

DISCUSSION PAPER:

BENCHMARKING THE ENVISAGED AFRICAN HIGH COUNCIL OF LOCAL AUTHORITIES

FEBRUARY 2013

Prepared for:

GIZ AMCOD / ULGA Support Programme (Based in Yaoundé, Cameroon)

Prepared by:

Elroy Africa (Urban Development and Public Governance Policy Advisor, based
in Pretoria, South Africa)

Contents

1. INTRODUCTION	3
2. BACKGROUND AND PROBLEM STATEMENT	3
3. CURRENT STATUS AND ROLE OF (ORGANISED) LOCAL GOVERNMENT AND LOCAL AUTHORITIES AT MULTIPLE LEVELS OF GOVERNANCE	5
3.1 Status and Role of (Organised) Local Government at a Country Level.....	6
3.1.1 Mali	6
3.1.2 Tanzania	7
3.1.3 South Africa.....	8
3.2 Status and Role of (Organised) Local Government at a Regional (sub-continental) Level in Africa	9
3.2.1 East Africa	9
3.2.2 West Africa.....	12
3.3 Status and Role of Organised Local Government at a Continental Level: Case of Europe ...	15
3.3.1 Congress of the Council of Europe (Congress of Local and Regional Authorities of the Council of Europe – CLRA).....	15
3.3.2 Committee of Regions (an organ of the European Union)	16
4. OBSERVATIONS AND LESSONS.....	18
4.1 Emerging Global Consensus on the Relevance of Local Government	18
4.2 Diversity in the Nature of Institutional Platforms and Configurations Accommodating Local Government.....	19
4.3 Asymmetry in the Political and Legal Status Accorded to Institutional Platforms	20
4.4 Predominance of Representative, Advisory and Support-Related of Roles and Functions..	21
4.5 Formalised Institutional Arrangements and Codified Modus Operandi.....	22
5. STRATEGIC RECOMMENDATIONS AND CONSIDERATIONS.....	25
5.1 Entrench and Strengthen the Policy Position and Role of Local Authorities and Local Governments in the Development Paradigm and Governance Architecture of the African Union .	25
5.2 Establish an Inclusive, Democratic and Well-Resourced Advisory High Council of Local Authorities in Africa	25
5.3 Clearly Define the Envisaged Roles and Responsibilities of the High Council of Local Authorities	27
6. CONCLUSION.....	27

1. INTRODUCTION

The purpose of this discussion document is to enrich the dialogue on the envisaged the High Council of Local Authorities within the framework of the African Union (AU).

Globally the status and role of (organised) local authorities and local government in the governance architecture at multiple levels varies considerably across countries and also within the member states of the African Union.

This discussion document examines a few examples of how local authorities are recognised at various levels of governance both in Africa and in Europe and offers some insights that could inform the current consultation processes to draft more detailed proposals on the High Council of Local Authorities for consideration at the January 2014 African Union Assembly Summit.

The fundamental question is, *“what should be the nature, status and role accorded to local government in the continental governance architecture of the African Union?”*

2. BACKGROUND AND PROBLEM STATEMENT

The historical position and role of local authorities, and local governance generally, in Africa has gradually evolved over the last few decades. The simple trajectory has been one of local authorities being mere appendages and administrative outposts of central governments to that where local authorities are now increasingly being recognised as local self-governments, “free administrations” and local spheres of government in their own right.

Since 2000 a number of milestones in Africa have entrenched the role of local governments at a continental level. Paramount amongst these were the founding of the African Ministers Conference of Decentralisation and Local Development (AMCOD / CADDEL) in 2000 and the establishment of the United Cities and Local Governments of Africa (UCLGA) in 2005:

- AMCOD positioned itself as the voice of African Ministers responsible for decentralisation and local authorities on the continent; and
- UCLGA positioned itself at the representative voice local authorities, local governments and cities in Africa.

The central challenge facing both these formations has been their unclear and uncertain status, position and role within the overall governance architecture of the African Union. A number of factors informed this state of affairs:

- a) The AU is formally constituted by sovereign member states on the continent and is therefore represented by the Heads of State and Government of the 54 African countries;

- b) The nature of sub-national governance in the 54 African states takes on a variety of constitutional, legal and political forms;
- c) Organised local government formations also take on different forms in individual African countries and also have a varying political and legal status; and
- d) At the level of regions within the continent, organised local government formations and Ministers responsible for decentralisation and local governance are not organised and represented in a similar manner at this regional level, e.g. within ECOWAS, COMESA, EAC, SADC. It should be noted that the AU recognises eight Regional Economic Communities (RECs);
- e) This is further complicated at a global level where at the level of the United Nations (UN), local governments have long been treated as part of the NGO, CSO and non-state stakeholder groups. In 2000 an inaugural meeting of the United Nations Committee of Local Authorities (UNACLA) took place in Venice (Italy) where local governments were recognised as having an advisory role in the implementation of the Habitat Agenda under the auspices of the UN-HABITAT.

