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On the Agenda

Morocco's plans to join the AU present a legal conundrum

The legal counsel of the African Union Commission (AUC) briefed the PSC about the modalities of Morocco's joining the AU during a meeting on 12 August 2016. This followed a call for Morocco to join the organisation. Compared to the way in which South Sudan, Africa's newest state, joined the AU in 2011, the demand by Morocco seems to present many obstacles, both legal and political. Meanwhile, expelling the Sahrawi Arab Republic (RASD), as some members desire, is also likely to be a difficult process.

Morocco's wish to join the AU has all the potential of being a hugely divisive issue within the organisation, due to its contested claim over the RASD, or Western Sahara. It was no surprise that the first official meeting on this issue proved to be very tense. Some members of the PSC even questioned the purpose of the briefing by the AU's legal counsel on 'the accession process of a state to the AU'.

Morocco's wish to join the AU has the potential to be a hugely divisive issue, due to its contested claim over the Western Sahara

The meeting followed persistent reports that Morocco wants to rejoin Africa's only continental organisation. In a letter handed to AU Chairperson Idriss Déby ahead of the 27th AU summit in Kigali, Morocco's King Mohammed VI expressed this desire. Morocco had left the Organization of African Unity (OAU) in 1984 over the membership of the RASD – represented by the Polisario Front, which fights for the independence of Western Sahara.

Morocco not discussed at the Kigali summit

In a press release published after the summit, the AUC made it clear that the AU Assembly had not discussed the admittance of Morocco at its summit in Kigali. However, even if the matter was not discussed, the AUC felt it necessary to explain in the press release the process of admitting a new member.

In this regard, it 'recalled the provisions made in Article 29 of the Constitutive Act [of the AU] relating to the admission of members'. According to this

PSC Chairperson

H. E. Abou Bakr Hefny

Egyptian ambassador to Ethiopia and the African Union

Current members of the PSC

Algeria, Botswana, Burundi, Chad, Egypt, Kenya, Niger, Nigeria, Republic of Congo, Rwanda, South Africa, Sierra Leone, Togo, Uganda, Zambia

article, quoted in the press release, any state may 'notify the chairperson of the AU Commission of its intention to accede to the Act and to be admitted as a member of the AU'. The press release further stated that 'admission shall be decided by a simple majority of member states'.

This creates the impression that any state may join the AU through a simple majority vote in favour. However, the AUC's legal counsel, Prof. Vincent Nmehielle, presented a more nuanced and complex process entailing a two-thirds majority vote by the AU Assembly for a state to become a new member.

The legal counsel presented a more nuanced and complex process entailing a two-thirds majority vote by the AU Assembly

Alternative interpretations of the admission process

The PSC communiqué, released after its meeting on 12 August, underlined the necessity for any intending state not only to respect the process described in Article 29, but also to commit to the core principles of the Constitutive Act. This statement was in line with the briefing by the legal counsel. In his presentation, the legal counsel added that articles 27 and 9(c) were also critical in this regard.

It emerged from this briefing that a simple majority vote can only allow that a request by an aspiring new member be tabled in the AU Assembly. In line with Article 9(c) of the Constitutive Act, the final decision has to be made by this body through consensus, or by a two-thirds majority.

Morocco would therefore need the support of 36 member states in order to join the AU, rather than 28.

A much smoother ride for South Sudan

The legal counsel's explanation of the process of admission contrasts with the accession of South Sudan in 2011. The AU press release on South Sudan becoming the 54th member of the AU only referred to Article 29 of the Constitutive Act and a simple majority. It did not mention any consideration by the AU Assembly, but stated that the AUC had received written confirmation from 33 states, including Sudan – 'more than the required simple majority of member states'.

The question is then, which process is legally sound? According to the AU's Constitutive Act, a 'court of the Union' is supposed to rule on matters of interpretation such as this one. Such a court, however, does not yet exist. Pending its establishment, the Assembly will therefore have to make the decision.

