

DISCUSSION PAPER No. 258

Self-financing the African Union: ONE LEVY, MULTIPLE REFORMS

By Philomena Apiko and Luckystar Miyandazi

September 2019

Self-financing the African Union (AU) is one of the urgent and necessary institutional reforms, critical for the realisation of the AU vision for inclusive and sustainable development as laid out in its Agenda 2063. Therefore, in July 2016, African Heads of State and Government took a historic decision and adopted a 0.2% levy to ensure that all member states pay their yearly contributions to the AU – fully and in time. The decision directs all AU member states to implement a 0.2% levy on eligible imports into the continent to finance the AU and bring about sustainable, predictable, equitable and accountable financing. However, two years down the road, only 16 of the 55 AU member states are collecting this levy.

Still, progress has been made in moving towards self-financing of the AU. This paper analyses lessons in the early implementation of the levy so far. Drawing on interviews with the AU Commission and representatives of member states to the AU, it presents some of the political, legal and technical challenges at play that explain why progress is real, but slow; and why 30 member states are still not implementing the levy mechanism. The levy is not a stand-alone measure, but is embedded in the broader institutional reform agenda of the AU, which includes actions to improve financial accountability and transparency, as well as measures to improve compliance by member states through stricter sanctions.

None of these reforms are straightforward and simple, the more so as the AU continues to rely on its single largest source of funding, donors. The paper concludes that measures to make aid more accountable and transparent can contribute to a virtuous cycle of gradual, mutually reinforcing reforms by the AU for improved overall accountability, a stronger sense of ownership by the member states and for self-financing of the AU.

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Acknowledgements

The authors would like to thank the various interviewees from the African Union Commission in Addis Ababa, Ethiopia, the Ambassadors and Permanent Representatives of the member states to the African Union and external partners, who were generous with their time and insights. Special thanks go to Professor Adebayo Olukoshi and Joseph Atta-Mensah for their insights and immeasurable support in accessing interviewees in Addis Ababa. The authors would also like to thank Dr Bruce Byiers and Jan Vanheukelom who accompanied us in our reflection process and provided valuable input and editing in developing this final version of the paper. Appreciation is given to Philipp Sanderhoff and Inna Perova for the formatting and layout. While the responsibility for the content of the paper remains ours, we hope that we have done justice to the valuable interviews, contributions and suggestions received.

Acronyms

AfCFTA	African Continental Free Trade Area
AU	African Union
AUC	African Union Commission
CET	Common External Tariff
CIF	Cost Insurance and Freight
EAC	East African Community
ECDPM	European Centre for Development Policy Management
ECOWAS	Economic Community of West African States
EU	European Union
GDP	Gross domestic product
IDL	Infrastructure Development Levy
MFN	Most favoured nation
OAU	Organisation of African Unity
REC	Regional Economic Community
SADC	Southern African Development Community
WTO	World Trade Organization

1. Introduction

Context

The African Union (AU) has always faced financial constraints. Of its 55 member states, a minority pays their full yearly contributions, and even a smaller group of members pays on time (African Union, 2017a). This creates problems for the management and implementation of the ambitious AU agenda, constraining the development and operations of numerous AU Organs, as well as their capabilities to deliver on member states decisions and engage in complex peace support operations.

Until 2015, the collective efforts within the AU to address this problem had failed. But after a funding crisis later that year, the highest authority of the AU, the Assembly of Heads of State and Government (the Assembly) held a retreat in July 2016 in Kigali, Rwanda, and agreed to create a mechanism to enable all member states to tap alternative sources of income from which to pay their full yearly contributions in a timely manner. This decision became known as the *Kigali Financing Decision* (African Union, 2016a).¹

In one sense, the Kigali Financing Decision is straightforward. Member states agreed to introduce a 0.2% levy on all eligible imported goods into the continent. The levies generated would be transferred to the AU to pay for its operational, programme and peace support operations. From the 0.2% levy, member states would also contribute to a special endowment fund to finance specific efforts on peace and security, the Peace Fund, with a separate governance system.²

But the ambitions of the Kigali Financing Decision go further – by employing the levy, member states commit to providing the AU with “accountable financing” in a way that is sustainable, predictable, timely and equitable. The principle is that, as expressed by H.E President Paul Kagame of Rwanda, “Once you’re the one paying, you automatically become more concerned about getting good value for money.”³ This also led the African Union Commission (AUC)⁴ to put in place stronger oversight and accountability mechanisms to ensure “effective and prudent use of the resources”.

The same Assembly that adopted the Kigali Financing Decision in July 2016 also instructed President Kagame, to reignite the slow-burning institutional reform process and to recommend concrete ways forward. Six months later, the Assembly adopted his report – referred to as the *Kagame Report* – and recommendations, including concrete proposals on improving overall financial accountability.⁵ Not least, the Kagame Report calls for “critical complementary measures to reinforce the Kigali Financing Decision”.

Since its inception in 2017, 16 member states have begun to collect the 0.2% levy – less than one-third of the member states – while only 60% of their yearly dues is effectively transferred to the AU. Another nine are at various stages of legislative and regulatory preparations. But 30 other countries have not yet begun to do so, with some member states not committing to do so either. In the meantime, improving accountability requires a multitude of reforms, touching on both the technical and the political. The financing mechanism

¹ African Union, Decision on the Outcome of the Retreat of the Assembly of the African Union, Assembly/AU/Dec.605 (XXVII), Twenty-seventh Ordinary Session, 17–18 July, 2016. Kigali, Rwanda (herein Kigali Financing Decision).

² The *Instrument Relating to the African Union Peace Fund* provides for a Board of Trustees whose role is to ensure strategic coherence, enhanced governance, financial and administrative oversight of the Peace Fund.

³ See Address by H.E President Paul Kagame at the Retreat of the AU Heads of State and Government, delivered in Addis Ababa on 29 January 2017 available on the [TRALAC website](#).

⁴ The AU Commission is an organ of the AU and is entrusted with executive functions. The Commission is the Secretariat of the AU and plays a central role in the day-to-day management of the Union.

⁵ H.E President Paul Kagame (2017) *The Imperative to Strengthen Our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union*. This report was subsequently adopted as Assembly/AU/Dec. 635 (XXVIII) “Decision on the Outcome of the Retreat of the Assembly of the African Union on the Institutional Reform of the African Union” by the AU Assembly on 31 January 2017.

and accountability objectives are strongly interlinked, although precisely how is not yet properly studied or understood.

Critical questions

Given their potentially mutual reinforcement, the increasing political discourse around the financial reforms, and the partial uptake of the levy, this paper tries to connect the dots of both and discusses their implementation. *Why do certain member states apply the 0.2% levy and others not? Why has the majority not yet implemented the levy? And what are the implications of the way the levy is being rolled out for wider AU financing and reform ambitions?*

To answer these questions, the paper builds on desk work and a round of interviews held in Addis Ababa in June 2019, with high-level officials of the AUC and member states' ambassadors as well as with some member states' officials in their national capitals. These interviews and the analysis herein confirm that implementing the Kigali Financing Decision and applying the 0.2% levy are not simple matters.

As the paper discusses, so far the levy only partially contributes to the timely, predictable, sustainable, and equitable financing of the AU. Interviewees for this paper mention progress, but also technical and political challenges to explain the limited and partial use of the levy, and for the persisting lack of financial compliance more generally. As some countries pay their dues without the levy, the objectives of predictability and sustainability appear to depend more on the domestic politics and priorities within member states and the consequent reliability with which funds are transferred to the AU than the levy itself. The levy therefore provides a useful tool for those countries that have wanted to pay their assessed contributions but could not, with the highest uptake among the smaller African economies. This in itself is a positive outcome but does not guarantee improved AU finances.

Further discussed in the paper, is that the AU is implementing a wider range of reforms to improve accountability and transparency towards its member states. A clearer view of member states on how and what is being funded with their money may help improve trust levels and increase the incentives for compliance with their financial obligations. In combination with the new funding mechanism of the levy, both reforms may mutually reinforce one another in a positive cycle of financing, accountability and ownership of the AU. This may ultimately be more important, and help reinforce recently revised sanctions and compliance mechanisms. Further, the lead countries who *have* put the levy in place may yet, over time, illustrate the advantages of the levy – in terms of the symbolism and solidarity of financing the AU, but also from a national perspective given the potential additional revenue generated.

The levy, therefore, is a useful instrument, but in and of itself not sufficient for ensuring the predictable, sustainable, equitable, and timely financing of the AU. It will not directly improve accountability, even if it may help trigger shifts in that direction. That is, it is part of a package to gradually reduce the dependency on donors, but only one small part. As more countries apply the levy, these countries may increase the peer pressure on *freeriding* member states and thus encourage financial compliance. Such dynamics may potentially trigger a positive cycle of ownership and accountability.

As reforms take time, the AU will continue to rely on and work with the largest current financing source: donors. Paradoxically, work to reform the partnership with external partners may also play a key role in making the AU more accountable and transparent to both them and its African stakeholders.

The remainder of the paper continues as follows: the paper first describes the context around the Kigali Financing Decision and sets it against the broader AU reform dynamics taking place. It then presents and discusses key aspects in the implementation of both, with illustrations from three member states applying

the levy. This includes a summary of emerging findings from early implementation of both mutually influencing - and potentially reinforcing - processes. The paper briefly concludes by reflecting on a few 'so what' questions.

