

***The Roles and Responsibilities of the African Union and the Regional Economic Communities with Respect to Natural Resources:
Harnessing the continent's natural resources for peace and development***

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I. Introduction

Despite being endowed with some of the most sought after natural resources in the world, Africa has, in the past, failed to transform its enormous economic potential and wealth into tangible benefits in terms of human security, sustainable peace and development. Instead, the abundance of natural resources has become what some analysts describe as a “curse” or a “peace liability”, fuelling violent conflicts over access to, and control of, natural resource wealth. Recent experiences from resource-endowed countries such as Angola and the Democratic Republic of Congo have demonstrated the critical linkage between the exploitation of natural resources and the onset, escalation or prolongation of violent conflict.

At the same time, there has emerged within Africa a recognition that the governance of natural resources occupies the nexus between peace, stability and socio-economic development. This recognition underpins the new vision of African growth and renewal, embodied in the African Union (AU) and its socio-economic development framework, the New Partnership for Africa's Development (NEPAD).

This vision is further reinforced by the multi-dimensional notion of human security outlined in the Common African Defence and Security Policy, which links traditional state security and individual safety with the protection of socio-economic rights, such as access to resources and protection against poverty and environmental degradation. African leaders have recognised that the manner in which the continent's resources are managed and exploited could enhance both state and human security, contribute to sustainable development and the achievement of the Millennium Development Goals, and accelerate the realisation of the African Renaissance vision of growth and renewal. Therefore, natural resource governance must fall under the purview of the lead actors in that vision: namely, the AU and the regional economic communities (RECs).

II. Continental and regional actors

African regional and sub-regional organisations, or the African Union and the RECs, are key actors in the governance of natural resources on the continent, for four key reasons. First, Africa's natural resources have an intrinsic social, economic and developmental value for the attainment of the goals enshrined in the agenda of the African Union, NEPAD and Regional Economic Communities, namely the comprehensive and integrated development of African member states, individually and collectively. Second, the RECs have been conceived as the

building blocks of the continental peace and security architecture. This role is exemplified by the regional early warning networks that form the foundation for the continental early warning system, as well as the five regional standby brigades that make up the African Standby Force. Third, the RECs are the primary vehicle through which to cascade continental policies to the regional level and adapt them to regional specificities, insofar as resource endowment and exploitation are concerned. Finally, the RECs serve as a bridge between individual countries and the continent, providing a forum for the harmonisation of national policies with continental ones, and for input by individual countries into continental processes.

The governance of natural resources and the other peace and security priorities enumerated in the African peace and security agenda (APSA) will be tackled by the continental and regional mechanisms that make up Africa's emerging peace and security architecture. At the continental level, these are the Peace and Security Council and its organs—the African Standby Force, the Panel of the Wise, the Continental Early Warning System (CEWS) and the Peace Fund—as well as the Peace and Security Directorate of the AU Commission and the NEPAD sub-committee on peace and security. At the regional level, the Regional Economic Communities (RECs) have established a number of structures and mechanisms for conflict prevention, management and resolution. In Southern Africa, for example, the SADC Organ for Politics, Defence and Security Cooperation fulfils that function. In West Africa, ECOWAS has taken a lead role in the promotion of peace and security in member states, including through deployment of peacekeeping forces. While the AU maintains strategic leadership of the peace and security agenda, and the RECs are often the first to respond to situations of conflict in their regions, implementation of continental and regional initiatives takes place primarily at national level. Taken together, the various layers and components of the African peace and security architecture represent a comprehensive set of tools to address the scourge of conflict on the continent and to create the conditions for sustainable development.

