APRM and Investment Policy Reform

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Why Investment Policy Reform?

Key Questions

- Does the APRM explicitly target investment policy reform and its determinants?
- Is the APRM being implemented in a way that favors investment policy reforms and the persistence of and improvement in the quality of these reforms?
- What are the implications of the answers to the preceding questions and how can the APRM be strengthened to advance investment policy in Africa?

- **Providing answers to these questions will enable us to determine the extent to which APRM's design and implementation are consistent with its objective of fostering sustainable development in African countries through appropriate policies (including investment policy).**

- **This is done through reviewing, analyzing, and interpreting primary and secondary sources, as well as direct observation.**

APRM and Investment Climate

Review of Previous study: Nnadozie, Kavazeua and Kruger (2007) "NEPAD's APRM and Investment Climate in Africa" looked at the following:

1. The Role of APRM in improving investment climate and in building investor confidence
   a. Relationship with the private sector, i.e. how, where, and to what extent the Mechanism deals with private sector issues in the key documents and in its operational framework
   b. What factors affect the investment climate and investor confidence?
   c. To what extent does APRM address these factors in both its design and in its implementation?

2. The impact of the Mechanism on the Private Sector
   a. The case of Ghana Rwanda and Kenya
   b. Is the reality different from the expectations? Is the mechanism likely to lead to sustainable change in Africa? If yes, why; if not, why not?
   c. Will the process lead to a two-tier system in Africa?

Investment Climate study

- **Based on the way it was structured and implemented in Ghana, Rwanda, Kenya, South Africa and Algeria, the APRM provided for a largely participatory, self-assessment exercise.**
  - **"Designed to be consultative and inclusive, it also provided a platform that would enable the country to identify governance and institutional capacity gaps, and come up with a programme of action to address the gaps.**
- **Furthermore, it provided for a follow-up review and verification by a team of outside experts who carry out the 'widest possible range of consultations with government, officials, political parties, parliamentarians and representatives of civil society organizations (including the media, academia, trade unions, business, professional bodies)'"* (Nnadozie et al 2007, p. 195).**

*NEPAD Secretariat, African Peer Review Mechanism (APRM); Guidelines, p. 19.

Investment Climate study

- The extent to which the APRM could improve the investment climate and unleash the potential of the private sector is still unclear.

- Nonetheless, a careful examination of the process and its implementation in Ghana in Kenya shows that it does concern itself with
  - those factors that create an unfavourable investment climate and inhibit private sector growth, such as poor governance, institutional failures and inadequate infrastructure (Nnadozie, Kavezuea and Kruger, 2007, p. 195).

Investment Climate study

Conclusions

- **The APRM is designed to address the problem of poor institutional quality and institutional gaps that exist in many African countries.**

- **The implementation of the review mechanism has revealed critical challenges that could derail it and make the Mechanism ineffective in engendering good quality institutions, including**
  - **its comprehensiveness, high cost, information gaps, lack of standardization and low level of political will and political commitment.**

- **Despite these challenges, the review mechanism represents a great opportunity for African countries to create the appropriate institutional frameworks that will enable them promote growth and sustainable socioeconomic development.**

  - **But this can only happen if African countries maintain ownership, mobilize and allocate resources adequately, improve information, improve upon the self-assessment exercise and improve the peer review process.**

APRM and Investment Policy Reform

Extension of the previous study on investment climate and a look at what happened in Ghana, Kenya and Rwanda

A Few Caveats…

1. **May be too early to jump into categorical conclusions to determine whether the countries that have been reviewed have made real policy reforms based on the findings and outcomes of the review process**

2. **The attribution problem exists--whether policy changes are attributable or not to the APRM**

3. **We look at the extent to which the design and implementation of the APRM affects policy reforms directly and through its effect on factors that affect policy change including institutional, political or sociocultural factors.**

Where Policy Reform is dealt with in APRM

1. The Questionnaire (especially the Corporate Governance theme) and the Country Self-assessment Report (CSR)
2. The Country Review Mission (CRM) and the resultant country review report
3. The Programme of Action (POA)
4. The country progress reports
5. The follow-up reviews (has not happened yet)

Investment Policy in the APRM

- Dealt with mostly in the Corporate Governance thematic area
- Degree of treatment of investment policy in the review and POA depends on the size and complexity of the private sector of the country under review
  - South Africa, Kenya, Ghana and Rwanda—in that order
- Investment-friendly policy reforms require peace and security; the extent to which APRM targets the institutions of peace and security must be determined.