2. The African Union's new financing architecture

Collectively, the 55 member states of the African Union - all low and middle-income economies - do not at present provide enough resources to finance the fast-growing agenda of the AU structures, operations and programmes. Financing the continental agenda has been a persistent cause for concern ever since the Organisation of African Unity (OAU), the AU's predecessor, was established in 1963. Nonetheless, the situation became untenable when, in 2015, the AU's dependence on international partners reached an all-time high with donor assistance reaching 71.8% of the AU's overall estimated budget, excluding AU peace support operations (Engel, 2015). This and a funding crisis in early 2016 triggered renewed calls from member states for an alternative source of financing and, in July 2016, a Heads of State and Government 'Retreat on Financing of the Union'. This led to the adoption of the Kigali Financing Decision with two related components: an import levy to allow member states to finance the African Union and its Peace Fund, and a new series of institutional reforms of the AU.

2.1. A persistent problem

On average, member states transfer 67% of their yearly assessed contributions⁶, what they have agreed to finance. Some 30 countries default either partially or completely (African Union, 2019c). That is more than half of the AU members. The resulting yearly payments are largely insufficient to cover the various continental programmes, including peace and support-related costs, which constitute the bulk of AU spending. Moreover, member states generally do not transfer yearly payments in a timely and predictable manner, creating cash-flow and budgeting problems for the AUC. The resulting funding gap hinders effective delivery on the AU's planned agenda, but also creates negative knock-on effects.

One such effect is an over-dependence on donor financing.⁷ While this external financing source helps fill some of the funding gaps, it also contributes to agenda overload due to donors insisting on their priorities, and brings hidden transaction costs due to fragmented and uncoordinated donor behaviour. Overall, it also weakens accountability relations due to a general lack of donor transparency (Pharatlhathe and Vanheukelom, 2019).

The AU has periodically attempted to reform its financing mechanisms to solve these problems. Given the paucity of state revenues from which member states can tap, they agreed in 2001 to look for alternative sources outside the national treasuries to finance the predecessor of the AU, the OAU (Organisation of African Unity, 2001). The search has not stopped since then, but it wasn't until the second half of this decade that these efforts gained traction.⁸

⁶ Periodically, the AU makes an assessment of the yearly contributions that member states have to pay to the organisation.

⁷ This figure excludes spending on peace and security related expenditures (Engel, 2015).

⁸ At the 2001 Lusaka Summit, the then Secretary General of the OAU was tasked with exploring the possibility of mobilising such alternative sources. In 2007, the AU in the Accra Declaration highlighted the need to identify additional sources of financing the AU's activities. In 2011, the Assembly requested the AUC to expedite the process of setting up a High-Level Panel on Alternative Sources of Financing the African Union. In 2012, the High-Level Panel was formed and chaired by former President of the Federal Republic of Nigeria, H.E. Olusegun Obasanjo which proposed eight alternative sources of financing of the AU.

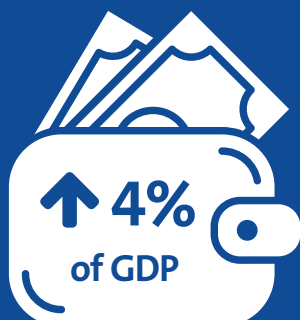
In June 2015, the AU Assembly in Johannesburg, South Africa, decided on three important financing reforms. First, member states formally agreed to scale up their contributions to the AU, and hence scale down the AU dependence on donors. They committed to financing the operational budget at 100%, the programme budget at 75% and African peace support operations at 25% (African Union, 2015a). This was planned to take place within five years, starting from 2016 (Miyandazi, 2016). Given the additional pressures on member state budgets this would create, the second decision was to find alternative sources of financing outside the national treasuries (Fabricius, 2015).

Importantly, the Assembly established the 'scale of assessments', a three-tier system that determines the share of each country's yearly contribution based on their share of the overall continental Gross Domestic Product (GDP) (see Figure 1 below). The AU decided that: five Tier 1 states, made up of the largest economies with a GDP of above 4% of the continental GDP should contribute 48% - this includes Algeria, Egypt, Nigeria, South Africa and Morocco when it rejoined the AU; 13 Tier 2 countries with GDPs of between 1% and 4% of continental GDP, should contribute 37%; and the remaining 37 Tier 3 countries with GDPs of less than 1%, should contribute 15% of the Union's assessed budget (African Union, 2015b).

The figure below illustrates the current scale of assessments for member states' payments to the AU's budget as well as the revised scale of assessment which will enter into effect from 2020 till 2022. The share of Tier 1 countries will reduce from 48% to 45% and that of Tier 2 countries will also reduce from 37% to 33%. However the scale of assessment for Tier 3 countries will increase from 15% to 22%.

The financing of the African Union

The member states of the African Union (AU) contribute a certain amount to the AU's budget depending on their share of the continent's GDP. In financing the AU budget, countries are divided into three tiers for the scale of assessment.



TIER ONE

COUNTRIES WITH GDP ABOVE 4%

Share of Tier one
in the AU budget

2019: 48%
2020: 45%



Countries

Algeria, Egypt, Morocco, Nigeria and South Africa



TIER TWO

COUNTRIES WITH GDP ABOVE 1% BUT BELOW 4%

Share of Tier two
in the AU budget

2019: 37%
2020: 33%



Countries

Angola (will join Tier one in 2020), Kenya, Ethiopia, Sudan, Libya, Côte d'Ivoire, Ghana, Tunisia, Tanzania, Democratic Republic of Congo, Cameroon, Zambia and Uganda



TIER THREE

COUNTRIES WITH GDP FROM 1% AND BELOW

Share of Tier three
in the AU budget

2019: 15%
2020: 22%



Countries

Gabon, Chad, Equatorial Guinea, Mozambique, Botswana, Senegal, South Sudan, Republic of Congo, Zimbabwe, Namibia, Burkina Faso, Mauritius, Mali, Madagascar, Benin, Rwanda, Niger, Guinea, Sierra Leone, Togo, Mauritania, Malawi, Eswatini, Eritrea, Burundi, Lesotho, Liberia, Cabo Verde, Central African Republic, Djibouti, Seychelles, Somalia, Guinea-Bissau, Gambia, Sahrawi Arab Democratic Republic, Comoros and, São Tomé and Príncipe

2.2. A partial solution – the *Kigali Financing Decision*

A funding crisis of the AU in January 2016 reignited the hitherto slow-burning financial reforms (Vanheukelom and De Smidt, 2019), with President Kagame hosting a 'Retreat on Financing of the Union' six months later, during the 27th African Union Summit in Kigali. Over 30 Heads of State and Government personally attended the Summit, with others represented by Vice Presidents and Foreign Affairs Ministers as well as Finance Ministers and select Ambassadors and Permanent Representatives to the African Union.

The two most striking elements of the Kigali Financing Decision were: (i) instituting for the first time an alternative instrument with which member states can reliably, sustainably and predictably finance the AU without burdening their treasury, and (ii) ensuring that the AU's Peace Fund can be endowed with financial resources.

The proposal to apply a 0.2% levy on imports into Africa was revived by Donald Kaberuka, the AU High Representative for Financing the African Union and the Peace Fund and Carlos Lopez, former Executive Secretary of the United Nations Economic Commission for Africa. This was not the first time the levy had been proposed as an alternative form of financing. It was one of the eight proposed measures in the 2012 report of the High-Level Panel on Alternative Sources of Financing the AU chaired by former president of Nigeria, H.E President Olusegun Obasanjo (Obasanjo Report) (African Union, 2012). Though it had previously been rejected as part of the 2012 Obasanjo Report, Kaberuka and Lopez showed how such a tax could cover the assessed contributions of all member States of the Union.⁹

This time Africa's Heads of State and Government appreciated four key benefits of introducing the levy differently: firstly, the levy gives a sense of equity as the rate is the same across all the member states; secondly, it provides sustainability as it would be applied to a continuous flow of imports; thirdly, it would enhance the predictability of contributions as it was based on the assessment of the expected inflows from existing national data; and finally, when properly applied and administered, there would be no delays in the payments by member states and the AU would receive payments in time, due at the beginning of the financial year.¹⁰ These key features were the selling points behind the adoption of the levy.

The levy implementation process included the following four steps:

- (i) establishing a list of imports to the continent to be subject to the levy,
- (ii) applying the 0.2% levy to the Cost Insurance and Freight (CIF) value of eligible goods imported into a member state from a non-member state,
- (iii) national administrations collecting the levy, and
- (iv) automatically transferring it into a Central Bank account opened for the AU so that the country's assessed contribution can be transferred to the regular AU budget and its Peace Fund (African Union, 2016a and b).

The process of implementation allowed for a transitional arrangement to enable member states to put in place the necessary legal and fiscal measures to apply the levy. The transitional mechanisms also include provisions to ensure that member states continue to meet all obligations towards the AU during the transition period, which would last till the end of 2017.

⁹ The levy was to be derived by applying 0.2% to the Cost Insurance and Freight (CIF) value of eligible goods imported into a member state from a non-member state (therein stated as from outside the continent). Cedric de Coning, *Can the AU finance its own peace operations, and if so, what would the impact be?* 28 March, 2017.