The status accorded to local government internationally does not hugely assist the case for the High Council of Local Authorities proposed in Africa. As early as 2004, Ms. Anna Tibaijuka, Executive Director of UNHABITAT, on the occasion of the founding Congress of United Cities and Local Governments (UCLG) in Paris on the 2nd of May 2004 gave some assurance regarding the UN's position on local government,

"The establishment of UNACLA has been recognised and welcomed by various resolutions of the General Assembly of the United Nations, including resolution 56/206 of 21 December 2001, which upgraded the United Nations Centre for Human Settlements into UN-HABITAT. UNACLA has also served as interface between the world of local Authorities and national governments at the international level, through a systematic global dialogue on the promotion of representative and participatory democracy. Considering new developments in the partnership between the United Nations and cities and associations of local governments since the establishment of UNACLA, I am committed to intensify and expand the work of the Committee in order to have a greater impact in empowering local authorities."

By 2012 Mr Jean Pierre Elong Mbassi, Secretary General of UCLG Africa, on the occasion of the United Nations Committee of Experts on Public Administration Eleventh Session, 16-20 April 2012 at the United Nations Headquarters in New York noted some progress in elevating the status of local government within the UN institutional machinery,

"The UCLG has advocated over the past years for the inclusion of a strong local dimension in the work of the United Nations and has been invited to join an Advisory Task Force for the President of the General Assembly. Through the United Nations Advisory Committee of Local Authorities (UNACLA) set up by the Governing Council of UN Habitat, the UCLG was instrumental in the adoption in 2007 of the International Guidelines on Decentralization as a common legislative basis applicable in all countries of the world; and in 2009 of the International Guidelines on Access to Basic Services for All defining universal principles of good policies for service delivery at local level as well as the blueprint for further national action".

It is against this international background that the establishment and subsequent recognition of AMCOD as a Specialised Technical Committee in 2007 by the AU should be viewed as a significant step in accommodating the perspectives on local governance at the highest political level on the African continent. The full implications of AMCOD as a Specialised Technical Committee of the African Union (AU) are slowly unfolding and this body, i.e. AMCOD, will certainly impact directly on the final nature, shape and form of the proposed High Council of Local Authorities in Africa.

The idea of a High Council of Local Authorities in Africa can be traced as follows; some milestones include:

- a) At the 2005 founding UCLGA congress in Tshwane (South Africa) President Obasanjo of Nigeria raised this idea;
- b) In 2006 at the 4th AfriCities Summit in Nairobi (Kenya) the UCLGA leadership was mandated to pursue the proposal of the High Council with the AU;
- c) In 2007 a meeting took place between the President and Secretary General of UCLGA and the AU Commission in Addis Ababa (Ethiopia);
- d) In 2012 at the 6th AfriCities Summit in Dakar (Senegal) President Sall of Senegal committed to table the proposal of a High Council on Local Authorities at the January 2013 AU Heads of State Meeting;
- e) The final declaration of the 6th AfriCities 2012 Summit noted the “*need to adopt ... and set up a High Council of Local Authorities within the African Union*”; and
- f) In January 2013 the AU Assembly took note of the proposal of President Sall and requested that Senegal and the AU Commission undertake further consultations so that a comprehensive report can be submitted to the January 2014 AU summit.

The January 2013 AU Assembly resolved that the Commission be requested to “*report on the opportunity, feasibility, relevance and implications, including financial ones, of the (High Council of Local Authorities) proposal*”.

It is against this background that this benchmarking exercise is undertaken. It is intended to add value to the above consultation processes in the course of 2013.

3. CURRENT STATUS AND ROLE OF (ORGANISED) LOCAL GOVERNMENT AND LOCAL AUTHORITIES AT MULTIPLE LEVELS OF GOVERNANCE

Lessons on benchmarking the proposed High Council of Local Authorities can be gained from multiple levels of governance as can be seen below. Again the focused question that should be consistently asked is, “*what nature, status and role should be accorded to local government in relation to the policy, legislative and executive arms of “higher” levels of governance?*”

3.1 Status and Role of (Organised) Local Government at a Country Level

3.1.1 Mali¹

Decentralisation was entrenched in the 1960 Constitution at independence when it declared: “*all territorial authorities in the Republic of Mali shall be freely administered by elected bodies*”². Decentralisation was also subsequently enshrined in the 1992 Constitution.

Mali’s system of devolved government comprises of 703 communes, 49 cercles (Districts) and 8 regions, in addition the district of Bamako. Communes are the fundamental unit of decentralisation and local government.

Central government exercises significant supervisory authority over local government. Prefects and sub-prefects are the deconcentrated state actors that play this supervisory role at a district and commune level. Above the prefects are governors that are responsible for the regions; their role is both supervisory and support oriented.

A High Council of Collectives (also referred to as the HCCT and High / Supreme Council of Local Government) was established in accordance with Article 12 of the 1992 Constitution as the national body that represents all sub-national levels of government. It comprises of representatives of the various regional assemblies. The High Council is made up of 72 members representing the 8 regions, the Bamako District and 3 members representing Malians abroad.³

This High or Supreme Council does not have deliberative power like the national Assembly, but it has significant advisory power on matters linked to local government. The Constitution obliges the central government to consult and get advice from the High Council. This body is seated in Bamako and its members have the designation of National Counsellors who are elected every 5 years by indirect vote.⁴

The local governments have also set up their own body, i.e. the Association of Malian Municipalities – AMM). It was established in 2000 and replaced the Association of Mayors that was established in 1993. The purpose of the AMM is to “*help safeguard the autonomy of local governments and strengthen the role of local democracy*”.⁵

It has been argued that the “*HCCT and the AMM are sufficiently robust structures that do constitute useful lobbying tools to advance the cause of decentralisation and defend the interests of local government authorities*”⁶. At the same time a more critical view of the High Council has been that