Objectives of Corporate Governance

- Promotion of an enabling environment and effective regulatory framework for economic activities
- Ensuring that corporations act as good corporate citizens with regards to human rights, social responsibility and environmental sustainability
- Promotion of adoption of codes of good business ethics in achieving the objectives of the corporation
- Ensuring that corporations treat all their stakeholders in a fair and just manner
- Providing for accountability of corporations, directors and officers

APRM's purpose is consistent with investment policy reform

- 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. (APRM Base Document 2003 p. 3)

Voluntary participation indicates interest in investment policy reform

- Countries voluntarily embark on APRM in the first place because they want to accelerate socioeconomic development through good political, economic and corporate governance.
- They want to establish good governance through good institutions.
- Hence this fundamental objective of APRM in and of itself is indicative of an a priori interest in improving the business environment for the private sector to thrive and to reform the investment policy.
- The extent to which APRM's design and implementation affects policy reform is another question altogether.

APRM affects the Drivers and Enablers of Policy Reform

- **Drivers and enablers of policy reform**
  - **The key drivers of policy reform and evidence-based policy making are functional institutions and good governance.**
  - **The enablers are peace and security, democracy and good political governance, good economic governance, public involvement and possibility of emulation.**

Impact on Institutional Change

- Institutions are necessary for policy, investment and capital formation (Bates, 1997.

- Moreover, policies are not implemented because of lack of knowledge but rather because of distributional issues and institutional weakness (World Bank, 2003).

APRM targets national institutions for growth and development

Institution	Whether Explicitly Addressed by APRM		Level of Treatment in the APRM Documents*		
	Yes	No	High	Moderate	Low
Institutions for managing conflict and promoting political stability	X		X		
Institutions for sound economic management and macroeconomic stabilization	X			X	
Legal institutions, rule of law, and institutions for enforcing property rights	X			X	
Institutions for social insurance		X	Not treated	Not treated	Not treated

*Based on the number of questions (1 for moderate and more than 1 for high) contained in the questionnaire on the institution and the extent to which the objectives, evaluation criteria, and indicators deal with the institution in question.

Source: Nnadozie E. (2009) "NEPAD, APRM and Institutional Change in Africa" forthcoming in Said Adejumobi and Adebayo Olukoshi, *The African Union and New Strategies for Development in Africa*, New York: Cambria Press Inc.

Impact on Policy Reform in Review Countries

- In Ghana, Rwanda and Kenya major investment policy reforms have already occurred or on-going but this is not well known

Ghana

- Key reforms have occurred to address the challenges raised in the POA
  - Investment, infrastructure, investment promotion and facilitation, trade, competition, tax, corporate governance and human resource and financial sector development
- Reduction in corporate tax
- Support of SMEs and increase in microfinance
- Proliferation of banks and increase in access to capital

Ghana

- Best place to do business in the Economic Community of West Africa States (ECOWAS), and was one of the top ten economies in Africa, by overall aggregate, for doing "Doing Business 2009"
- Recorded improvement in the part of starting a business, as it abolished the requirements to register employment vacancies, to obtain a company seal, reduced the number of days to register property from 135 to 34 and improved access to land for investment.
- Best place to register property, and the best in protecting investors in ECOWAS

Kenya

- **Business Regulatory Reform Unit formed within the Ministry of Finance**
  - To coordinate the country's effort to make Kenya an attractive destination for investment and a suitable place to do business
- **Private Sector Development Strategy launched in January 2007**
  - To address constraints to private sector development
  - Drastic reduction in number of licenses required to start and operate a business from 1,325 licenses to 661
  - Streamlining of business registration processes
  - Finalization of a draft Companies Act to replace the existing 1962 Companies Act
  - Amendment of the Insurance Act and the launch of the Insurance Regulatory Authority in April 2008