¹⁰ See African Union, Financing the Union, available at <https://au.int/web/en/introduce-levy>.

As part of wider reforms (discussed in the next subsection), another innovation introduced in 2016 was a *Committee of Ten Ministers of Finance* (F10), established to assume oversight over the AU budget and finances. They prepared Draft Guidelines for the implementation of the Kigali Financing Decision (Draft Guidelines), allowing for each country to determine the eligible goods for the levy's application. However, these Draft Guidelines also list goods that are to be exempt, including: goods imported from outside a member state and re-exported to another member state; goods that are received as aid, gifts and non-repayable grants for charitable works; goods originating in member states as part of financing agreements with foreign partners and are exempt from any fiscal or para-fiscal levy; goods imported by enterprises before the entry of the Draft Guidelines; and goods on which the levy has been previously paid (African Union, 2016b). Eligible goods have also been interpreted by some member states to exclude essential products such as medicines, fertilisers and baby food.¹¹

In adopting the Kigali Financing Decision, the member states agreed to institute the levy and to pay the amounts collected into an account opened for the AU in the central/ national banks for transmission of the assessed contributions: as per the Draft Guidelines, the funds collected from the levy are to be collected and remitted to a designated African Union bank account with the Central, National or Reserve Bank of each member state. Building on the General Convention on the Privileges and Immunities of the OAU, "all revenues collected as AU import levy are immune from requisition, confiscation, expropriation or any other form of interference, whether by executive, administrative, juridical or legislative action" (African Union, 2019c). As such, the money collected through the levy should be duly transmitted for its intended purposes to finance the AU. At the time of the decision, only Mauritius entered reservations, in part due to concerns such as the country's duty-free import regime, treaty obligations with other countries and, indirectly, of potential inconsistencies with its World Trade Organization (WTO) obligations.

The Kigali Financing Decision also tried to generate a breakthrough in the financing of the Peace Fund. This pan-African endowment fund had been created by the OAU in 1993 to finance its peace and security activities. It became one of the five pillars of the AU's African Peace and Security Architecture and was intended to cover three main activity clusters: mediation and preventive diplomacy, institutional capacity development, and peace support operations (Apiko and Aggad, 2018b). Given that funding by member states was near nonexistent until July 2016, the 0.2% levy was also intended to enable member states to make their contributions. The target for 2017 was set at \$325 million, rising to \$400 million by 2020 (now extended to 2021).¹² To endow the Peace Fund the five African regions would raise equal contributions from the 0.2% levy.

In terms of the Peace Fund, the initial proposal was for each region to contribute \$65 million annually from 2016 to 2019. Since, however, the Kigali Financing Decision did not provide the scale of assessment by which countries would pay into the Peace Fund, the AUC decided to use the regular budget scale for 2017-2019. However, some member states did not agree with this and requested a proper mechanism which is yet to be established (African Union, 2019a). The low contribution to the Fund is therefore attributed to this lack of scale though in January 2019 the Assembly decided that consultations are to be undertaken, however, in the event that no concrete recommendations from the consultations emerge, the regular budget scale will also apply to 2020-2022 Peace Fund payments.¹³

¹¹ Mariama Sow, [Figure of the week: African Union introduces a new funding structure](#), Brookings, 27 July 2016.

¹² The Peace Fund is a revolving trust fund to be replenished through financial appropriations from the regular AU budget (including voluntary contributions from member states and arrears on assessed contributions). The Fund is also able to accept contributions from other sources within Africa, including the private sector, civil society, donations from individuals, and through appropriate fundraising activities.

¹³ This implied that countries per region would have to equally divide the payment of the regional share which might have the benefit of relieving Tier 1 countries, but at the same time burdening Tier 3 countries with the payment. In the

2.3. Wider institutional reforms affecting the AU financing agenda - the Kagame Report

Introducing a new funding channel through the 0.2% levy was only part of the package to address the AU funding gap. In addition to the Kigali Financing Decision, the AU Assembly of July 2016 also decided to re-energise AU institutional reforms to solidify the relations between the AUC, other AU Organs, the Regional Economic Communities (RECs), and the member states. The Assembly entrusted President Kagame, as head of the AU's institutional reform process, to formulate recommendations that would boost the reform process. Six months later, President Kagame and his pan-African advisory team delivered a comprehensive and coherent report – referred to as the *Kagame Report* – on the main institutional and governance challenges facing the AU. The recommendations rested on five pillars. Apart from the need to self-finance the AU in a sustainable way, the interrelated measures at the core of the report included (i) a focus on key priorities with continental scope, (ii) a realignment of AU institutions to deliver against these priorities, (iii) effective political and operational management of the AU, and (iv) a stronger connection between the AU and African citizens.

On member state funding, for example, the *Kagame Report* noted that by December 2016, only 25 out of 54 member states had fully paid their assessed contribution for that year.¹⁴ 14 member states paid more than half of their assessed contributions, and 15 member states had not financially contributed at all. As mentioned, by the end of 2016, donor dependence had risen to an all-time high of three-quarters of the proposed budget for 2017 (African Union, 2017a). To counter this trend, the Kagame Report insisted on immediate implementation of the Kigali Financing Decision.

In addition, it strongly recommended, “critical complementary measures to reinforce the Kigali Financing Decision” (African Union, 2017a, p.14). These reforms targeted at improving overall financial accountability and strengthening ownership by member states over an affordable AU budget through the following recommendations:

- A revision of the scale of assessed contributions based on principles of ability to pay, solidarity and equitable burden-sharing for member states.
- The Committee of Ten Ministers of Finance (the F10) from member states to assume responsibility for the oversight of the AU budget and finances, mentioned above.
- The development of nine ‘Golden Rules’ providing guidance for clear financial management, accountability, strict abidance to agreed levels of external funding.
- And revision and tightening of penalties for failure to honour assessed contributions.

The Assembly of January 2017 endorsed these and other recommendations of the Kagame Report. President Alpha Conde, then chairing the AU, emphasised the “irreversibility and inseparability of both the Financing and Reform Decisions”¹⁵ thereby placing the financial reforms as an AU priority. Under the subsequent chairmanship of President Kagame, the AU reform agenda gathered further momentum with member states declaring their commitment at the level of Heads of State and Government to push forward both administrative and financial reforms.

absence of clarity and to ensure consistency, since 2017, member states contributions to the Peace Fund are currently made using the general scale of assessments of the regular budget.

¹⁴ Morocco was not part of the AU at that time and was only re-admitted in January 2017.

¹⁵ H.E. Paul Kagame, Report on the Implementation of the Decision on the Institutional Reform of the African Union, Assembly/AU/2(XXIX), Twenty Ninth Ordinary Session 3-4 July, Addis Ababa, Ethiopia.

Nonetheless, the Kagame Report warns about previous failures by the AU and member states to act on agreed decisions and implement them. These are worth bearing in mind because in implementing the Kigali Financing Decision, member states face numerous technical and political hurdles.

3. From commitment to implementation

In adopting the Kigali Financing Decision in July 2016, all AU member states agreed to institute the levy and to make arrangements for timely and full payment of the assessed contributions through an account opened for the AU in their national bank. By January 2017, when the implementation phase of the Kigali Financing Decision started, other countries began to raise concerns beyond those initially declared by Mauritius. Some were of a technical or legal nature.

The initial debate also focused on the definition of eligible goods, the necessary legislative and administrative mechanisms needed to collect the levy and also challenges arising from the potential incompatibility of the levy with international obligations (Apiko and Aggad, 2018a). The F10 – now expanded to Committee of Fifteen Ministers (F15)¹⁶ to be more representative of the larger, Tier 1 countries – has addressed some of these issues, as discussed, but challenges remain. Others were more of a political nature. Some member states simply questioned the added value of the 0.2% levy and expressed scepticism as to why this mechanism would be more effective than the previous financing system (Erasmus, 2017).

This section deals with these challenges, as well as emerging ambiguities around how flexible adoption of the levy could ensure improved member state funding of the AU over time, allowing some countries to use the levy mechanism to finance the AU, and others to honour their financial obligations through more traditional, budgetary channels. The section follows by looking at three countries who are applying the levy and ends with the resulting financing landscape and implications for the initial Kigali Financing Decision objectives.

3.1. Implementation challenges

After government leaders had agreed on introducing the 0.2% levy in Kigali, on returning to their capitals and discussing further the implications of introducing the levy with domestic actors, including their Ministry of Finance, Revenue Authorities, Customs and Treasury, some member state officials were informed that it would be difficult and in some instances not domestically legally possible to implement the levy as decided by the AU Assembly. They also faced regulatory problems and political concerns. Each country has its own political economy dynamics that shape not only internal political processes, but also how they engage regionally and internationally (see Byiers et al., 2019).

Technical, legal and regulatory challenges

In most countries, the legal and regulatory provisions were not in place to implement the Kigali Financing Decision. Some countries can ratify through a simple presidential decree, but others need parliamentary approval, which is more time consuming (Interviews, June 2019).

