of State and Government. Furthermore, the protocol relating to the PSC was signed much later than earlier regional pacts and agreements on peace and security like the ECOWAS security mechanism of 1999 and the SADC Organ on Politics, Defence and Security Cooperation of 2001. Harmonisation is, therefore, a *sine qua non*, but a certain amount of rivalry should be expected.

### **Relations with Civil Society**

While many of the AU and NEPAD provisions makes lofty commitments to the idea of popular and civil society participation, the commitments of member states and the institutions that are being set up for such participation remain weak. To be sure, many new opportunities for civil society engagement have

been created by the new architecture. However, the real strength and success of the AU, NEPAD and other continental initiatives, will be determined by the extent to which they empower people and create opportunities for them to improve their lives. The AU, NEPAD and other structures, institutions and programmes will be tested on the basis of the impact they have on the lives of ordinary African citizens. Indeed, if they wish build their credibility in the eyes of the African populace at large they will have to begin to show that they can be as source for the betterment of their lives - not just economically, although this is very important - but also in the human right, peacemaking and peacekeeping and democratic governance areas.

The establishment of ECOSOCC should be completed as soon as possible, and the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) Unit dealing with civil society issues within the AU Commission should be sufficiently staffed and equipped to perform its catalytic role more effectively. The Commission should also be prepared to help overcome the apprehension illustrated by several African governments towards civil society actors. NEPAD's civil society structures remain decidedly weak, and its operatives seem more interested in inviting civil society participation during implementation processes, and not in actual policy making, design and construction processes. Stakeholder participation is required during all stages of the policy and governance processes if buy-in and ownership is to be ensured.

## ENDNOTES

- <sup>1</sup>. See Chris Landsberg, 'The Grand African debate: United States of Africa, African Union Government or Union of African States?', in *New Agenda*, Fourth Quarter 2007.
- <sup>2</sup>. For an assessment of the new moves with regard to interventionism in Africa, see Musifiky Mwanasali, *Emerging Security Architecture in Africa*, Centre for Policy Studies, Policy: Issues and Actors, Vol. 17, No. 4, February 2004.
- <sup>3</sup>. Chris Landsberg, 'South Africa and the Making of the African Union and NEPAD: Mbeki's "Progressive African Agenda"', in Adekeye Adebajo, Adebayo Adedeji, and Chris Landsberg (eds.), *South Africa in Africa: The Post-apartheid Era*, University of Kwazulu/Natal Press, 2007, pp. 195-212.
- <sup>4</sup>. See Adekeye Adebajo and Chris Landsberg, 'The Heirs of Nkrumah: Africa's new Interventionists', *Pugwash Occasional Papers*, 1(2), January 2001.
- <sup>5</sup>. Ibid.
- <sup>6</sup>. See Musifiky Mwanasali 2004 op. cit.
- <sup>7</sup>. See African Union, Strategic Framework of the African Union Commission, 2004-2007, Final Draft, 4 March 2004, Addis Ababa, p. 1.
- <sup>8</sup>. Ibid.
- <sup>9</sup>. See Commission for Africa, *Our Common Interest*, Report of the Commission for Africa, March 2005, p. 14.
- <sup>10</sup>. Ibid., p. 15.
- <sup>11</sup>. Ibid.
- <sup>12</sup>. Ibid., p. 27.
- <sup>13</sup>. Andrew Hurrell, 'Explaining the Resurgence of Regionalism in World Politics', *Review of International Studies*, no. 21, pp. 334-337, 1995.
- <sup>14</sup> See Isaline Bergamaschi, Mali: patterns and limits of donor driven Ownership, Global Economic Governance Working Paper 2007/31, Department of Politics and International Relations, Oxford University