This leaves the AU with a legal dilemma. Is the interpretation by the legal counsel and the current PSC the correct one? If so, that means the process

1984

MOROCCO LEFT THE OAU

followed in the case of South Sudan was flawed, because it was admitted to the AU by a simple majority and not two-thirds of the Assembly.

Can Western Sahara be expelled?

Ahead of the 27th AU summit, 28 states signed a petition that argued for the suspension of the RASD from the activities of the organisation. These states are from every part of the continent and from various linguistic areas: Benin, Burkina Faso, Burundi, Cape Verde, Comoros, the Republic of Congo, Côte d'Ivoire, Djibouti, Eritrea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Equatorial Guinea, Liberia, Libya, the Central African Republic, the Democratic Republic of the Congo, São Tomé et Príncipe, Senegal, Seychelles, Sierra Leone, Somalia, Sudan, Swaziland, Togo and Zambia. It is important to note, however, that a number of states that do not recognise the RASD, such as Egypt, Tunisia and Kenya, did not sign this petition.

The admission of the RASD to the OAU as a fully fledged member has been the main bone of contention

The admission of the RASD to the OAU as a fully fledged member has been the main bone of contention in this issue and the reason why Morocco has refused to rejoin the organisation and its successor for over three decades. The AU, however, has no provision for the expulsion of member states. States can only be suspended if an unconstitutional change of government takes place.

Some international organisations such as the United Nations provide for expulsion if a state continually violates the principles of the organisation. There have also been cases for the de facto withdrawal of membership of a state when it ceased to exist. This was the case with the termination of the UN membership of the former Yugoslavia after its dissolution. The AU does not have such provisions.

The challenge for Morocco would be to convince two-thirds of the member states to change the Constitutive Act to include a provision allowing the termination of the RASD's membership. Such a modification of the Constitutive Act would be challenging, however. A suspension or expulsion should be duly motivated from a legal perspective. If not, it would be considered to be an arbitrary process. It also cannot depend on the quality of the RASD as a state, since the current AU legal provisions do not accept this line of reasoning.

Politically, this will be very dangerous for the organisation. Such a big step would ideally require a consensus. The adoption of such a controversial provision by vote could expand the existing divisions on the continent on a matter that is traditionally the product of a shared vision.

28

STATES WANT THE RASD
EXPULLED FROM THE AU

Situation Analysis

A new African force for Mali?

In July 2016 the PSC and the United Nations (UN) sent a technical team to assess the situation in Mali and the Sahel. This was in response to the continued instability in the country, despite efforts by Malian and international forces. Plans for more offensive action against armed jihadist groups have been afoot for quite some time, but can they work?

At the 27th AU summit in Kigali, AU Commissioner for Peace and Security Smâïl Chergui announced that the AU was sending another technical team to Mali, together with the UN and all 11 members of the Nouakchott Process. The aim was 'to see how we can deploy an African force [as part of] the UN in northern Mali to preserve the peace agreement', he said.

After being driven out of northern Mali in 2013 by French forces and the African-led International Support Mission in Mali (AFISMA), extremist groups have taken advantage of the unprotected deserts and ungoverned spaces in the region to launch attacks in Mali and neighbouring countries. This terrorist threat has complicated efforts to implement the Agreement for Peace and Reconciliation in Mali signed on 20 June 2015.

A decisive intervention against the insurgents in northern Mali is key to enabling the country to implement the peace agreement

Decisive action needed against armed groups

A decisive intervention against the insurgents in northern Mali is not only key to enabling Mali to implement the peace agreement but is also crucial for addressing the terrorist threats in the Sahel. A number of states in the region – Burkina Faso, Chad and Niger, among others – have been victims of attacks by jihadist elements from Mali such as al-Qaeda in the Islamic Mahgreb (AQIM), Ansar Dine and al-Mourabitoun (also known as al-Qaeda in West Africa).