¹ General Sources: USAID (2010) **Comparative Assessment of Decentralisation in Africa: Mali In-Country Assessment Report**, Prepared by ARD Inc. for USAID

² SNV & CEDELO (2004:p16) **Decentralisation in Mali: putting policy into practice**, SNV Netherlands and CEDELO Mali

³ UCLG (www.cities-localgovernments.org article on “The Road to Decentralisation in Mali, 10/052011)

⁴ DPADM/DESA (2004) **Republic Of Mali: Public Administration Profile**

⁵ See www.fcm.ca/home/programs/interantional/municipal-partners-for-economic-development/mali.htm

⁶ SNV & CEDELO (2004:p75)

“the founding fathers created a High Council of Local Government of Local Government, which is supposed to represent the interests of commune governments at the national level. Envisioned as being a second house in the national legislature – though never designated as such –with the power to introduce legislation relevant to communes, the HCC was set up with glacial slowness and has never fully assumed its intended role”⁷. This same author continues to argue that the HCC “acts a little more than a kind of trade union for mayors”⁸.

3.1.2 Tanzania⁹

Tanzania is a unitary republic. Local governments are provided for in the 1984 Constitution of Tanzania. The purpose of local government authorities is to *“enhance the democratic process within its area of jurisdiction and to apply the democracy for facilitating the expeditious and faster development of the people”*.

On the 13th of December 1984, 99 councils (80 Districts and 19 Urban Councils) founded the Association of Local Authorities of Tanzania (ALAT). ALAT is a voluntary organisation that is registered under the Societies Act of 2002, essentially having the status of civil society organisation.

The mandate of ALAT is to:

- a) Foster and promote local government in Tanzania;
- b) Maintain and further the interests, rights and values of local authorities in the country;
- c) Lobby and advocate for policy and legislative changes on matters affecting local authorities;
- d) Make presentations and proposals to government on behalf of members; and
- e) To provide services to members, e.g. capacity building.

ALAT has a formal role for collective bargaining and dispute resolution in the local government service. Local government District and Urban Authority Mayors participate in regional and district consultative committees that were established in terms of the 1977 Regional Administration Act. ALAT is consulted on any local government policy or legal matter before it submitted to Cabinet.

Key successes have been the successful lobbying and advocacy to influence policy and legal changes, particularly to enable local government authorities to get more autonomy and get more resources. ALAT played a key role to get central government to adopt a policy of decentralisation by devolution. However, it has been noted that many Ministries govern by directives and do not adhere to the policy of decentralisation by devolution. More fundamentally, decentralisation by devolution is not enshrined in the Tanzanian constitution.

ALAT is a member of the EALGA, UCLGA, CLGF, ICLEI and UCLG.

⁷ Pringle R (2006:44) **Democratisation in Mali: Putting History to Work**, United States Institute of Peace, Washington

⁸ Pringle (2006:47)

⁹ Shamumoyo, H (2012) Association of Local Authorities of Tanzania (ALAT), Presentation at Meeting of MIC Mukono Uganda

The overall assessment is that organised local government in Tanzania does a legal status, even if it is that of a civil society organisation. More importantly, the consultative and advisory role of ALAT is recognised and by their own admission they have managed to register important policy and legislative inputs in relation to central government. It is unclear whether ALAT sits in formal intergovernmental structures with central government where dialogue can take place at the highest level.

3.1.3 South Africa

The 1994 Constitution of the Republic of South Africa constitutes the State as comprising of three distinctive, interdependent and inter-related spheres of government. Local government is enshrined in the Constitution. One of the primary objectives of local government is to *“provide democratic and accountable government for local communities”*.¹⁰

Equally important, the Constitution obliges parliament to enact national legislation on organised local government. Such legislation must *“provide for the recognition of national and provincial organisations representing municipalities”* and *“determine procedures by which local government may (i) consult with national and provincial government; and (ii) designate to participate in the National Council of Provinces; and (iii) nominate persons to the Financial and Fiscal Commission”*.

In 1997 South Africa enacted the Organised Local Government Act. This legislation makes provision for the National Minister to recognise one national organisation representing the majority of provincial local government associations. This legislation further states that consultation between the national organisation and national government takes place at a meeting convened by the Minister. Furthermore, each provincial organisation may in terms of this legislation nominates 6 members of municipal councils as representatives to participate in the National Council of Provinces.

The South African Local Government Association (SALGA¹¹) was established by the adoption of its constitution in 2000. This Constitution was amended in 2004 and 2007. The first of SALGA’s thirteen objectives is to *“represent, promote and protect, the interests of local government”*. It goes further to state that it should be *“recognised by national and provincial governments to be representative and consultative body in respect of all matters concerning local government and to make representations to both provincial and national governments in respect of any matter concerning local government”*.

Intergovernmental relations or cooperative governance is also Constitutionally enshrined in South Africa. Chapter three of the Constitution states that all three spheres (national, provincial and local) *“must cooperate with one another in mutual trust and good faith by ... assisting and supporting one another; and informing one another of, and consulting one another on, matters of common interest ... ”*.

Operationally, this entire Constitutional and legal framework has seen organised local government’s participation (i.e.) in the National Council of Provinces and various other inter-governmental

¹⁰ Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)

¹¹ See SALGA website: www.salga.org.za

structures. The most important intergovernmental structure is the Presidents Coordinating Council, which consists of the President, key national Ministries, Premiers of all nine Provinces and SALGA.