III. Natural resource governance in the context of Africa's peace and security priorities

An AU-NEPAD consultative workshop in February 2003 identified the need to generate “standards for application in the exploitation and management of Africa's natural resources in situations of conflict,” as one of the eight priority areas that together constitute the African peace and security agenda (APSA).¹ A key characteristic of the APSA is the recognition that the priority areas are inter-related. To quote from the report of the AU-NEPAD consultative workshop: “the AU-NEPAD peace and security agenda is a single and indivisible agenda for addressing issues and challenges relating to peace and security in Africa”. Given the comprehensive nature of the APSA, common sense dictates that addressing the challenges to peace and security in Africa would require a comprehensive, pragmatic and forward-looking approach that seeks to address both the causes and consequences of conflict.

¹ See Report of the AU-NEPAD Consultations on Peace and Security, 17-18 February 2003, Addis Ababa, Ethiopia.

In view of the above, subsequent consultations have called for the APSA to be broadened so that the issue of the management and exploitation of natural resources is located within the broader governance agenda, and is not limited to areas affected by conflict. The motivation for this shift is provided by the peace wave that is sweeping across Africa, which has seen many resource rich countries emerging from long periods of conflict, alongside the twin dynamics of accelerated economic growth and the corresponding increase in demand for natural resources at a global level. As competition for resources increases, it will generate additional challenges for governments attempting to manage those resources, even in countries that have not been affected by conflict. Managing the intricate web of interests that such competition generates represents, in our view, a critical challenge to the effective and sustainable management of natural resources in Africa.

Further, a closer analysis of the trends and dynamics of the so-called resource conflicts in many African countries reveals that the propensity for instability, insecurity and ultimately war is accentuated in areas where weak administrative systems, the absence of the rule of law, contestation over political legitimacy and heavy dependence on natural resources are preponderant. The overall outcome of these conditions is the further weakening of the state and its institutions, resulting in its inability to assert authority over the national territory, which is then exploited by armed groups and other unscrupulous actors to advance their respective interests. Therefore, in order to break the link between access to, control and exploitation of resources and instability or insecurity and war, there is a need to move away from the narrow perspective that only looks at the exploitation and management of natural resources to areas affected by conflict to a new security dimension that puts Africa's natural resources at the centre of national, regional and continental security policies.

Additionally, the NEPAD framework document highlights peace, security, good governance and regional integration as key conditions for sustainable development. The governance of natural resources is closely related to all of these areas, and demonstrates the immense positive impact that good governance of natural resources will have on the development of African countries, individually and collectively. In recognition of the interdependent nature of Africa's development trajectory, the APSA calls for minimum standards for the exploitation and management of natural resources as a vital instrument to ensure continental stability, security and sustainable development. Ideally, these standards should be used as templates and guidelines by RECs and Member States to pre-empt, prevent, manage and resolve potential, current or future threats to peace and security emanating from the management and exploitation of natural resources, locally or internationally; enhance the social, economic and political value of natural resources to Africa by guaranteeing fair and equitable access to and/or distribution of the benefits arising from their exploitation; as well as strengthen the economic fundamentals of African economies in a mutually reinforcing and beneficial manner.

Minimum standards for the governance of natural resources are directly relevant to the entire continuum of conflict prevention, management, resolution and post-conflict reconstruction, as well as the broader peace, security and development agenda. To illustrate this point, it is useful to highlight the relationship between natural resource governance and four other continental priorities: conflict prevention, post-conflict reconstruction and development (PCRD), democratic governance and regional integration.

Conflict Prevention

The importance of early warning for conflict prevention is indisputable, and therefore it is no surprise that it was included amongst the APSA priorities. The African Union recognised the centrality of early warning and provided for the establishment of a Continental Early Warning System (CEWS) to ensure systematic collection and analysis of information from crisis areas for the purpose of anticipating the escalation of violent conflict, developing strategic responses to crises and presenting options to actors that are able to make and implement the right decisions.² The CEWS is designed in a pyramidal structure, with national early warning systems feeding into regional networks, which then feed into the continental system. This, in turn, will provide critical information to decision-makers at all levels to enable them to take appropriate steps to prevent conflict.