It is in view of this regional threat that the AU initiated the Nouakchott Process on the enhancement of security cooperation and the operationalisation of the African Peace and Security Architecture (APSA) in the Sahelo-Saharan region at a meeting in Mauritania in 2013. Eleven countries – Algeria, Burkina Faso, Côte d'Ivoire, Guinea, Libya, Mali, Mauritania, Niger, Nigeria, Senegal and Chad – are part of the Nouakchott Process.



20 June 2015

THE SIGNING OF THE PEACE
AGREEMENT IN MALI

An AU-led regional intervention force for Mali is not a new idea. It was first proposed during the 24th AU summit in January 2015, in line with a decision by members of the Nouakchott Process on 18 December 2014. Speaking to the *PSC Report* last year, the former president of Burundi, Pierre Buyoya, the High Representative of the AU for Mali and the Sahel (MISAHEL), said: ‘We believe that an intervention brigade is one way of doing so [strengthening the UN Multidimensional Integrated Stabilization Mission in Mali, or MINUSMA], particularly seeing that MINUSMA’s classical peacekeeping mandate does not seem to allow it to engage in offensive anti-terrorist operations, as was the case for MONUSCO in the DRC prior to the deployment of the Intervention Brigade.’

A sense of urgency to silence the guns

The proposed regional force for Mali reflects the AU’s increasing willingness to authorise peace enforcement missions. There is clearly a sense of urgency as the deadline draws near for ‘Silencing the Guns by 2020’, which is part of the AU’s Agenda 2063.

The AU already has a Regional Task Force (RTF) of the Regional Cooperation Initiative for the elimination of the Lord’s Resistance Army (RCI-LRA). It also recently endorsed a regional protection force to impose peace in South Sudan. In West Africa the AU authorised the Multi-National Joint Task Force (MNJTF) that is combating Boko Haram in the Lake Chad basin. Furthermore, AU peace support operations have been authorised mainly in high-intensity conflict regions with barely any peace to keep. The AU Mission in Somalia (AMISOM), for instance, has gradually transformed from a peacekeeping operation to a counter-terrorist force against al-Shabaab. The proposed regional force in Mali highlights the prioritisation of peace and security on the continent.

Many operational challenges lie ahead for the regional force

There has been no official information about the outcome of the technical mission to Mali. Some sources at the AU Peace and Security Department say that the envisaged regional force demands careful planning, because the mission will be set up in the difficult working environment of northern Mali. Notably, the extremely hot, dry climate

and the thick dust in the region present difficulties for the mission, given that the intervention brigade would have to spend a considerable amount of time in the field in the fight against the insurgents. The Malian government’s limited presence in the north also presents challenges for such a regional force, which will have to set up its headquarters in unfamiliar terrain.

Although the regional force is meant to combat terrorist forces, not all armed groups in the region are terrorists. This presents the operational challenge of identifying the actual terrorist groups. There remain a number of significant political and legal challenges to consider before establishing such a mission. These include issues around who the targets would be and the capacity of the regional force to operate across borders.

The Malian government’s limited presence in the north presents challenges for such a regional force

Moreover, the AU’s counter-terrorist efforts face criticism for the slow pace of operationalising worthwhile frameworks. This is largely due to the poor commitment and coordination of states in the region, as well as uncertainty around the funding of robust and multi-stakeholder operations. MINUSMA already faces resource and capacity constraints that inhibit it from meeting its peacekeeping mandate. Over the years terrorists in the Sahel have benefitted from these weaknesses in the AU’s counter-terrorism strategy.

In the face of the recent deadly attacks across the Sahel, however, there has been greater bilateral and multilateral cooperation between states in the region. Attacks in Mali and Burkina Faso have encouraged closer cooperation between these countries in terms of sharing information and organising joint patrols. Benin, Cameroon, Chad, Niger and Nigeria already formed the MNJTF in 2015 and Mauritania, Mali, Niger, Chad and Burkina Faso formed the G5 Sahel in February 2014 to strengthen cooperation on development and security in the region.