In 2003 an Inter-Governmental Relations Act was passed which legally regulated these inter-governmental structures at a national, provincial and local government level. Local government participates in all these structures. Notably all the inter-governmental structures do not have a legislative or executive status, but are advisory and consultative in nature.

Again there are key lessons for the envisaged High Council of Local Governments from South Africa. One of these is that organised local government is represented in the national Parliament and participates as non-voting members in the National Council of Provinces.

3.2 Status and Role of (Organised) Local Government at a Regional (sub-continental) Level in Africa

The AU recognises eight (8) Regional Economic Communities (RECs):

- a) Arab Maghreb Union (UMA)
- b) Common Market for Eastern and Southern African (COMESA)
- c) Community of Sahel-Saharan States (CEN-SAD)
- d) East African Community (EAC)
- e) Economic Community of Central African States (ECCAS)
- f) Economic Community of West African States (ECOWAS)
- g) Intergovernmental Authority on Development (IGAD)
- h) Southern African Development Community (SADC)

Two examples are briefly discussed from East Africa and West Africa regarding the status and role of (organised) local government at this regional level.

3.2.1 East Africa¹²

3.2.1.1 East African Community (EAC)

The East African Community (EAC) is the regional intergovernmental organisation of Burundi, Kenya, Rwanda, Tanzania and Uganda. Its headquarters are in Arusha, Tanzania. The EAC was first established in 1967; it later dissolved in 1977. The Treaty for its establishment was signed in 1999 and it came into force in 2000.

¹² East African Community (EAC) website: www.eac.int

Article 5 of the Treaty¹³ states that “the objectives of the Community shall be to develop policies and programmes aimed at widening and deepening co-operation among partner states in political, economic, social, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs for their mutual benefit”. Other principles include those of “variable geometry”, “equitable distribution of benefits”, “complementarity” and “asymmetry”.

One of the operational principles of the Community is “the principle of subsidiarity with emphasis on multi-level participation and the involvement of wide range of stakeholders in the process of integration”.

Membership to the EAC is limited to countries or States. No provision for membership is made for any other grouping or political entity other than that of a “partner State” or “foreign country”. Furthermore, the Summit of the EAC, which meets annually, is comprised of Heads of State or Government of partner States. The EAC also has a Council, comprising of relevant Ministers of the Partner States, and a Co-ordinating Committee, comprising of relevant Permanent Secretaries of Partner States. The Council is the Policy Organ of the EAC and initiates and submits Bills to the Assembly and implements decisions of the Summit.

The East African Legislative Assembly (EALA) is the legislative arm of the EAC. It comprises of 27 members who are elected by the National Assemblies or Parliaments of the Partner States. The EALA has important oversight functions and approves the budget of the EAC. It also makes recommendations to the Council.

3.2.1.2 East African Local Government Association (EALGA)¹⁴

The East African Local Government Association is the umbrella organisation for the national associations of local governments in Rwanda (RALGA), Tanzania (ALAT), Uganda (ULGA), Kenya (ALGAK) and Burundi (ABELO).

The primary objective of EALGA is to advocate for and represent the interests of local governments in East Africa. Key priorities of EALGA include supporting and strengthening national associations, promoting democracy, undertaking policy research and advocacy, promoting better intergovernmental relations and supporting local economic development.

It is noteworthy that EALGA is guided by the Societies Act of Tanzania.¹⁵

The two key structures of EALGA are the Governing Council and the Executive Committee. The Governing Council is the highest decision making structure. The Executive Committee has four (4) sub-committees: Policy; Communication, Information and Research; Finance; and Legal and Administrative. EALGA has a Secretariat which is the administrative organ.

¹³ EAC (2007) **Treaty for Establishment of the East African Community** (as amended on 14th December 2006 and 20th August 2007)

¹⁴ EALGA website: www.ealga.org

¹⁵ Kimaro MEG (2009) **EALGA: Presentation and Discussion on Recent Activities**, Arusha, Tanzania

A number of reasons are advanced by EALGA for the mobilisation of local authorities at a regional level:

- a) Firstly local authorities are found in all countries in the EAC. It is argued that *“EALGA considers local authorities, national associations of local government authorities and the umbrella organisation at the regional level as key vehicles in ensuring success in the dissemination process”*. EALGA argues that ownership of the EAC should be entrenched at a level by ordinary people.
- b) Harmonisation of laws of cooperating states impact on local authorities, since they develop by-laws flowing from national legislation;
- c) The enforcement of bylaws impact on small and medium sized business who fall within the jurisdiction of local authorities;
- d) The movement of persons, regulation of business activities at the local level all impact on the investor and the movement of goods across common borders; and
- e) Generally the view is that there is a need to improve the local authority to deliver at the local level for the communities to benefit from co-operation at the regional level.

EALGA has been interacting with the EAC on a number of initiatives in recent years:

- a) In 2008 an interesting study was undertaken with the support of GTZ-SULGO to research the *“Impact of the Common Market Protocol on Local Government in Partner States”*. Key findings were presented to the EAC in a High Level Task Force Committee.
- b) Another interesting EALGA study undertaken was a sensitization project in partner states in the region on *“the role of local governments in the integration process of the EAC”*. The impact of the study was that a task force was established at the EAC which incorporated EALGA and other organisations in the region on outreach activities. EALGA now appears on the EAC activity calendar. Also preparation of a manual on sensitization is underway.
- c) In 2010 EALGA worked on a process to establish a Sectoral Committee on Local Governments at the EAC. The intention was to have this as a desk where all matters of local government are referred to by the EAC.