In Africa, where there is a history of violent conflict over access to and control of natural resources, it is clear that resource-related indicators will be among the core indicators for early warning. Indicators related to changes in the quality, quantity or strategic value of resources, the exploitation of resources (entry or exit of large multi-national corporations; nationalisation or privatisation) or people's relationship to those resources (expropriation, displacement, etc) must be at the heart of any effective early warning system. This is true in terms of early warning of both intra-state and inter-state conflicts, since natural resource wealth does not respect national boundaries. Governmental and non-governmental actors engaged in the collection, analysis and transmission of early warning data, from the community level to the national, regional and continental levels, must be able to recognise and interpret relevant natural resource-related indicators. Similarly, decision-makers will have to be sensitised to the strategic importance of natural resource related indicators for conflict prevention, and will have to develop appropriate policy responses and strategies for early action.

Post-conflict reconstruction and development (PCRD)

The African Union is currently at an advanced stage in the development of a policy on post-conflict reconstruction and development. The need for such a policy stems from the instability of post-conflict countries, the high risk of resumption of conflict and the obstacles to successful post-conflict reconstruction. Further, the interests and priorities of countries emerging from conflict are often overlooked as it is beyond the capacity of these countries to manage the activities of the myriad actors engaged in post-conflict reconstruction and development, each pursuing their own agendas. One of the key objectives of the PCRD policy is to address the root causes of conflict—in many cases, these include inequitable access to natural resources and the wealth they generate. Therefore, the development and implementation of policies that guarantee equitable access to resource wealth, and the

² See Protocol Relating to the Establishment of the Peace and Security Council, Article 12.

creation of mechanisms to ensure that resource wealth benefits the entire population, are critical activities for PCRD and feature in the emerging policy.³

Natural resource wealth also features in the resource mobilisation strategies for PCRD, since it is widely recognised that financial support from the international community is unreliable, often comes with strings attached, and is more likely to be forthcoming if a post-conflict country is able to mobilise some of its own resources for the reconstruction effort (as was the case in the Sudan). Countries with natural resources can utilise them to generate some of the required funds for reconstruction and development, but must be wary of falling prey to unscrupulous companies that may wish to exploit the weakness of post-conflict countries to secure exploitative natural resource deals. The existence of continental minimum standards for resource governance would assist post-conflict countries to ensure that any actors who wished to participate in the exploitation of their natural resources would do so to the benefit of the population, in a way that promotes sustainable development rather than conflict.

The exploitation and management of natural resources is equally relevant to other peace, security and development priorities. For example, even peace agreements have begun to reflect this reality, with the incorporation of wealth-sharing agreements, as in the CPA in the Sudan.

Democratic governance

The governance of natural resources also fits squarely within the broader transformation agenda of democratisation and participatory governance. Amongst the objectives of the African Union is the promotion of democratic principles and institutions, popular participation and good governance.⁴ Similarly, the Declaration on Democracy, Political, Economic and Corporate Governance, which lays out the principles enshrined in the African Peer Review Mechanism, reaffirms the importance of “just, honest, transparent, accountable and participatory government” and commits African leaders to “combat and eradicate corruption”.⁵ It goes on to draw an explicit connection between democracy, good governance, human rights, social development, protection of environment and sound economic management, as the essential conditions for sustainable development. This connection is encapsulated in the governance of natural resources. If managed in a participatory, democratic and transparent fashion, natural resources can generate broad-based, pro-poor growth and development to the benefit of local communities and the entire population. Conversely, if natural resource wealth is managed in an inequitable or exclusionary fashion, it contributes directly to under-development and to grievances that can develop into violent conflict. African leaders have recognised the need for participatory governance to extend beyond the mechanism of elections, to incorporate the broader range of political, social and economic choices made by a society.

Regional integration

³ See Draft Policy Framework for Post-Conflict Reconstruction and Development, African Union, Addis Ababa, 19 May 2006.

⁴ Constitutive Act of the African Union (2000), Article 3g.

⁵ Declaration on Democracy, Political, Economic and Corporate Governance (2002), paragraph 8.