Member states have to select the goods that are eligible for a 0.2% levy. This too requires amending legislation and changes to national Tariff Books, as the levy is a new tariff. Some member states find that

¹⁶ F15 members are: North region - Egypt, Algeria, Morocco; West region - Nigeria, Ghana, Côte d'Ivoire; Central region - Chad (Chair), Cameroon, Congo; East region - Kenya, Ethiopia, Rwanda; and South region - Namibia, Botswana and South Africa.

this process would be more tedious than the current payment systems to the AU (Interviews, June 2019). But there were also principled concerns about the distribution of the additional costs of the levy on imported goods. If the import basket of a country like Malawi, for example, consists mainly of foods, medicines and farm products, it raises difficult questions about what goods the government should target (Interviews, June 2019). There are also technical capacity constraints in that many African countries lack reliable trade statistics and data on imports. This creates additional difficulties for calculating and selecting a reliable basket of eligible goods for the 0.2% levy (Interviews, June 2019).

Member states must also select the appropriate financial institution or customs authority responsible for its assessment and collection. Once the revenue is collected, it is then to be deposited into an account opened with the Central, National or Reserve Bank of each member state in the name of the African Union. This means that domestic mechanisms must be created to ensure the funds from the levy are remitted to the AU. These legislative and administrative measures are time-consuming. In some countries, such as South Africa, the law does not allow a foreign entity to hold an account in the Reserve Bank. Some member states also expressed concern with having the AU as a signatory to an account in their national bank (Interviews, June 2019).

Given legal and political questions around implementing the levy when officials returned to their capitals, the idea of a 'flexible approach' was tabled to enable member states to decide on *how* to implement the Kigali Financing Decision. This would allow them to be in line with their international and national obligations, provided the principles of predictability and compliance are adhered to (African Union, 2019a). As a result, a dual payment system exists now in which some member states collect the 0.2% levy while others continue to pay their AU assessed contributions using the old system, as discussed below. Malawi and South Africa, for example, do not apply the 0.2% levy, but pay their assessed contributions (Interviews, June 2019), as do most of the other Tier 1 countries.

Initially, in the design of the levy, it was anticipated that levy proceeds would be automatically transferred to the AU, so that any surplus collected from the 0.2% levy (i.e. any amounts above the assessed contributions) would be retained by the AU for use in any other expenditure of the Union to be determined by the Assembly (African Union, 2017d). In line with their mandate, the F10 was to be tasked with placing the surplus collected from the levy into a Reserve fund for AU continental priorities. However, some member states did not agree to this arrangement. Subsequently, in a meeting of the F10 in September 2016, later reaffirmed in August 2017, it was decided that any surplus collected by the member states after the fulfilment of obligations under the assessed contribution would be retained by the state. This is an important decision affecting the incentive for states to apply the levy.

In response to these technical concerns, the Assembly of February 2019 mandated the AUC to provide technical support to member states in accelerating the implementation of the 0.2% levy, in a bid to assist countries that may be willing but need assistance in setting up the levy (African Union, 2019b). It is not yet clear what form this will take and what countries have thus far requested such support.

External challenges to the 0.2% levy

Several countries are also concerned about the legal implications under their obligations to the World Trade Organisation (WTO). 42 African countries are members of the WTO. In 2018, five WTO members (the United States, Japan, the European Union, Canada and Norway) raised concerns about the 0.2% levy, which alarmed some AU member states to the potential risks of applying the levy. Other countries have joined Mauritius in voicing concerns over the possibility of the levy clashing with their WTO obligations, especially with the most favoured nation (MFN) principle. The MFN principle requires that WTO members apply the

same tariffs on a like product imported from other WTO members.¹⁷ Although no formal complaint has been made at the WTO, the perceived legal uncertainty nevertheless persists.

Yet, the AUC views the concerns around the WTO as a ‘non-issue’ (Interviews, June 2019). The AU has from the inception insisted that the levy is not in contradiction with international obligations. Some RECs such as the Economic Community of West African States (ECOWAS), the Economic Community of Central African States and the East African Community (EAC) use similar levies to fund community activities, respectively at 0.5%, 0.05% and 1% levies. The levy has been justified as part of a free trade agreement. The AU has argued that the establishment of the African Continental Free Trade Area (AfCFTA) is a possible legal option to the violation of the most favoured nation principle in the implementation of the levy. The AfCFTA was launched on 21 March 2018. By the time it came into force, on 30 May 2019, 54 countries had signed up.¹⁸ However, scepticism remains as to whether the AfCFTA can be used to justify the levy as the WTO rules provide for an exception through a common external tariff in a customs union (Interviews, June 2019). The AU is as yet not a customs union. Nevertheless, the AUC sees the progression of the AfCFTA into a customs union which in their interpretation means the levy becomes possible and fully justifiable.

Finally, concerns have been raised about the 0.2% levy’s compatibility with prior agreed agreements like the Economic Partnership Agreements with the European Union and the African Growth and Opportunity Act with the United States of America.

Political challenges

Beyond technical concerns, some countries also raised objections of a more political nature. They felt that the process leading up to the Kigali Financing Decision was not in line with standard AU decision making. The Southern African Development Community (SADC) voiced concern that the permanent ambassadors to the AU were sidelined through the formula of organising a retreat for government leaders and high-ranking officials, as happened in preparation for the Kigali Financing Decision. The accusation of limited inclusivity in the consultation process led some member states to engage in a *form versus substance* discussion over the levy but arguably also led to some of the ambiguities, for example around flexibilities or the use of surplus revenues, discussed above.

The above process also raised questions about the binding character of the Kigali Financing Decision. Such a decision is an AU “directive”. This implies that – while being binding on members – such directive still provides discretionary power for national authorities to decide on the form and means of compliance (Interviews, June 2019). Some interviewees considered the decision to introduce the 0.2% levy legitimate and binding on all member states but others pointed out that there was room for interpretation. According to one interviewee the levy was adopted to support those countries that were “struggling and not able to meet their assessed contributions to the AU” (Interviews, June 2019), something that appears to be partially borne out by the high proportion of Tier 3 countries adopting the levy.

But importantly, there are no dissenting voices on the main objective of the Kigali Financing Decision, i.e. the obligation of member states to pay their yearly assessed contributions to the AU in a timely manner. The principle divergences among those countries paying their contributions in whole or in part, appear to be over

¹⁷ The MFN principle is provided for in Article I of the Generalised Agreement on Tariffs and Trade, 1994. See World Trade Organization, [Principles of the trading system](#). There are some exceptions to the MFN rule.

¹⁸ The operational phase of the AfCFTA was launched on 7 July 2019 during the 12th Extraordinary AU summit in Niamey, Niger thereby creating the largest trade zone in the world since the creation of the World Trade Organization in 1994, uniting 1.3 billion people, and creating a \$3.4 trillion economic bloc. The AfCFTA’s outstanding rules of origin, tariff schedules, services’ commitments and other necessary elements are scheduled to be finalised by January 2020. Eritrea is the only country yet to sign the AfCFTA agreement. African Union, Ext/Assembly/Draft/Dec.1(XII), 12th Extraordinary Session, 7 July 2019, Niamey, Niger (copy on file with authors).

the choice of channel or instrument through which to do so: the national budget or the alternative financing through the 0.2% levy. It is of course still very early days in the implementation of the Kigali Financing Decision, but interviewees have shown optimism about the early success in terms of the number of countries using the levy system and preparing to apply it in the near future (Interviews, June 2019).

3.2. Early adopters - three experiences of applying the 0.2% levy

Among the 16 countries that have domesticated the 0.2% levy, the experiences of Rwanda, Ghana and Kenya present examples of how some of these legal, regulatory and practical problems have been overcome in specific country contexts. The AUC uses these experiences to promote lesson learning with other member countries.

Rwanda

Perhaps unsurprisingly, given the role of President Kagame, Rwanda has been an early champion of the Kigali Financing Decision and the levy. In May 2017, the government introduced a law establishing the levy on imported goods for financing African Union activities.¹⁹ This followed consultations with the customs and revenue authority, the Ministry of Finance and Economic Planning, as well as stakeholders in the private sector and passing through the Rwanda parliament. All imported goods are to be levied on the customs value of imported goods but with exemptions for goods that are exempted from customs duty under the East African Community Customs Management Act, in line with its regional commitments. The levy does not apply to the importation of sensitive products such as agricultural fertilisers and seeds, industrial machinery and medical equipment, and goods exempted from the Infrastructure Development Levy by the member states of EAC.²⁰ This means that the levy falls primarily on luxury goods and certain foodstuffs such as sugar. The levy on imported goods is collected at the customs point in accordance with the customs legislation and deposited into an account with the National Bank of Rwanda intended for that purpose. As such, Rwanda has applied the levy in line with its EAC regional commitments and obligations under its WTO membership.

Ghana

In 2017, the Parliament of Ghana also passed the African Levy Act 2017 (Act 952) in support of the decision by the AU to implement the 0.2% levy.²¹ The Act became effective on 22 January 2018. To implement the levy, the Ghana Revenue Authority (Customs Division) has made a number of changes to the clearance procedure including the creation of a new Tax Code known as 'African Union Import Levy'. The levy applies to imports, transits, transshipment and free zone declarations originating outside the AU. New agreements have also been reached to cover goods originating within the AU that are exempted from the new levy. The Ghana Revenue Authority has the responsibility to collect the levy. To decide on which goods are eligible, Ghana relied on the exempted goods list developed in the Draft Guidelines for the implementation of the Kigali Financing Decision (Interviews, June 2019). An importer has to apply to the Ministry of Finance to see if the goods are subject to an exemption. This information is then transmitted to customs (Interviews, July 2019).