3.2.1.3 East Africa Local Government Forum (EALGF)

In May 2012 in Kigali, Rwanda, the EAC agreed to establish a Local Government Forum for Eastern Africa to discuss decentralisation within the region with the aim of strengthening local government. The meeting comprised of local government Ministers and representatives of local government.

The Kigali Statement¹⁶ issued by this meeting proposed that the new Forum meet at least once a year and *“will provide leadership and a platform for closer regional cooperation and joint working to strengthen decentralisation, and local government’s role as the key entry point for sustainable local development and meeting the MDGs in the region”*.

¹⁶ **Kigali Statement on Strengthening Local Government in Eastern Africa**; Meeting of Local Government Ministers from Eastern Africa (4-5 May 2011, Kigali, Rwanda)

The Statement went further to recommend *“that an institutional relationship between the EAC and Ministers of local government from the EAC countries should also be progressed to reinforce the work of this Forum”*.

On the 24-25 September 2012 the inaugural meeting of the East Africa Local Government Forum took place in Arusha, Tanzania. This Forum is constituted as a network of key stakeholders from central and local government promoting decentralisation that will work with key development partners in the EAC.

Furthermore *“the Forum will work closely with the EAC to make sure that local government is established as an established sphere of government within the EAC and debate policy issues on decentralisation as well exchanging knowledge, information and best practices in the region and beyond”*¹⁷.

The EALGF comprises of¹⁸:

- i. Ministers responsible for local government
- ii. Permanent Secretaries responsible for local government
- iii. Presidents / Chairpersons of country local government associations
- iv. Secretary General of country local government associations
- v. President and Chairperson of the EALGA
- vi. Commonwealth Local Government Forum (CLGF)
- vii. United Cities and Local Government – Africa (UCLGA)
- viii. United Nations Development Programme (UNDP)
- ix. United Nations Capital Development Fund (UNCDF)
- x. International Development Agencies

Clearly there are lessons that can be learnt from East Africa for the discussion on the proposed African High Council of Local Governments (will address this in section 4). In general, it seems that this region is making concerted efforts to organise the collective voice of local government in all its manifestations so that decentralisation is central to the deliberations of the highest policy organ, i.e. the EAC.

3.2.2 West Africa

3.2.2.1 Economic Community of West African States (ECOWAS)¹⁹

The Economic Community of West African States (ECOWAS) is recognised by the AU as a Regional Economic Community in Africa. It consists of 15 West African States that was founded in 1975 by the Treaty of Lagos. Its purpose is to promote economic integration in *“all fields of economic activity,*

¹⁷ See CLGF website: www.clgf.org (News Section)

¹⁸ See CLGF website: www.clgf.org (News Section)

¹⁹ See ECOWAS website: www.comm.ecowas.int

*particularly industry, transport, telecommunications, energy, agriculture, natural resources, commerce, monetary and financial questions, social and cultural matters”.*²⁰

The headquarters of ECOWAS is in Abuja, Nigeria. The two key implementation bodies of ECOWAS are the ECOWAS Commission and the ECOWAS Bank for Investment and Development. Other key bodies include the Community Parliament and the Community Court of Justice.

It is in this context that the West African Economic Monetary Union (WAEMU / UEMOA) should be considered.

3.2.2.2 West African Economic Monetary Union (WAEMU / UEMOA)

The West African Economic Monetary Union is the customs and currency union between eight (8) members of ECOWAS. It was founded in 1994 with the signing of the Treaty of Dakar in response to the devaluation of the common currency, the CFA Franc. The first Summit of Heads of State took place in 1996 and by 2003 the Parliament of WAEMU was created.

The headquarters of WAEMU is in Ouagadougou, Burkina Faso. ECOWAS and WAEMU have created a common approach on trade liberalisation and macroeconomic policy in the region.

3.2.2.3 West African Economic Monetary Union Council of Local Governments (WAEMU-CLG)

In May 2011 the WAEMU Council of Local Governments (CLG) was established by the Summit of the Heads of State and Government.²¹

The background to this body stems from an initiative by the UCLGA, which was later taken on by organised local government in the region. It was partly inspired by the Committee of Regions of the EU and its purpose was to have a greater say on matters of local government and decentralisation within WAEMU. The specific purpose of the CLG is to consider all issues that are likely to have an impact on local government arising from WAEMU decisions. It should be noted that the French government played a key support role in this process.

A number of processes lead up the formation of the CLG. Part of this background included a regional meeting in 2010 by the WAEMU Commission ‘s Department of Regional Development, Transport and

²⁰ See ECOWAS website: www.comm.ecowas.int

²¹ French Ministry of Foreign Affairs (2012) **French Support for Decentralisation and Democratic Local Governance Processes**, Directorate-General of Global Affairs, Development and Partnerships, Paris

Tourism. A key objective of that meeting was to “*make proposals and concrete operational recommendations for the design of a roadmap for the local government’s platform*”²².

The debate of the meeting centred on the need to establish a Local Governments Board in the region. This Board would be a platform of national associations in the WAEMU area and its purpose would be to foster greater cooperation between the WAEMU Commission, member states and local authorities.