One of the objectives of the African Union is to accelerate the political and socio-economic integration of the continent.⁶ The NEPAD framework document also recognises the need for African countries to enhance economic integration on the continent to improve economic competitiveness, and calls for the RECs to be strengthened and rationalised. While regional political and socio-economic integration has long underpinned African development initiatives, its importance cannot be overstated in relation to the exploitation and management of natural resources. First, because of the trans-boundary nature of many natural resources, their governance should be undertaken at the regional level. Second, resource-endowed countries often compete with each other to attract investment. Through the application of continental minimum standards and a regional common approach to resource governance, countries would be able to work together in a mutually beneficial fashion, rather than entering into unhealthy competition. In the case of water resources, actors at regional and international level have recognised the need for a common and coordinated approach to the governance of shared water resources, with encouraging results. The same principles and practices should be applied to other natural resources in Africa.

Given the centrality of natural resource exploitation and management to the promotion of peace, security, stability and development in Africa, it is essential that the generation of minimum standards, as called for in the African peace and security agenda, be accelerated.

IV. Progress to date

Steps to improve the governance of natural resources in Africa have so far been driven by three sets of actors, operating in different but overlapping arenas. First, there has been a private sector- or capital-driven process, in which corporations (usually from the developed North) have undertaken to develop voluntary ethical codes and standards. To a large degree, this process has been the result of pressure from civil society and governments in the North, and has been motivated by a desire to pre-empt stricter, legally binding government regulations. Some of the codes and standards that have resulted from these measures include: the Voluntary Principles on Security and Human Rights, the Kimberley Process, the Diamond Best Practice Principles, the Toronto Declaration of the International Council on Mining and Metals, and a number of codes of conduct and ethics within individual companies. Levels of adherence to these codes and standards vary, monitoring is difficult because of their voluntary and often internal status, and the plethora of initiatives can be confusing and difficult to harmonise and implement, even for willing companies.

The second process has been driven by political actors, at the multilateral level. As outlined above, the African Union, NEPAD and the RECs have prioritised issues of peace, security and development, and have placed the issue of minimum standards for natural resource governance high on the continental agenda. Within these multi-lateral institutions, some work has been done on individual resources: for example, the AU recently hosted a conference on the development of a continental policy on land, and SADC has commenced a political process toward harmonisation of mining policies in member states. These efforts, while most welcome, have been *ad hoc* and uncoordinated. There is a need for more active

⁶ Constitutive Act of the African Union (2000), Article 3c.

strategic leadership on the part of the AU in spearheading the continental process toward the development of minimum standards, with active participation of the RECs.

Recently, a third process has commenced, which is driven by civil society actors in Africa. Community-based organisations in countries emerging from resource-based conflicts, research institutions and policy advocacy organisations have begun to raise the profile of natural resource governance, and to generate information and analysis in support of continental processes. In light of the need for immediate action, and in recognition of the benefits to be derived from partnerships with civil society, the AU Peace and Security Directorate requested the support and assistance of Pax Africa in implementing the APSA priorities, including the development of minimum standards for the exploitation and management of natural resources (including non-renewable resources) in conflict areas. As a result of the AU mandate, Pax Africa hosted and facilitated the “First Consultative Meeting on the Management and Exploitation of Natural Resources in Africa: Implications for Peace and Security” in March 2005. The objectives of the consultation were to: review links between uncontrolled exploitation and illicit trade in natural resources and conflict; discuss and define the status of strategic resources in Africa; and explore the need for a common African approach for responsible management of Africa’s renewable and non-renewable resources. Participants included 24 experts and practitioners from thirteen African civil society organisations, five governmental departments and two international non-governmental organisations.