Among other priorities, the G5 intends to create a Joint Force of the G5 Sahel to address the security threats in

the region. The joint force aims to cut off possible links between the jihadist elements in the Sahel and Boko Haram in the Lake Chad basin. However, the potential synergies and modalities of cooperation between the proposed AU-backed regional force in northern Mali and the proposed Joint Force of the G5 Sahel remain unclear.

Although the outcome of the AU technical mission to Mali is yet to be revealed, the challenges involved in deploying a regional force in Mali and the Sahel could result in a negative or delayed decision to authorise such a mission. To address the drivers of terrorism and conflict in the region, there is a need for a structural focus on the developmental needs of communities and for greater cooperation between partners.

An urgent need to prioritise development in the region

The AU's Nouakchott Process and its strategy for the Sahel are designed to serve as approaches that link development and security. There is a growing realisation that military operations alone cannot address the challenges in northern Mali and the Sahel. However, the implementation of the development and stability strategies thus far remains poor. In Mali the number of armed groups has increased steadily since the crisis in the region began in 2012, due to the poor actualisation of the developmental needs of communities and groups.

The Mali peace agreement offered partial autonomy and a comprehensive development strategy in the north of the country, among other priorities. Yet despite the signing of the agreement, many people still do not feel represented by the peace deal due to the lack of implementation. There have been a number of protests over this. This highlights the need to quickly implement the agreement and address issues that foster armed rebellion and the growth of terrorism in northern Mali and the Sahel.

Many people still do not feel represented by the peace deal due to the lack of implementation

At the 26th AU summit in January 2016, the AU Assembly asked the AU Commission to conduct consultations with a view to holding an international conference on peace and development in the Sahel. The AU also decided to establish a special fund for the prevention and combating of terrorism and violent extremism at its 27th summit in July 2016. The envisaged conference and the special fund should give both the AU and its partners the opportunity to realise its developmental goals in the Sahel. MISAHEL and the African Centre for the Study and Research on Terrorism (ACSRT), an AU body, will have to play a major role in pushing for the operationalisation of the decisions, and set goals in Mali and the Sahel.



Situation Analysis

Can AMISOM exit Somalia responsibly by 2020?

The PSC has announced its plans to implement the gradual withdrawal of the African Mission in Somalia (AMISOM) from the country from October 2018 until December 2020. The state-building project in Somalia is, however, far from complete. Al-Shabaab also remains a serious threat to the stability of the country and the region.

AU Commissioner for Peace and Security Smail Chergui last month noted that 'in October 2018 we will start the drawdown of AU forces in Somalia. Meanwhile we are going to conduct a very robust and collective attack at Jubba Valley so as to undermine and reduce al-Shabaab,' he said at a news conference following the 27th AU summit in Kigali.

The AU would devote a lot of energy to the training of Somali forces to prepare them to take over the responsibility of security in their own country

Since the attacks against al-Shabaab by AMISOM and the Somali National Army (SNA) in 2014 and 2015, most of al-Shabaab's forces are concentrated in Jubba Valley in southern Somalia. The planned offensive against the extremist group in this part of the country is therefore highly significant. Chergui added that the AU would also devote a lot of energy to the training of Somali forces 'to prepare them to take over the responsibility of security in their own country'.

The exit plan follows Uganda's planned withdrawal of its troops from AMISOM by December 2017 on the grounds of limited logistical and financial support. According to reports, AMISOM peacekeepers recently endured six months without pay. Although the PSC has renewed the mandate of AMISOM until 30 May 2017, the AU is faced with increasingly limited resources. This makes it difficult for peacekeepers to capture and consolidate areas recovered from al-Shabaab in its efforts to extend the state's authority across Somalia. The European Union (EU), the major funding partner of the AU for AMISOM, has cut the AMISOM troop allowance by 20%. There is no doubt that the PSC's 2020 exit plan is due to resource challenges and the need for the Somali government to take full control of public services in the country.