Ghana's experience involved consultation with all relevant stakeholders such as the Ministries of Finance, Foreign Affairs and Trade and Industry. Parliament initially had some questions around how to address the excess and deficits in payments from the levy. However, once the collection of the levy started, the Ghana customs collected an excess of funds from the levy over and above their assessed contributions to the AU.

¹⁹ [Law N°19/2017 of 28/04/2017 Establishing the levy on imported goods for financing African Union activities, Official Gazette N° 20 bis of 15/05/2017.](#)

²⁰ Ernst and Young, [Rwanda Parliament passes draft law establishing levy on imported goods for financing African Union activities](#), 21 April 2017.

²¹ Ghana Single Window, [African Union Import levy - Effective 22-Jan-18](#), 19 January 2018.

Such surplus generated support for the levy as an additional new source of income for the Ghana Treasury. From these excess funds collected, 50% is placed into the AU bank account in the Central Bank and 50% goes into the Consolidated Fund in the Treasury for Ghana's use for integration issues. The levy, therefore, provides a mechanism through which Ghana can meet its AU financing obligations outside of the Treasury and raise additional revenues for its integration efforts.

Kenya

In 2016, Kenya passed the Miscellaneous Fees and Levies Act²², which governs the imposition and collection of levies including the import declaration fee which will be charged on all goods imported into Kenya for home use.²³ The importer pays a rate of 2% of the customs value of the goods.²⁴ This fee was reduced from 2.25% which was previously charged under the repealed Customs and Excise Act.²⁵ Similar to Rwanda, the fee is not chargeable on goods imported from an EAC member state and an importer will only be entitled to an exemption in respect to goods that have been expressly exempted under the Act. The Act further provides that 10% of the funds collected from import declaration fee shall be placed into a Fund and be used to finance Kenya's obligations towards the AU and other international organisations to which Kenya has a financial obligation.²⁶

General

Solidarity appears to be one key political factor behind those collecting the levy. The member states currently collecting the levy have gained recognition and their examples are used as best practices that other countries can learn from. The troika leadership at the time the 0.2% levy was adopted: Chad, Guinea and Rwanda are all collecting the levy, again suggesting that prominence in the process around it has also led to implementation.

Apart from this, some of the countries collecting the levy such as Ghana have expressed that being able to retain the excess funds collected above their assessed contributions is an incentive to apply the levy. This provides further resources for states to use for their own development priorities and has even been used by some countries to pay their contributions to other international and regional organisations, as well as for domestic development.

Despite these positive cases, as the figures show, a majority of countries remain reluctant to apply the levy for different reasons.

3.3. Overview of implementation

Given the inherent question marks and ambiguities around the levy, its implementation has not gone as smoothly as had been hoped for at its launch. By the end of 2018, two years after the implementation phase began, only 25 countries were at various stages of applying the levy mechanism, with only 16 of them actually collecting the levy (African Union, 2019a). As such, a substantial group of 30 member states does not apply the levy, some of which nonetheless pay their assessed contributions in full or in part, while some fail to contribute at all.

²² Laws of Kenya, Miscellaneous Fees and Levies Act 29 of 2016 (Rev 2018).

²³ Ibid, Article 7(1).

²⁴ Ibid, Article 7(2).

²⁵ Daniel Ngumy, [Miscellaneous Fees and Levies Act reduces fees for importers](#), 2016.

²⁶ Laws of Kenya, Miscellaneous Fees and Levies Act 29 of 2016 (Rev 2018), Article 7(7).

Confronted with the technical, legal and political challenges to implementing the Kigali Financing Decision discussed above, the AU gradually adapted its approach and shifted the emphasis from means (the 0.2% levy) to ends (the core objective of the “predictable, sustainable, equitable and accountable” financing of the AU). As such, the AU has allowed for more flexibility in implementing the Kigali Financing Decision. The Financing the Union report explains that ‘flexible arrangements’ means countries can implement the Kigali Financing Decision in line with their national and international priorities, provided the principles of predictability and compliance are adhered to (African Union, 2019a). According to that report, four criteria have been developed to classify a member state “as having commenced the implementation” of the Kigali Financing Decision.

Box 1: Criteria for the implementation of the Kigali Financing Decision

- i) A member state that has indicated its intention to implement the Kigali Decision on financing the Union in whole or in part;
- ii) A member state that is implementing the 0.2% levy on all eligible imported goods into the Continent;
- iii) A member state that has chosen from a non-exhaustive, non-binding basket of options for alternative sources of funding in line with national imperatives, laws, regulations and constitutional provisions (Assembly/AU/Dec.578(XXV));
- iv) Instances where amounts collected from the Levy have automatically being paid by the national administration, into an account opened for the African Union with the Central Banks of each member state, for transmission to the African Union in accordance with each member state’s assessed contribution.

The Financing the Union report distinguishes, therefore, four categories of status of implementation of the Kigali Financing Decision by the member states:

1. Countries actually collecting the 0.2% import levy
2. Those implementing using a modified approach
3. Those who have commenced the process to implement the levy
4. Those not yet implementing the levy (though potentially paying their assessed contributions using other means)

Using the data and four categories of this AU report, the infographic below presents a graphic overview of the level of implementation of the Kigali Financing Decision, and in particular which countries are currently collecting the levy or have started to domesticate the levy mechanism. As it illustrates, to date *none* of the Tier 1 countries – so Africa’s five biggest economies – are applying the levy, though Nigeria has begun the process of domesticating the 0.2% levy (Ailemen, 2019). These bigger economies can rely on their relatively sizable budgets to tap from and don’t have to resort to the levy system, although in the past Nigeria has reportedly often been in arrears. Of the 25 countries that are at various stages of implementing the Kigali Financing Decision, five of the 13 Tier 2 countries are applying the levy, while two have commenced the process; and 11 of the 17 Tier 3 countries are applying it.

Three countries are recorded as not applying the levy but recording ‘intentions’ to adhere with the principles of predictability and compliance. The Financing the Union report calls this the ‘modified approach’, and lists Seychelles, Mauritius and Malawi in this group. The Seychelles and Mauritius are island nations that try to reduce the cost of imports and have a near zero import tax for most goods to cushion consumers owing to geographical-related constraints, which inherently make it difficult to import most goods and thus incur high

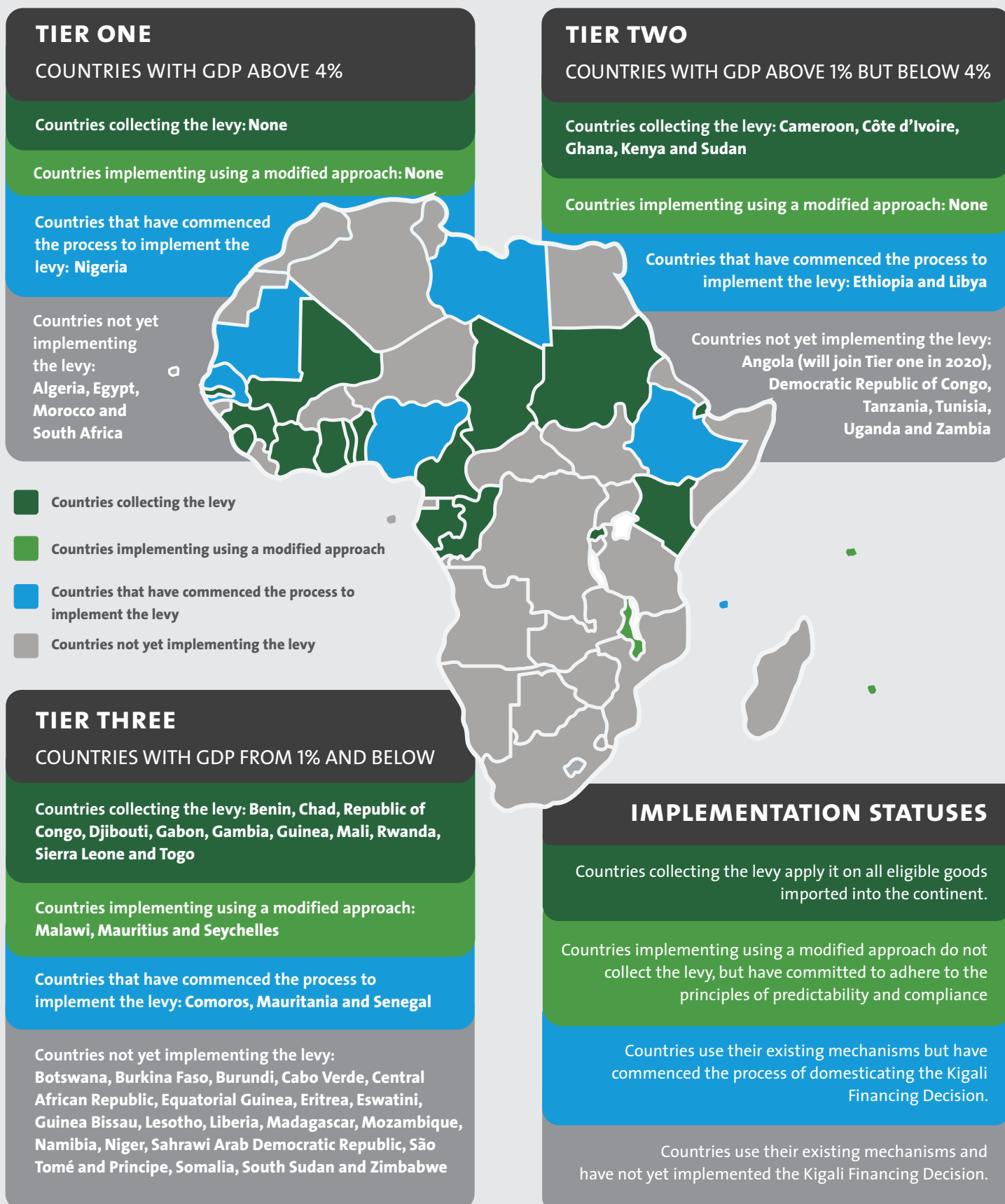
costs. As such, any additional taxes would be unfavourable to their citizens and by extension their economies. Other limitations also relate to the selection of the basket of eligible goods. For instance, one interviewee gave the example of Mauritius, where over 93% of its imports are duty free. The imposition of a 0.2% levy would, therefore, only apply to 7% of importable goods (if all goods come from outside Africa). If the AU insists that member states pay their assessed contributions from the 0.2% levy, then Mauritius will be paying less towards the AU budget than it is currently paying under its assessed contribution. (Interviews, August 2019). The same applies to Seychelles. Concerns were also raised over exposure to WTO challenges if they offer trade preferences to African goods for which no levies are paid.