Deliberations during the consultation were focused around three key areas: first, a review of the links between resources and conflict, looking at case studies from the DRC and the Niger Delta; second, a review of five key natural resources (minerals and energy, fresh water, marine resources, land and timber), including current governance practices and priorities for developing a common African position with regard to management of these resources; and third, developing recommendations on the way forward. Throughout the meeting participants highlighted a number of key issues that should inform further work on natural resource governance. These included:

- The need for additional in-depth research to inform a Common African Position on the management and exploitation of natural resources. Regional mapping exercises to determine the extent of natural resource wealth and its strategic value were recommended;
- The need for policies at national level to consider simultaneously the value and the use of natural resources. This will ensure a balance between local requirements for resources, macro-economic policies, and trade;
- The strategic importance of Africa’s natural resources, to the continent as well as in the global arena. Any policies or standards that fail to account for the national, continental and international strategic value of natural resources will grossly underestimate their value, in economic and political terms.

Through discussion of case studies and specific strategic resources, the experts at the consultation also generated a number of recommendations on the way forward with regard to

the generation of continental minimum standards for the exploitation and management of natural resources. These recommendations, which can be grouped into three principal areas for action, apply to actors at various levels.

- Partnership: The AU should enter into strategic partnerships to accelerate the process toward the generation of minimum standards for resource governance. These partnerships can involve African civil society, regional and professional groupings, international development partners, multi-lateral institutions, and the private sector. South-South cooperation should be prioritised. These partnerships should generate financial and technical support for the AU-led process.
- Knowledge generation: In-depth research on the management and exploitation of resources should be undertaken, to inform the development of a Common African Position. This research should include regional mapping exercises to determine the extent of natural resource wealth and its strategic value to individual countries, regions, the continent and the wider international community. A forum or platform for dialogue at political and technical level should be created, and information dissemination should be undertaken to expand the knowledge base, raise the profile of the issue and assist policy-makers in the decision-making process. Where possible, lessons should be derived from existing initiatives on natural resource governance.
- Capacity building: At national and regional level, there is a need to enhance institutional capacity to manage, regulate, control and resolve natural resources-based conflicts. There is also a need for measures to enhance good governance and build (technical, material and human) capacity to develop, implement and monitor effective laws and regulations on the management and exploitation of natural resources for the benefit of the population.

The March consultation also mandated Pax Africa to undertake research and analysis, and to continue to hold consultations on the implications of natural resources for peace, security and sustainable development in Africa. Since then, Pax Africa has commenced a process of research, analysis and consensus-building in the SADC region to develop a regional common position on the exploitation and management of natural resources, which will feed into the continental process. We also continue to support the AU and NEPAD as they work toward the generation of continental minimum standards.

V. Conclusion: way forward and recommendations

The recommendations generated at the March 2005 consultation are still valid today. Resource and capacity constraints have impeded progress by the African Union and regional organisations on this issue, though other initiatives, such as the African Ministerial Conference on Water and the Africa Mining Partnership, have made strides in improving the governance of specific resources. Of course, the UN, in particular the UN Economic Commission for Africa, has undertaken research on resource governance, which has made an important contribution to the knowledge base on the continent.

However, a great deal remains to be done, and the generation of minimum standards for the exploitation and management of natural resources remains an imperative. The AU has taken its peace and security mandate seriously, and has garnered a number of successes in resolving conflicts on the continent. Yet as countries emerge from conflict, the good governance of natural resources will be vital to the consolidation of peace and the prevention of renewed violence, and will be a fundamental pre-condition for successful post-conflict reconstruction and development. In particular, countries emerging from conflict will have to develop legislation; set up monitoring and regulatory bodies; capacitate relevant implementing bodies such as the police, the customs service, the revenue collection service, the auditor and various resource management departments; develop a strategy to harness the country's natural resource wealth for poverty eradication and sustainable development; all while simultaneously rebuilding the political, social and economic structures of the country. These tasks are especially critical in cases where disputes over natural resources were among the root causes of the conflict, and where provisions for more equitable access to natural resources and the wealth they generate form part of the peace agreement. Clearly these tasks will require the support of regional, continental and international governmental and non-governmental actors, and the burden on the country emerging from conflict will be greatly reduced by the existence of minimum standards to guide it as it establishes policies, mechanisms, institutions and partnerships to exploit and manage its natural resource wealth.