20%

THE CUT IN AMISOM
TROOP ALLOWANCE

But can the AU exit responsibly by 2020, in view of the arduous task of consolidating local support for the Somali government? It is not merely about the continued al-Shabaab insurgency or the inability of government forces to ensure stability in the region. An overview of the state of affairs in Somalia shows that the legitimacy of the state project in Somalia largely depends on the support of the international community. There is still a long way to go to consolidate local support for the Somali government.

There is still a long way to go to consolidate local support for the Somali government

AMISOM established to secure the transitional government

Since the collapse of the central government in Somalia in 1991, the international community has assumed a primary role in restoring an internationally recognised political order in the country. It took over a decade (1992–2004) to form the Transitional Federal Government (TFG) in 2004, after more than 14 peace conferences. Initially the TFG could only operate from Kenya because it could not gain enough local support to move to Somalia. When the government eventually moved to Jowhar in Somalia, it was under the protection of a local warlord. In mid-2005 it moved to Baidoa, protected by Ethiopian forces backed by the United States (US).

The Islamic Courts Union (ICU) that became prominent in Mogadishu in the early 2000s was ousted by these Ethiopian forces in December 2006. The TFG then moved to the capital Mogadishu. However, the routing of the ICU led to the birth of al-Shabaab, which remains the bane of state order and security in Somalia. AMISOM was established to help secure officials and government installations in 2007, but the mission gradually revised its strategic priorities to capturing regions controlled by al-Shabaab so as to extend the state's authority. The AU has made remarkable progress in Somalia. This includes driving out al-Shabaab from key areas of Mogadishu and supporting the establishment of a federal government in 2012 under a new constitution.

A volatile security context

However, as reported by the AU Commission, the security situation in Somalia remains volatile. 'A significant portion of Somalia remains under the control of al-Shabaab and the recovery of the entire territory of the country still requires a significant sustained effort.' Although AMISOM has made progress in capturing areas from al-Shabaab, the Somali government has thus far been unable to consolidate such gains through the provision of security and services to the recaptured regions. This has led to numerous attacks on AMISOM and al-Shabaab's retake of recovered areas.

A number of analysts contend that the international community has imposed its version of a state on locals and that limited ownership of the state project in Somalia continues to foster local allegiance to militant groups such as al-Shabaab. US-based security experts Bronwyn E Bruton and Paul D Williams note that 'al-Shabaab was not an insurgency; it held sway over more than 90 percent of southern Somalia's territory, delivered some important human services, provided security, collected taxes, and was tolerated by the public, albeit often because collaboration was perceived as being the least worst option ... AMISOM's de facto mission was to install an unelected government that controlled no territory, delivered no services, provided no security to the public, and was broadly perceived by its own citizens as illegitimate.'

The Somali government has been unable to consolidate gains through the provision of security and services to the recaptured regions

Although the AU 'prioritizes territorial recovery and consolidation' in the period leading up to 2020, AMISOM and its international partners can only exit responsibly if there is local ownership of the state project in Somalia.

Has the state given Somalis enough reason to pledge allegiance to it?

Since independence in 1960 the successive governments in Somalia have been unable to gain the

sustained trust of the local population. Corruption, nepotism and political oppression were hallmarks of leadership in Somalia from the civilian regime in the 1960s to General Siad Barre's regime and on to the TFG era. Concerns about returning to an oppressive and dysfunctional state structure are thought to be among the reasons for the protracted state collapse in Somalia. With the new government, leadership issues remain a huge concern given the in-fighting and continued reports of corrupt political officials.