Kenya

- In 2007, the Finance Act of 2006 became operational
  - Requires banks to share information on non-performing loans (NPLs)
  - Moved supervisory powers from the Ministry of Finance to the Central Bank of Kenya
  - No doubt the government is working hard to improve the effectiveness of regulatory framework but many of the policy measures are still being planned
- Improvement in road transport, access to water, electricity, port services, internet access and reduction in cost of telephone calls
- Improvement in business and entrepreneurial skills especially in the SMEs
  - Under the Technical, Industrial, Vocational and Entrepreneurial Training programme (TIVET)

Rwanda

- In the midst of fundamental reforms to its business environment.
  - The Rwandan government set out in early 2005 to review all commercial laws in banking, insurance, electronics, trade, and arbitration with the goal to adopt best practices in the legal system. The customs union established in 2004 among Kenya, Tanzania, Uganda, and Rwanda spurred efforts to harmonize business laws.
- In line with its reform agenda, fourteen commercial laws were prepared and passed including a new bankruptcy law, companies law, secured transactions law, contracts law, and arbitration and mediation law.
- In May 2007, Parliament adopted the draft law establishing commercial courts to deal with all sorts of commercial cases, ranging from commercial contracts to bankruptcy, tax disputes, transport disputes, intellectual property adjudication, and consumer protection cases.

Rwanda

- With the assistance of the Investment Climate Facility for Africa, the government of Rwanda established a new commercial registration agency and improved Rwanda's land titling, as well as financed a commercial court to ensure a speedy and effective system of commercial dispute resolution.
- No restrictions on investment in any sector, making Rwanda's investment regime one of the world's most liberal.
- Adopted several initiatives, including a one-stop shop, Starting a business takes an average of 16 days, compared to the world average of 43 days. Obtaining a business license takes less than the world average of 19 procedures and 234 days.
- Significant efforts to modernize its tax system in recent years, even though further efforts should be made to improve the structure of taxes and their administration.

Overall

- APRM explicitly targets investment policy reform as well as its drivers and enablers
- APRM's design and implementation can help in advancing investment policy in Africa
- The mechanism has already generated investment policy reforms in participating countries
- With the availability of resources it can serve as an strong engine in strengthening Africa's private sector

Challenges

- **Challenges to policy reform remain:**
  - **Institutional – requiring legislative processes or constitutional change**
  - **Capacity constraints**
  - **Political challenges**
    - **Elections**
    - **Need for leadership at the highest level**
  - **Maintaining stakeholder participation especially the private sector**
  - **Maintaining momentum after administrative transition**
  - **Popularizing the achievements to boost investor confidence**

Challenges to APRM itself

- APRM is well designed but too comprehensive—maybe inevitably so.
- APRM requires significant human capacity and financial resources often not available to the countries concerned.
- Key structures and processes are not standardized across participating countries
  –
- There is a serious information gap.
- The process is still amorphous, especially at the peer review level.

Implementation Gap

- The real challenge to Africa's development is not always that of instituting new policies and adopting new laws and regulation. Rather, there is a policy implementation gap.
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- The way it is being implemented at present, the APRM may not have the answer to this serious and perennial problem that plagues many African countries.
  - By emphasizing accountability and citizen participation in and ownership of policies, the mechanism attempts to address this problem.
- However, in reality, it is difficult to see how the existing culture can be changed on the ground without addressing the problems of implementation capacity, stakeholder education and empowerment, and the underlying issue of agent opportunism through the appropriate institutional mechanisms.

Informal Institutions

- Formal rules can be changed easily but the informal norms change only gradually.
  - Since it is the norms that provide the essential "legitimacy" to any set of formal rules, change is difficult and often differs from expectation.

- The problem is that whereas the APRM is designed to address formal institutions (including constitutions, laws, regulations, contracts, and social capital), it does not address the informal institutions, such as values and social norms, that govern the actions of individuals and organizations and the interactions of participants in the development process.

- Recognizing that sustainable institutional change requires alterations in beliefs and norms that constitute informal institutions, one could worry about the durability of any APRM-induced institutional change.