As important as this issue is in post-conflict situations, it is equally vital for the rest of the continent. As recommended by the March consultation, the application of the minimum standards should not be limited to areas affected by conflict. Rather, they should apply across the entire continent to ensure that they impact upon the whole conflict cycle and contribute to the prevention of conflict throughout Africa. Resource rich countries that have not experienced violent conflict may provide valuable lessons to those who have, but they will also benefit from the existence of minimum standards for the exploitation and management of resources. Therefore, in addition to the recommendations laid out above, the following actions will assist in the generation of continental minimum standards for the exploitation and management of natural resources, and contribute to the translation of Africa's natural resource wealth into a "peace asset".

At continental level:

The AU

- Accelerate the continental process of generating minimum standards for natural resource governance, in collaboration with RECs;
- Enter into strategic partnerships to harness existing African expertise and international capacity in this endeavour;
- Mainstream natural resource-related issues throughout the APSA priorities;
- At the level of the PSC, remain seized with developments on this issue;

The APRM

- Undertake a revision of the questionnaire to incorporate more explicit standards, benchmarks and indicators for natural resource governance to encourage sharing of good practice and lessons learned;

At regional level:

RECs

- Develop common positions reflective of regional peculiarities, to input into the continental process;
- Facilitate the sharing of best practices among member states and support the harmonisation of legislation and policies in member states, in line with regional and continental standards;
- Continue to strengthen mechanisms for the prevention, management and resolution of conflict and ensure that they are equipped to address resource-based conflicts;

Informal regional groupings (such as the Mano River Union or the Great Lakes Conference)

- Make natural resource governance a priority and incorporate it into peace and security measures;

At national level:

Governments

- Domesticate and implement regional, continental and international standards and develop mechanisms and institutions to monitor compliance;
- Forge partnerships with the private sector and civil society to ensure that the management and exploitation of natural resources benefits the entire population;
- Enhance the capacity for resource governance by improving the coordination of key ministries, such as environment, minerals and geology, land, water and agriculture, forestry, trade and industry, as well as internal affairs, foreign affairs and defence.

Countries participating in the APRM

- Incorporate issues of natural resource management and exploitation into self-assessments and action plans;

Civil society

- Enter into partnerships with government, regional and continental organisations, as well as with international civil society organisations, to support the development and implementation of continental minimum standards;
- Conduct research and analysis to support the AU-led process toward minimum standards;

At international level:

Africa's development partners

- Respect and support the AU-led process, rather than attempting to impose governance-related conditions for development assistance or supporting externally-driven parallel initiatives;

- Create incentives for adherence to codes of conduct by the domestic private sector, when operating in Africa;
- Support the establishment and capacity-building of African centres of excellence that work on the issue of natural resource governance;
- Help to enhance the capacity of African governments and regional organisations for good governance of natural resources and monitoring of compliance, through provision of financial and technical expertise;

Multi-national corporations (engaged in or affiliated with natural resource exploitation)

- Adopt and implement ethical codes of practice. Until African minimum standards are adopted, other existing standards such as the UN's Global Compact, the OECD Guidelines for Multinational Enterprises, the EITI, the Voluntary Principles on Security and Human Rights, the Kimberley Process, the Global Reporting Initiative and a number of others can serve as guidelines. However, it should be recognised that these externally-developed initiatives may have less relevance and political support in Africa than African-owned processes and standards;
- Support the development and implementation of continental minimum standards through sharing of experience and best practice, adoption of industry-wide policies or guidelines, and adherence to national, regional and continental regulations;

The UN system

- Continue to facilitate research on natural resource governance, corporate good governance, and issues of trade, as they relate to the exploitation of natural resources;
- Facilitate and accelerate the implementation of APSA priorities through the continued provision of technical and financial support to the AU, NEPAD and RECs;
- Mainstream issues of natural resource governance into the post-conflict peace-building activities of the newly created Peace-building Commission, in line with the African peace and security agenda.