Corruption, nepotism and political oppression were hallmarks of leadership in Somalia

Some analysts such as the Addis Ababa-based Dereje Seyoum hold that the weaknesses of the Somali state reflect the reluctance of some Somali elites to work diligently for stability and development, because they benefit from the political economy of state fragility and instability in Somalia. This, he argues is because the international community has made state building a lucrative business for the elites through an excessive focus on these elites. The 2015 UN High-Level Panel on Peace Operations also bemoans the fact that 'the focus of peace processes and state-building efforts tends to be on the capital and on a small political and civil service elites'.

How can local support for the state be consolidated?

To gain locals' buy-in in the state project in Somalia, the international community needs to nurture and redirect the Somali government to become accountable and efficient, not only for the sake of donors but also for the local population from whom it seeks to draw legitimacy. This entails professionalising public servants

and challenging the state to pursue local development rather than remaining over-reliance on foreign aid. The government should keep civil society informed about the state of affairs and create platforms for local actors to critique and influence government activities. Such actions will encourage a better relationship between the state and the Somali population.

In view of the upcoming elections in October, Somalia needs statesmen and -women who can reverse locals' negative image of state governance. The government will also have to improve socio-political and economic institutions to unite Somalis and direct allegiance to the government.

Furthermore, a number of other issues need to be addressed in Somalia. This includes addressing the nature of the central government's relationship with self-declared autonomous regions such as Somaliland and Jubbaland. Added to this, it is in the interests of regional states in Somalia that a compromise between Somali actors and regional actors be attained to address historical grievances.

The international community needs to nurture and redirect the Somali government to become accountable and efficient

The comment by Uganda's Foreign Minister Henry Okello Oryem in June this year, on announcing Uganda's withdrawal, should be kept in mind by AMISOM and its international partners when devising their exit strategy. 'We went there with a view of clearing and getting rid of the terrorism in Somalia, we did not go there to be Somalis. We should re-examine the mission and the objective of the mission,' he said.

Addis Insight

Gabon crisis reveals weaknesses in the AU's conflict prevention strategies



The disputed results of the elections in Gabon, announced on 31 August 2016, have led to open conflict between the two frontrunners, both of whom have claimed victory. An AU observer mission, in a preliminary report, has pointed to flaws in the electoral system. Important lessons could be learnt about the AU's strategies to prevent post-election violence and how to deal with this once it does break out.

Gabon held presidential elections on 27 August. Ali Bongo, the incumbent, faced 13 opposition candidates, including Jean Ping, former chairperson of the AU Commission (AUC) and former minister of foreign affairs.

On Wednesday 31 August the electoral commission (*Commission Electorale Nationale Permanente*, or CENAP) announced that Bongo had been re-elected with 49.8% of the votes while Ping obtained 48.23%, with a turnout of 59.46%.

Jean Ping proclaimed himself president even before the announcement of the results

Ping had proclaimed himself president even before the announcement of the results, and contested those announced by the CENAP. His supporters point to the 95,46% of the votes Bongo got in his stronghold of Haut-Ogooué, alleging fraud. The turnout in Haut-Ogooué was 99,4%. The former AUC chairperson has asked for a recount.

Following the announcement of the results, violence erupted in the country, resulting in the burning of the parliament building in Libreville and the death of scores of demonstrators. About 1 000 people were arrested.

France, the United States and the European Union have called for the publication of the results by individual polling stations.

AU chairperson Idriss Déby is taking the lead

The AU has remained silent during similar situations in the neighbouring Republic of Congo and Chad, where the results of elections earlier this year were strongly contested and, in the case of the Republic of Congo, some opposition leaders still remain in prison. However, the organisation has made several statements on Gabon. A closer look at these statements reveals that they do not all reflect the same approach to the crisis.

49.8%

VOTES FOR ALI BONGO

48.23%

VOTES FOR JEAN PING

On 1 September AUC Chairperson Nkosazana Dlamini Zuma took note of the results and expressed her concern over the outbreak of violence. She called upon Gabonese stakeholders to use legally established channels to resolve their disputes. From this perspective, the crisis is seen only as an electoral dispute that has led to violence. This explains the chairperson's emphasis on the need to follow legal channels to resolve the dispute.