Key ideas at the time included that the Local Government Board should have the following features:

- a) It should be an institutional body representing all levels of authority in member states (regions, county councils, rural and urban councils) that fosters the actual involvement of local governments in the regional integration process and support the deepening of decentralisation;
- b) It should be a truly functional body;
- c) It should link local authorities around common values and projects and favour a wider articulation of levels of intervention (local, regional, national, community and beyond);
- d) 30% of seats in the Board should be reserved for women in the WAEMU Board, both at a political and technical level; and
- e) An appeal was made to the WAEMU diaspora to create conditions for their full and active participation in the regional development process.

The Conference concluded that the Board should be set up urgently. This Conference had Ministers for local government and various local government officials in attendance. The final Declaration²³ made the following call; these included:

- i. WAEMU should move from being a Union of States to a Union of Peoples;
- ii. The Conference supported the establishment of a Local Government Board, which would be a community advisory body charged with mainly reflecting on the views of local governments and the peoples they represent concerning WAEMU’s policies and strategies; and
- iii. It also supported the setting up of a local government observatory within the WAEMU area.

Again it is clear that a number of lessons can be gleaned from West Africa as it relates to proposed establishment of the continental High Council of Local Authorities. Key amongst these is the call to make the highest political organ of the region a Union of “Peoples” and not “States”.

²² See AMCOD website (www.amcod.info) for the *Summary Report of the WAEMU Commission’s Department of Community Regional Development, Transport and Tourism of the Regional Conference held 8-10 June in Burkina Faso*.

²³ See Declaration of the WAEMU Commission 2010 Conference on the AMCOD website (www.amcod.info)

3.3 Status and Role of Organised Local Government at a Continental Level: Case of Europe

There are two distinctive but complementary bodies that currently operate at a continental -wide political sovereign state level: Council of Europe (CoE) and European Union (EU).²⁴ It has been argued that the main difference is that the latter (i.e.EU) is a political and economic body that operates as one big nation in the world market, while the former (i.e. Council of Europe) is more like a UN-like governing body, handling human rights issues etc.²⁵ The Council of Europe was founded in 1949 and consists of 47 states. The European Union was established on the basis of Maastricht Treaty of 1993; it has 27 member states.

It is in this context that the long history of organising local authorities at a European continental level should be understood.

3.3.1 Congress of the Council of Europe (Congress of Local and Regional Authorities of the Council of Europe – CLRA)²⁶

This body falls under the Council of Europe. In 1957 the Conference of Local Authorities was established in Strasbourg (France). In 1975 this body was extended to include regions and became the Conference of Local and Regional Authorities in Europe. By 1985 it adopted an European Charter of Local Self Government which was replaced by the adoption of a new Charter in 2007.

The main *purpose* of the Congress is to represent local and regional authorities from member states in Europe. Its primary purpose is to be the watchdog of local and grassroots democracy in Europe and advances the devolution of power to the local and regional tiers of government. It acts as the voice of Europe's 200 000 regions and local authorities and provides a forum where elected officials can discuss issues of common interest. It adopts resolutions and opinions which are then submitted to various political and statutory bodies in Europe, e.g. Committee of the Ministers.

Key activities and achievements of the Congress include the monitoring of local democracy and regional and local elections across Europe. The Congress actively promotes the establishment of national and regional associations of local authorities. Training programmes are developed to build the capacity of local authorities in Europe. It has also adopted a range of Conventions and Charters, such as the European Outline Convention on Transfrontier Cooperation and the European Urban Charter II. The European Charter on Local Self Government lays down common European standards for protecting and developing local authorities rights and freedoms. A total of 45 of the 47 European member states have ratified the Charter.

²⁴ See article on "The European Union and the Council of Europe"
www.uaces.org/pdf/papers/0801/2008_Bond.pdf

²⁵ See website on "answers.yahoo.com/question/index ..."

²⁶ See website: www.coe.int/congress

The *structure* and *composition* of the Congress is represented by Europe's 47 member states. It comprises of two chambers:

- Chamber of Local Authorities; and
- Chamber of Regions.

A total of 636 members constitute the two chambers. The President of the Congress is elected in turn from each of the chambers. Two plenary sessions of the Congress takes place each year. Congress members are divided into four political groupings:

- a) Independent and Liberal Democratic Group
- b) European Peoples Party and Christian Democrats Group
- c) Socialist Group
- d) European Conservatives and Reformists Group

A Statutory Forum exists that comprises of the heads of all national delegations and 17 members of a Bureau that acts on behalf of Congress between sessions. The Permanent Secretariat is elected for a 5 year term. It is located in Strasbourg.

The *status* of the Congress was affirmed in 2005 at the Warsaw Summit of the Council of Europe's Heads of State and Government meeting. In 2011 the Committee of Ministers of the Congress adopted a resolution that clarified the latter's role as "*a consultative organ composed of the representatives of local and regional authorities*".

In 2005 the Congress and the Committee of Regions (of the EU – see below) signed a cooperation agreement. This purpose of the agreement was aimed at "*advancing local and regional democracy, devolution and self-governance in Europe and guaranteeing the respect of established local and regional competencies by national and European authorities.*" In 2007 the Council of Europe and the EU signed a memorandum of understanding which stresses the need for the two organisations to work closely together.