The Financing the Union report also categorised Malawi as a country implementing the Kigali Financing Decision under a 'modified approach'. The reasoning for the inclusion of Malawi is less clear. Malawi has no intentions of applying the levy for fear of the impact of increased costs of imports and for the challenges it faces in selecting eligible goods. In fact, the Malawi position is comparable to South Africa's, in that both countries paid their full assessed contributions for 2018, and both countries do not apply the levy. Yet, South Africa is placed in a different category, namely that of the 30 countries that do not implement the levy. Yet in later correspondence (August, 2019), the AUC provided an update by informing that Malawi had approached the AUC to register its reservation to the 0.2% levy, and will join SADC, which, as a bloc had already taken the political decision not to apply the levy.²⁷

²⁷ This paper categorises Malawi according to the classification of the Financing the African Union Report, which lists the Southern African country still as one of the 25 countries implementing the Kigali Financing Decision on a 'modified approach'.

The Kigali Financing Decision: Status of implementation

Member states of the African Union (AU) contribute a certain amount to the AU's budget and are grouped into three different tiers depending on their GDP. The Kigali Financing Decision directs member states to institute a 0.2% levy on eligible imports into the continent to finance the AU budget. The *AU Financing the Union report 2019*, categorises countries into four groups showing their status of implementing the Kigali Financing Decision.



Prima facie, the levy has proved more popular with Tier 3 countries (the smaller and poorer economies), perhaps confirming the hypothesis above that it essentially serves those countries who previously were willing but unable to pay their dues.

There is no publicly available and disaggregated data over time of the financial contributions by member states to the AU. This makes it hard to detect trends. The Financing the Union report classifies countries two years into the implementation of the Kigali Financing Decision, with figures on the contributions from the four categories of member states for the financial year 2018 (so not disaggregated figures for individual member states). Nonetheless, as Table 1 highlights, there are already interesting observations to be made on the funding to the regular AU budget and the Peace Fund.

Table 1: AU assessed contributions and actual payments per category of countries, 2018

	REGULAR BUDGET			PEACE FUND		
	Assessed contributions (\$m)	Received by the AU (\$m)	Share of assessed contribution received (%)	Assessed contributions (\$m)	Received by the AU (\$m)	Share of assessed contribution received (%)
Applying or preparing to apply the levy - Total	120.5	84.3	69.9%	24.6	13.6	55.3%
1. Countries collecting the levy on eligible imports	60.3	36	59.7%	12.3	4	32.5%
2. Countries not collecting the levy but committed to the principles	3.1	3.1	100%	0.6	0.6	100%
3. Countries that began domesticating the levy	57.2	45.2	79.0%	11.7	9	76.9%
Not implementing the levy - Total	167.9	115.5	68.8%	34.9	14.3	41.0%

Source: Authors' calculations based on figures and categories of the Financing the Union report (African Union, 2019a)

The number of countries not applying the levy outweighs the number of those who are at various stages of implementing the levy by 30 to 25; and so do their financial contributions by \$167.9m to \$120.5m. This is not surprising given that the five biggest contributors²⁸ to the AU budget do not apply the levy system.²⁹ Collectively, these five countries are assessed to contribute 48% of the total AU budget (and 45% for the period from 2020 till 2022) – and as we saw, the highest share in number of countries applying the levy are in Tier 3, comprised of countries with the lowest amount of assessed contributions to pay.

²⁸ South Africa, Nigeria, Morocco, Egypt and Algeria. Note that Angola, not applying the levy, will join the Tier 1 group in 2020.

²⁹ As mentioned, Nigeria is in the process of domesticating the levy into national law and regulations.

But if the levy is intended to help countries pay their assessed contributions, then the share of assessed contributions actually received by the AU is also important. According to the figures, all 16 countries that collect the levy transferred 59.7% of their assessed contributions. Though if all subcategories of the 25 countries *either applying or beginning to apply the levy* are combined, they transferred nearly 70%, which is 10% more than those effectively using the levy system. This figure remains close to 68.8% of assessed contributions transferred by those countries *not* implementing the levy. The best performing countries in terms of percentage of assessed contributions transferred to the AU budget, were the three countries not collecting the levy but committed to the principles (Mauritius, Seychelles and Malawi – 100%) and the six countries that commenced the process to apply the levy (79%) but do not yet collect it. That contrasts with the Peace Fund, where those countries not implementing the levy contributed 41.0% of their dues, compared to the combined total of 55.3% for those either applying or beginning to applying the levy, though the difference between the two groups remains small.

3.4. Impacting on broader objectives

Not much can be said about timely payments of assessed contributions to the AU since implementation started in January 2017. In terms of percentage of yearly payments of assessed contributions, there are only minor differences between those countries applying the levy, and those not using the levy system. At the core of the financing objective of the Kigali Financing Decision were four interrelated components: sustainability, predictability, equity and accountability. In what ways have there been results on these scores?

On sustainability

The sustainability principle of the Kigali Financing Decision is about i) member states having a sustainable source of revenues to pay their full assessed contributions to help guarantee the income side of the AU budget and ii) making this funding continually available to the AU.

But rather than a direct result of the levy, as the previous discussion suggests, the sustainability of AU financing, therefore, hinges on member states' ability and willingness to collect or allocate the required amount and to transfer the assessed contributions at the targets set by the AU in 2015.³⁰ That then is very much related to domestic political economy factors, and trust relations with the AU, an issue that comes back further below.

The initial expectation or assumption was that member states with weaker budgets would embrace the 0.2% levy as it allows them to abide by their funding obligations without taxing their national budgets, and avoiding the sometimes arduous parliamentary or budget approval processes. As the figures show, this has been the case for Tier 3 contributors, which have the largest share of countries applying the levy. But the expectation is somewhat off-set by the disincentives on member states flowing from the legal and practical challenges of domesticating the levy, as mentioned earlier. Malawi is one such lower income country that supports the levy in principle but prefers to fully finance its assessed contribution through the budget (Interview, June 2019).

The level of assessed contributions transferred to the AU by the 16 countries that apply the levy is *lower* than the level of all other categories considered. This potentially undermines the sustainability argument for the levy. The shortfalls of these 16 countries may be due to insufficient amounts of levies raised, or rather simply, insufficient levies transferred to the AU, a point we return to below.

³⁰ The proportion of member states contributions of the AU budget was set at: 100% for the AU operations budget, 75% of its programme budget and 25% of its peace support budget.

On predictability and timeliness

The sustainability of AU financing clearly also relates to the predictability and timeliness of funding to the AU. Both are necessary to enable the AU to plan, spend, and subsequently provide timely reports on the spending.

But the yearly fluctuations in the share of assessed contributions that member states transfer to the AU budget hinder effective and timely budget planning, spending and reporting by the AUC. Though member state payments are due on 1st January, at the beginning of every financial year, their erratic payment schedules and partial payments create cash flow problems – and subsequently implementation and reporting dysfunctions – for the AU. Most member states are not able to make the 1st January deadline, and some have also voiced this concern. Instead, some propose for the AU to adopt a phased approach for periodic payments of dedicated parts of their assessed contributions (Interviews, June 2019).

Experiences from ECOWAS also provide some early warning in this regard. ECOWAS has a long experience with a community levy of 0.5% imposed on imported goods from non-ECOWAS states for similar purposes as the AU levy. However, there have regularly been shortfalls or late payments in member states transferring the levy there too.³¹ Even where the levy is collected, challenges in the low transmission of funds by customs officials persist.