The AUC Chairperson Nkosazana Dlamini Zuma, took note of the results, and expressed her concern over the outbreak of violence

In its statement on 2 September the Peace and Security Council (PSC) underlined the need to address the situation in Gabon based on 'consensus among all concerned Gabonese stakeholders in conformity with the relevant AU instruments'. This call for consensus and the reference to AU instruments indicate a perception of the situation in Gabon as a political crisis stemming from a disputed election and that should be addressed as such.

AU Chairperson Idriss Déby, the president of Chad, then released a statement on 3 September that calls on both Bongo and Ping to exercise restraint and to choose dialogue over conflict to solve the electoral dispute. In contrast with the PSC and the AUC, which did not propose any course of action, the AU chairperson took the matter further and hinted at possible mediation by the region, i.e. the Economic Community of Central African States (ECCAS), of which Chad is a member, and the AU. He stressed 'the commitment and the availability of the Union, and the states of the region to help Gabonese stakeholders to solve their differences through peaceful means'. In another communiqué released on 5 September, Déby said that 'a high-level delegation composed of African heads of state, accompanied by senior officials of the AU Commission and the United Nations, is ready to be dispatched to Libreville, as soon as the conditions for such a visit are met'.

The outcome of this mediation attempt was still unknown at the time of publication.

AU's challenges in preventing post-electoral crises

The outbreak of violence in Gabon raises questions about the effectiveness of the AU's efforts in preventing political crises. Months before the elections Gabon had been the subject of early warning reports within the AU. These reports pointed to the risks posed by a tense political situation and a flawed electoral process.

In addition, the AU and ECCAS had deployed a joint election observation mission composed of 75 personnel, of whom 12 long-term observers were deployed three weeks before the vote. The observers visited 321 of 2 580 polling stations.

75

AU OBSERVERS DEPLOYED
TO GABON

In its post-election report the mission identified several flaws in the electoral process: the restriction of civil liberties; the administration's sway over the electoral commission; a lack of balance in the coverage of certain candidates by public media; and the fact that 'the mission was not allowed in the open compilations centers that centralise the results of the polling against international standards and good practices'.

The electoral mission advocated some changes, including 'the establishment of an independent electoral institution with the primary and sole responsibility of overseeing all phases of the electoral process'.

It does not seem as though the electoral mission contributed to improving the transparency and the fairness of the poll

In light of the violent contestation of the results in Gabon, it does not seem as though the electoral mission contributed in any way to improving the transparency and fairness of the poll. One could ask whether the deployment of electoral missions three weeks before the polling day is sufficient to advocate structural changes in the organisation of elections.

The underlying question is around the ability of the AUC to advocate for political reform in AU member states. Currently, the AU lacks a formal framework for political dialogue between it and the state concerned to ensure that political reforms are introduced to avoid crises. While there are informal consultations between AU officials and national stakeholders prior to elections, the commitments made during these meetings are not binding.

The high-level panel for Gabon proposed by the AU chairperson in his 5 September statement would be an ad hoc arrangement and not the result of any permanent structure or intervention mechanism of the AU.

The main obstacle to creating such a framework is the principle of sovereignty, which means that an intervention by the AU could be considered as interference in the internal affairs of a member state. The AUC suffers from a lack of options when a member is not willing to change its policies according to AU recommendations. Moreover, the PSC is reluctant to include states that are not in open crisis on its agenda. Therefore, the responsibility for preventing a post-electoral crisis such as the one in Gabon for now lies with national stakeholders, because the impact of continental efforts is limited.



PSC Interview

‘South Sudan protection force to be deployed with the consent of the government’

Following the renewed outbreak of violence in early July 2016 between the supporters of South Sudan’s President Salva Kiir and those of his rival, Riek Machar, heads of state of the Intergovernmental Authority on Development (IGAD) met on 16 July and 5 August. They proposed the deployment of a regional force with a robust mandate to protect civilians.