3.3.2 Committee of Regions (an organ of the European Union)²⁷

The *purpose* of the Committee of Regions (CoR) is to be an advisory body representing and acting as the voice of local and regional authorities in the European Union. It was established in 1994 under the Maastricht Treaty. A key function of the CoR is to articulate views from the perspective of local and regional authorities on EU legislation. All EU institutions are obliged to consult the CoR throughout the legislative process. Key principles that inform the work of the Committee are subsidiarity, proximity and partnership.

The key *activities* of the CoR centre on its consultation role. It therefore issues many opinions and proposals on matters that affect local and regional governments. In addition it organises

²⁷ See websites: <http://europa.eu>; www.civitas.org;

conferences and meetings for regional organisations and supervises two structural funds, i.e. Regional Development Fund and Cohesion Fund.

The *structure* and *composition* of the Committee brings together elected local and regional government in Europe from the EU. The CoR is based in Brussels (Belgium) and has 344 members that broadly reflect the population of their individual countries. The CoR comprises of 27 national delegations from all EU countries. The overall representatives are divided into four political groups:

- a) European People's Party;
- a) Party of European Socialists;
- b) Alliance of Liberals and Democrats for Europe; and
- c) The European Alliance.

The members work in six Commissions:

- a) Territorial Cohesion;
- b) Economic and Social Policy;
- c) Education, Youth and Research;
- d) Environment, Climate Change and Energy;
- e) Citizenship, Governance, Institutional and External Affairs; and
- f) Natural Resources.

The CoR has five plenary sessions a year whereby they make recommendations to the European Commission and Parliament. A President and two Vice Presidents are elected every two years and a Bureau with a small secretariat implements decisions. The Secretary General is appointed for a five year term by the Bureau.

The *status* of the CoR is that of a consultative body. The Lisbon Treaty of 2007 strengthened the role of CoR by obliging the EU to consult it throughout the legislative process. This consultation is required of the European Commission, the European Council and the European Parliament. However, the EU is not obliged to accept or adopt the views of the CoR. Of significance, the Committee has gained the right to approach the European Court of Justice, since the Lisbon Treaty, to raise matters concerning adherence to key principles of subsidiarity and proportionality.

An *assessment of the relevance and effectiveness* of the CoR brings up different views. A recent academic article²⁸ argued that the CoR is “able to influence legislative decisions of the Commission one-third of the time” in particular in the area of influence on regions. This study assessed 60 Commission legislative proposals between 1996 and 2007 and found that CoR amendments were more likely to be approved by the Commission when the previous year's Eurobarometer survey showed public dissatisfaction.

According to another view, Civitas²⁹ (i.e. the Institute for Study of Civil Society) the CoR has the following advantages and disadvantages:

²⁸ Neshkova, M (2010) “How Influential is the EU's Committee of Regions? *Journal of European Public Policy* 8/2010

²⁹ www.civitas.org

Advantages:

- a) The Committee of the Regions is a positive effort to bring EU decisions closer to the European public.
- b) Because it is made up of local elected representatives, it has democratic legitimacy.
- c) Because member states' political and cultural models vary hugely, it is useful to have a place where community leaders from different places can meet and discuss common problems.

Disadvantages:

- a) The idea that the EU is made up of 'regions' and not countries is dangerous because it challenges the idea of the nation state. It is a way of creating deeper EU integration through by-passing national governments.
- b) Since it was established, the CoR has been pushing to get more power and be recognised as an EU institution. This would just create yet more EU bureaucracy and expense.

It has been argued³⁰ that 50% of EU citizens believe that their locally and regionally elected representatives are better able to represent them at an EU level. It is further estimated that 70% of EU legislation has direct regional and local impact.

4. OBSERVATIONS AND LESSONS

A number of insights can be drawn from the case studies above regarding the position, status and role given to local government at various levels of governance. Five broad observations can be noted:

4.1 Emerging Global Consensus on the Relevance of Local Government

The current global, European and African discourse on governance increasingly gives due recognition to the critical importance of local authorities and local governments in strengthening local democracy, advancing sustainable development and complementing other levels of governance.

The literature is replete with countless examples of how this local sphere of governance can and is making a qualitative difference in deepening democratic governance in countries and in regions. Furthermore local authorities are central in providing basic public services and therefore improving the lives of people, especially the poor and most vulnerable. The case studies from Mali, Tanzania, South Africa, the East African Community, the West African Monetary Union and Europe all reinforce this pivotal position given to local authorities in creating a more just, democratic and equitable world. In Europe this is most clearly expressed in the adoption of an *European Charter on Local Self*

³⁰ <http://cor.europa.eu/en/about/pages/key-facts.aspx>

Government as early 1985, while at a global level the UNHABITAT has adopted the *International Guidelines on Decentralization* in 2007.

Where diversity and asymmetry manifests itself is in the policy, Constitutional and legal texts of sovereign States, regional political and economic formations and also at a global level, such as the United Nations. This diversity in political reasoning largely does not detract from the broad emerging global consensus that local authorities and local governments are indispensable as recognised key players in the governance frameworks at multiple levels and scales, i.e. for multi-level governance.

The gains made in entrenching the position and role of local government in Africa was captured earlier.

4.2 Diversity in the Nature of Institutional Platforms and Configurations Accommodating Local Government

The case studies also show that the manner in which local authorities have been recognised and given institutional expression differs between countries, regions within Africa and within Europe.