To solve this problem, cut back on delays and improve the predictability of transfers the AU had argued with countries applying the levy for the AU to become a signatory into the accounts of these members' Central Bank. This proposal, implying the automatic transfer of levy proceeds to the AU, met resistance in technical and political terms, and financial transfers continue to be transmitted through ambassadorial representation in Addis Ababa, at times causing delays and unpredictabilities in funding.

Further, there is no enforcement mechanism to ensure that the money collected is actually transmitted (Interviews, June 2019). This creates the risk that certain states implement the levy, but simply use the finances raised for other (legitimate or illegitimate) purposes as has been found to be the case for other African regional levies. The AU is looking into entering memorandums of understanding with countries implementing the Kigali Financing Decision to encourage countries to transmit the funds collected, though some scepticism was expressed as to the effectiveness of such memoranda (Interviews, June 2019).

The timeliness of payment is also subject to political and economic instability. Over the past ten years, some of the AU's biggest funders – including Libya and Egypt – faced instability, and were not able to pay their assessed contributions.³² Economic embargoes also make it difficult for countries to make their payments, let alone in time. Sudan is among the 16 countries collecting the levy. However, it was in arrears from previous budgets due to the economic embargo imposed on the country, making it difficult to remit the funds to the AU (African Union, 2019a).

The levy mechanism seems to make it easier for countries to transfer advance payments as the levy is not subject to time-consuming or unpredictable budgetary procedures and parliamentary approval. Four of the 25 member states that apply the levy mechanism made advance payments to the AU in 2018. In comparison, of the 30 countries that don't implement the levy mechanism, only one made an advance payment (African Union, 2019a).

³¹ ECOWAS, [Community President pleads for prompt payment of community levy](#), 13 December 2017.

³² Kwibuka, E. and Mukamurenzi, R., [Political will to inform success of new African Union funding model says expert](#), New Times, 12 September 2016.

On equity

Given the vast diversity in size, economic underpinnings and power of the 55 member states of the AU, the principles of ability to pay, solidarity and equitable burden-sharing are central to the design of the scale of assessment. The three tiers discussed above, therefore, address this. As the five Tier 1 countries traditionally covered the biggest part of the budget, it was considered a risk that the AU budget – and related priorities – became over-dependent on these bigger countries. As such, their total share of the assessed contributions has been reduced from more than 60% to 45% as of 2020, the year that the revised scale of assessment will enter in effect. To ensure equity, Tier 3 countries will increase their share of the assessed contributions from 15% to 22%, meaning they have to step up their financing towards the AU budget from next year onwards (African Union, 2019b and c). Such scale revisions may enhance a sense of ownership of the AU among all contributing countries, and reduce free-riding (Kasaija, 2018), which are part of the overall ambition of the package of financing reforms.

But equity can also be about where the burden of payment lies within countries, especially when applying a levy mechanism. Member states can tailor the basket of imported goods on which to apply the 0.2% levy. As yet, there is not a publicly available account of such import baskets, but the examples of Malawi and Rwanda illustrate the political imperatives at work in deciding on if and how to apply the levy, and on which import basket it is to be levied. The concern that the 0.2% levy would harm consumers if applied to foodstuffs, farmers if applied to agricultural inputs and health care users by raising the cost of medicines, all key import categories from outside Africa, are cited by some as reasons for Malawi not to apply the levy. Rwanda applies the levy in line with its EAC commitments to apply the regional Common External Tariff (CET), therefore also excluding those goods excluded from the CET and ensuring sensitive agricultural goods and medicines are exempt. Where essential or strategic goods make up the majority of the import basket, the limited choice of sectors on which to apply the levy may yet place the burden on lower-income groups of people within countries.

Imports are also often subject to mispricing, leading to tax evasion, thus potentially also reducing the effectiveness of the basket of goods chosen to meet the assessed contributions (Interviews, June 2019). Importers of goods considered 'eligible' for the levy's application may undertake under-invoicing³³ of imports in a bid to avoid tariffs, thereby affecting the predictability of the funds collected from the selected basket of goods.

On accountability

In interviews, member state representatives regularly referred to a lack of trust in their relations with the AUC and the need for stronger accountability mechanisms. They highlighted wasteful spending, poor reporting on budget implementation, or weak monitoring of spending, etc. (Interviews, June 2019). One senior AU official referred to the "lack of a social contract" in the past between member states and the AU. Stronger pressure on member states to live up to their financial obligations to the AU is therefore intended to create some reciprocal demands by member states towards the AUC for improved financial accountability and performance.

But such accountability concerns are not easy to pin down or resolve. They transcend the narrow and clear tasks of correct payments to the AU budget and cover many issues. A further complicating factor is that causality works in both ways: improving accountability relations with the AUC may create incentives for member states to pay. But for the AUC to be able to improve accountability relations, it depends on member

³³ Under-invoicing of imports occurs when there is "a discrepancy between the stated value of the good and their actual value (payable to the exporter abroad) such that the latter exceeds the former exceeds", and arises when an imported good carries a tariff or is strictly controlled resulting in it having a premium on the domestic market (Bhagwati, 1964).

states for full, timely payments and transparent management. The Kagame Report offered a way out of this apparent chicken-and-egg conundrum. It recommended a few actionable, short-term accountability measures that underpinned the financing window of the Kigali Financing Decision (see also section 2.3) and set the reform engine in motion. Most of the recommendations on financial accountability are being acted on.

The F10 has developed a set of clear principles and rules (referred to as *golden rules*) for enhancing transparency, accountability and proper financial management. The F10 enlarged with five more Ministers of Finance to the F15, which holds regular meetings and was instrumental in deliberations on the AU 2019 budget that resulted in a 12% cut in the overall budget, thereby reducing the persistent gap between *planned expenditures* and *real expenditures*. Over time, improved oversight may allay some member states' concerns over how the AU spends its budget and on what.

These measures also align with broader administrative reform plans targeted at improving human resource management, credible and transparent recruitment, results orientation, etc.³⁴ Member states are encouraged to assist the AUC with this massive task (Interviews, June 2019). Meanwhile, Kaberuka as AU High Representative for Financing the African Union and the Peace Fund is undertaking regional consultations with member states on the implementation of the financing decisions of the AU and the evaluation of the Peace Fund. Importantly, more information is gradually becoming publicly available, such as the external audit reports of the AU³⁵, a step towards increased transparency and accountability. In addition, the AU has a Board of External Auditors, which now comprises Tier 1 countries (that pay a substantial contribution of the AU budget) and five representatives from each of the AU regions.³⁶

A range of financial and accountability reforms are therefore ongoing to realise the envisaged financial autonomy of the AU. Even if the levy implementation is partial and most countries still do not fully meet their assessed contributions, barely two years into the implementation of the Kigali Financing Decision, overall funding levels by member states to the AU have never been higher. Further, although still far off target, there has been something of a breakthrough in the financing of the Peace Fund by the member states. The levy appears to offer an additional tool for those countries previously willing but unable to pay their contributions and begins to provide a path towards the more ambitious goals of creating greater member state ownership through enhanced financial participation. Overall, the declining trend in member state funding to the AU has been reversed, and interviewees from member states and from the AUC were hopeful for future improvements.

While the direction of travel looks promising, the speed is harder to gauge. Section 4 concludes by addressing two missing reforms that are essential for a proper understanding of the dynamics shaping the future of both the 0.2% levy, and – more importantly – the main objective of full and timely financing of the AU in ways that are predictable, sustainable, equitable and accountable.

4. Looking forward

Though progress is being made, further progress towards becoming self-financing depends on two other ongoing institutional reforms within the AU. The first relates to attempts to strengthen the sanctions regime of the AU. The second relates to another *unpredictable* source of AU funding: donors.

³⁴ The Extraordinary AU Summit of November 2018 adopted the AU Administrative Reform Roadmap 2018-2021.

³⁵ African Union, [Financial Reports and Audited Financial Statements of the AUC](#).

³⁶ The five representatives for the regions in 2018-2019 are: Central - Congo; Eastern - Madagascar; Northern - Tunisia; Southern - Namibia; and Western - Ghana.

4.1. Improving compliance by member states

It is clear that while some member states have moved ahead to honour their assessed contributions, whether using the levy or not, others remain less committed. Analysis is lacking on the reasons why most states remain less committed. Typical explanations include collective action failures and freeriding, state fragility, the Arab Spring, and importantly, lack of trust in the continental institutions. This is often combined with a critique on the AUC's weak reporting and accountability practices. Some also point to poor compliance arrangements in place: it is easy for government leaders and heads of state to vote agendas and budgets in the AU Assembly in the absence of effective compliance institutions.

In no uncertain terms, the Kagame Report pleaded for a review and tightening of the penalties and sanctions regime for "failure to honour assessed contributions".³⁷ In November 2018, the AU Assembly took that decision and strengthened the sanctions regime for non-payment by member states. The new sanctions regime sets clear timelines, reduces the grace period within which a member state is considered to be in default from two years to six months, and introduces graduated sanctions of six months, one year and two years, with specific sanctions for each defaulting period (African Union, 2018). Countries defaulting for six months, for example, are subject to cautionary sanctions depriving a member of the right to speak at AU meetings, whereas member states in default for two years are subjected to comprehensive sanctions including the suspension of the right to participate in AU meetings. This sliding scale of sanctions for non-payment, rising over time, combined with the availability of the means to pay through the levy, may help to encourage currently reluctant states to pay their dues.