Following this decision, the United Nations Security Council (UNSC) voted on 12 August for a resolution calling for the deployment of a regional protection force of 4 000 troops within the framework of the UN Mission in South Sudan (UNMISS). Despite earlier reservations, the government of South Sudan announced on 5 September that it would allow the force into the country. This was during a visit by the UNSC to Juba.

South Sudan announced on 5 September that it would allow the force into the country

The mandate of this force, led by IGAD member states, is ‘to facilitate ... free movement in Juba; protect key facilities in Juba essential to the well being of the population; and promptly and effectively engage any actor that is credibly found to be preparing attacks, or engages in attacks against United Nations protection of civilian sites, other United Nations premises, United Nations personnel, international and national humanitarian actors or civilians’. Consultations are now taking place between the region and South Sudan on the modalities of the deployment.

The *PSC Report* spoke to Ambassador Mahboub Maalim, IGAD’s executive secretary, about the challenges faced by this regional protection force and the peace process in South Sudan.

The government of South Sudan did not initially approve of the deployment of the protection force. Does IGAD now have its full consent?

The transitional government of national unity has accepted in principle the deployment of a regional protection force. It is currently engaging with the countries of the region on the details relating to the protection force and therefore the force will be deployed with full consent of the transitional government.

4 000

EXTRA TROOPS TO BE SENT
TO SOUTH SUDAN

What are the challenges faced by the region in deploying this force?

There are no major challenges anticipated, however, like all peacekeeping operations the logistical arrangements would take time and in the meantime the situation on the ground could deteriorate and make the deployment of the force difficult. IGAD member states are politically committed and ready to face the challenges and send their troops to South Sudan under the command of UNMISS.

Like all peacekeeping operations, the logistical arrangements will take time

What is IGAD's position regarding sanctions or an arms embargo?

Sanctions can only be initiated and enforced by the UNSC and we are aware that there is a draft already circulated. However, our understanding is that it will only be invoked if the parties fail to abide by the UNSC decision.

Does the Agreement on the Resolution of the Conflict in South Sudan, signed in August last year, remain the relevant framework for peace in South Sudan?

Yes, it does.

How do you see the division of labour between the AU and IGAD in dealing with the crisis in South Sudan?

IGAD, as the regional organisation, has always been at the forefront in addressing problems within the region. However, IGAD has sought and received the full support and collaboration of the AU Commission [AUC] in the

search for a solution to the crisis in South Sudan. As a result, the IGAD-Plus arrangement was created. [In addition to the IGAD members, Rwanda, Algeria, Nigeria, South Africa and Chad are part of IGAD-Plus.] This innovative arrangement between the relevant REC [regional economic community], IGAD, and the continental organisation, the AUC, has been working very well. Two extraordinary meetings of the IGAD-Plus heads of state and government were convened within a span of three weeks; the first one on 16 July in Kigali, and the second one on 5 August in Addis Ababa. It is based on the decisions taken at these meetings that the UNSC has adopted Resolution 2304 [2016] to strengthen UNMISS and deploy a regional protection force to South Sudan.

The modalities on how to bring the criminals to justice will be a subject of further consultation

All IGAD communiqués have called for accountability in South Sudan. Does the region call for a fast-tracking of the creation of the proposed hybrid court? If not, which framework does the region propose to hold those responsible for violence accountable of their actions?

According to the second IGAD-Plus communiqué, the AU and the UN have been called upon to expeditiously undertake investigations and bring to justice the perpetrators of violence that led to the death of UNMISS personnel, the killing of civilians and humanitarian workers, and widespread sexual violence. The modalities on how to bring the criminals to justice will be a subject of further consultation at the various levels of IGAD, the AU and the UN.



About the ISS

The Institute for Security Studies is an African organisation that aims to enhance human security on the continent. It does independent and authoritative research, provides expert policy analysis and advice, and delivers practical training and technical assistance.

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