However, any sanctions regime is as effective as the commitment to apply it. In that respect, the track record is mixed, and that is only partly due to the lenient character of the sanctions regime. Therefore, other types of compliance mechanisms have been suggested, such as the establishment of an enforcement mechanism through the African Court of Justice,³⁸ which is yet to be established and is likely to face political and operational hurdles. Another, softer compliance mechanism involves transparency and peer or reputational pressures. This would be in line with a slow trend of the AUC putting more data and reports in the public domain (such as the yearly external audit reports). But again, this would imply that the member states are open to being held accountable by the AU, which would require them to empower the AUC, for example to make comprehensive and disaggregated data available on yearly member state contributions.

4.2. The elephant in the room: the donors

So far, this paper has dealt with only one source of AU funding: African member states. Yet, today the bulk of what the AU spends, or what is spent in its name, originates from old and emerging donors. Though the volume of support in cash and in-kind provided by some 30 donors is as yet unknown, there is general agreement that donors currently provide more than half of the AU budget. The proportion is probably higher if all peace support operations are included. This support allows the AU to engage not only in capacity and institutional development, but also in programme implementation, with peace and security work absorbing the bulk of the aid.

³⁷ Section 23(2) of the Constitutive Act, Rule 36 of the Procedure of the Assembly and Article 18 (8) of the Statutes of the Commission provide for sanctions for non-compliance with AU decisions such as the denial of transport and communications links with other member states, and other measures of a political and economic nature to be determined by the Assembly. However, the 2007 Adedeji Report noted that these sanctions had not been used before. Most observers are in agreement that sanctions for non-compliance with AU decisions are necessary (Mukundi and Kilonzo, 2018).

³⁸ The African Court of Justice chamber in the now merged African Court of Justice and Human Rights is still to become operational. To date, only seven countries have ratified the Protocol on the African Court of Justice and Human Rights, 11 years after it was adopted in 2008.

But paradoxically - and part of the original need for the AU financing reforms discussed here - aid also comes with substantial flaws. Most donors provide aid in fragmented ways, often tied to earmarked projects or technical assistance. Such fragmented aid adds to the transaction costs for the AUC, with a multitude of donor-specific project reporting and accounting procedures to manage. As most donors transfer funding to the AU in April and in September, this may add to the cash-flow problems described above (Interviews, June 2019). All this taxes the overburdened planning and finance management systems of the AUC (African Union, 2017c).

Only a fraction of all donor aid passes through the AU budget. Partly, this can be explained by AU Organs and AUC departments directly engaging with donors and obtaining donor funding outside of the regular budget process. Such off-budget deals weaken the budget as an instrument of financial planning, control, transparency and accountability (see also Schick, 2007). As donors don't provide coherent, public information of all aid delivered, African member states worry over the AUC's choice of priorities: does the AUC prioritise earmarked donor projects, departmental pet projects, or does it implement agreed priorities set by AU member states as reflected in the budget?

Ten years ago, the AUC initiated a series of discussions with reform-minded donors to overcome these and other mutually reinforcing flaws in their partnership. Donors introduced some discipline as they aligned behind AU priorities and management systems³⁹. But the resulting reforms to the management of aid and the partnership only applied to relatively small portions of aid and to less than ten donors, among which the EU (the largest one), Sweden, Denmark, Canada, the UK, Germany, the Netherlands, and others. Meanwhile, the AUC and core donors have renewed efforts to improve the quality of aid, based on the findings of a joint evaluation of past cooperation. The core donors will seek to harmonise efforts by expanding the number of donors and by covering larger shares of aid. This will require efforts at incentivising and disciplining the appropriate donor behaviour. But such efforts will also benefit from progress the AU makes with financing and accountability reforms.

Interviews⁴⁰ in Addis Ababa with representatives from AU member states, the AUC and core donors highlighted some of the shared concerns among these three different partners about low levels of self-financing of the AU, high degree of dependency on donors, and the absence of mutual trust. Despite these shared concerns, the solutions proposed by these three partners vary, and their motives and incentives to cooperate differ. Yet, all agree on the relevance of improving overall transparency and overall accountability to create a stronger AU that is owned - also financially - by its member states (Interviews, May and June 2019; Paratthathe and Vanheukelom, 2019). All three partners partly depend on one another in mutually reinforcing – or mutually constraining – ways to implement reforms.

One telling example of mutually constraining practices relates to the numerous AU departments and organs that seek to secure funding outside of the normal budget process. Hence, there are strong incentives – and often even good short-term causes or programmes – for these actors to engage with donors that are prepared to provide off-budget support. But over time, these practices harm the attempts at putting sound budget governance more firmly at the centre of the AU planning, spending, accountability and self-financing process. To improve financial and budget management, the AU Assembly in January 2018 adopted a set of *golden rules*, one of which states that there should be a centralised AU process for engaging with partners. This

³⁹ A core group of donors - among which the biggest, apart from the World Bank - created Joint Partnership Agreements and Joint Programming Agreements with the AUC in support of AU strategic plans and in an endeavour to be more disciplined in the management of aid.

⁴⁰ These interviews took place over a one year period covering working visits on financing of the AU, broader institutional reforms and efforts at transforming the aid partnership and include interviews done by other ECDPM colleagues in June 2018, May 2019 and the authors' interviews conducted in June 2019, with some follow-up communication in July 2019 and August 2019.

initial proposal by the F15 is being operationalised, but for this golden rule to be implemented both sides of the partnership equation will have to address untransparent and unaccountable – but deeply ingrained – practices.

4.3. Final reflections

The dynamics around the 0.2% levy have raised the profile of the financing reforms on the continent. Through the Kigali Financing Decision in July 2016, African member states, for the first time, agreed on an alternative financing mechanism. This generated wide media attention and created apparent momentum around achieving financial autonomy of the AU. However, given the technical and political challenges experienced since the first member states began implementing this decision, the levy clearly is not a quick fix for all member states. For some countries, especially those with weaker economies, it offers a tool to generate resources without further burdening their national budgets. Other members have objected to using the levy for political and technical reasons. The AU seems to have adopted a pragmatic approach to the implementation of the Kigali Financing Decision. There is space for flexibility, as long as the main objective of timely payment by all member states of their full assessed contributions is realised.

Importantly, the paper also argued that the 0.2% levy is not a stand-alone reform. AU reformers have embedded the self-financing objective firmly in a broader reform package. This package includes measures to strengthen AUC functions of accountable, transparent and trust inspiring financial management. Such reforms are partly intended to reinforce the financing objective. But the causality also runs in the other direction. Predictable, reliable and increasing financing from member states may enhance incentives and provide the impetus for the AUC to “strengthen financing management and accountability” – including “accountability for outcomes,” as the Kagame Report put forward. As a multitude of reforms are already being operationalised, implemented and at times adapted, there are opportunities for these reforms to become mutually reinforcing, resulting in more effective and capable organisations and positive outcomes.

This paper concludes by introducing another set of key players: donors. A core group of them are concerned about the mutually reinforcing negative impacts of poorly managed aid, dysfunctional financial management systems and overdependence of AU structures on donors more broadly. This has resulted in renewed attempts by the AUC and a nucleus of reform minded donors to manage aid and the partnership in such ways as to build on and reinforce the latest round of African driven institutional reforms.

The above reforms initiated by the Kigali Financing Decision and the Kagame Report resemble a breakthrough. Measures taken to make the AU self-financing, to improve financial governance and modernise relations with external partners have the potential to set off virtuous circles of strengthening accountability relations, trust levels and member state ownership. Yet, while these multiple reform dynamics are potentially mutually reinforcing, the paper also indicated that implementation will be step-by-step, through home-grown processes of problem-solving over a longer period of time.

Such processes are not likely to be a linear, big-bang endeavour. Rather, they reflect the muddled and unpredictable nature of multi-level and multi-stakeholder dynamics within countries, between countries, and between countries and the AU. Within-country politics matter as much as the politics between countries – and often these have not been taken enough into account when designing, implementing or supporting reforms, as past failures to address AU financing illustrate. The current AU reform efforts appear to be very much based on pragmatic solutions to complex circumstances. There is some way to go, with many countries yet to come on board with fully applying the 0.2% levy, and indeed more broadly, paying their dues to the AU fully and in a timely manner. But the reform dynamics seem positive and thus worth supporting to ensure longer-term change.

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This publication benefits from the structural support by ECDPM's institutional partners: The Netherlands, Belgium, Estonia, Finland, Ireland, Luxembourg, Sweden, Switzerland, Denmark and Austria.

ISSN1571-7577

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**HEAD OFFICE
SIÈGE**

Onze Lieve Vrouweplein 21
6211 HE Maastricht
The Netherlands *Pays Bas*
Tel +31 (0)43 350 29 00
Fax +31 (0)43 350 29 02

**BRUSSELS OFFICE
BUREAU DE BRUXELLES**

Rue Archimède 5
1000 Brussels *Bruxelles*
Belgium *Belgique*
Tel +32 (0)2 237 43 10
Fax +32 (0)2 237 43 19

info@ecdpm.org
www.ecdpm.org
KvK 41077447