The main categories of institutional diversity which illustrate how local government is recognised and given a voice are:

- a) Establishment of *Advisory Forums* and structures that take on different permutations;
- b) Establishment of *organs that bring together Ministers responsible for decentralisation* and local authorities;
- c) Establishment of *organised local government and local authorities associations* and formations;
- d) Establishment of *regional (i.e. trans-national) local government formations* that also take on different forms.

The diversity in institutional platforms is informed by various motivations. UNACLA, at the global level, brings together organised local formations, politicians and experts to advise the UNHABITAT on local government related matters at an international level. The strategic priorities for UCLG for 2010-2016 emphasises the importance of “*achieving recognition of UCLG as the voice of the local and regional government movement*” globally. UCLG argues for a “*special status*” to be granted to it and commits to “*enhance UCLG’s role in UNACLA*”³¹.

AMCOD comprises exclusively of Ministers; the rationale being that they represent each of the 54 sovereign States and bring together the interests of their Members States and that of local government in general in Africa. Organised local government formations such as ULGA, EALGA, ALAT and AMM are motivated by the primary considerations of being the unmediated voice and representative organ of local authorities of their members.

³¹ UCLG Strategies Priorities: 2010 – 2016 (see website: www.cities-localgovernments.org)

The key determinants in the diversity of institutional platforms stem from its membership base and the primary roles assigned to these various formations.

4.3 Asymmetry in the Political and Legal Status Accorded to Institutional Platforms

The status given to the various bodies representing and/or accommodating local government is also diverse.

One principle informs all these different institutional platforms, i.e. in all instances they are not accorded the same status and position as that of sovereign states or central governments. In other words, whether it be at a country level, a regional level, a continental level or even at a global level, local governments are not regarded to be on par with central governments or the sovereign state.

Given this common point of departure, these various bodies do assume a different a political, legal and corporate status:

- a) *Corporate entities*: All the bodies in the case studies are established or recognised in terms of some conventions, protocol, policy position, legal instrument and/or resolution of a legitimate “higher” governance body. In this sense they are entities that have a legal and corporate identity.
- b) *Advisory in nature*: Most bodies have an advisory status. In other words they exist to advise and give opinions to another body, i.e. Council of Regions advises and provides opinions to the European Union Parliament and Commission.
- c) *Consultative bodies*: It not clear whether all bodies have a “mandatory consultative” status. This is certainly the case of Mali where the Constitution obliges central government to consult with the High Council of Local Governments on matters affecting local government. However all the institutional bodies in the case studies are regarded as pivotal bodies to consult with regarding matters of local government.
- d) *Civil society status*: In the case of Tanzania, ALAT is established in terms of the Societies Act of 2002. It therefore seems that the status given to organised local government in that country is that of a civil society organisation. At the level of the UN, organised local government has also been battling to shed its perceived status as that of a “non-governmental” stakeholder and partner.
- e) *Local sphere of government*: In South Africa, organised local government is regulated by an injunction from the Constitution. A separate and dedicated piece of legislation provides for the legal basis and status of SALGA.
- f) *Non-legislative and non-executive status*: The case studies show that most of the bodies which accommodate local government do not have the power and authority to enact legislation or assume the status and role of an executing arm of government. This is the case in both Mali with the High Council of Local Governments and also in South Africa with the Presidents Coordinating Council. The one exception is the National Council of Provinces in

South Africa, where organised local government (i.e. SALGA) is legally represented as a non-voting member of this second Chamber of the national parliament.

- g) *Right to Appeal to a Judicial Entity*: The status of local government is significantly entrenched in Europe with the explicit right of the Congress of Regions to appeal any decision of the European Union to the European Court of Justice on any matter it feels violates the principles associated with the European Charter of Local Self-Government, e.g. subsidiarity.

4.4 Predominance of Representative, Advisory and Support-Related of Roles and Functions

The key main roles and responsibilities of the various institutional platforms accommodating local government centre on the following: representative and advocacy role; advisory role; and support role.

Relevant examples of the key roles and functions that most of these bodies perform include the following:

- a) *Representative and Advocacy Role*: Bodies such as the Congress of Local and Regional Authorities in Europe, UCLGA, EALGA, ABELO and ALAT etc. are primarily there to represent, lobby and advocate on behalf of local authorities in general and their members in particular. The adoption of Charters and Conventions is central to this advocacy role, e.g. European Urban Charter II by the Congress of Local and Regional Authorities.
- b) *Advisory Role*: Closely linked to the above role is that of performing an advisory role. The Congress of Regions in Europe, the East Africa Local Government Forum, and the West African Monetary Union Council of Local Governments are continental and regional examples. These roles lead to the regular submission of opinions and resolutions to the relevant law- and policy-making bodies. The other example is that UNACLA performs the role of providing expert advice to UNHABITAT on matter affecting local authorities. In 2010 the Executive Director of UN-HABITAT, Dr Joan Clos, is reported to be supportive of the advisory role of UNACLA. His view was that “*he would like a strong UNACLA which will bring the voice of local authorities to the General Assembly of the UN*”.³²
- c) *Support Role*: These bodies perform a range of support functions such as,
- i. monitoring of local democracy and local elections (e.g. Congress of Local and Regional Authorities in Europe)
 - ii. provision of training to members (e.g. ALAT),
 - iii. undertaking joint studies with the “higher” governance structures (e.g. EALGA and the EAC),
 - iv. managing Structural Funds (e.g. Council of Regions in Europe manages the Regional Development Fund and the Cohesion Fund),
 - v. promoting regional integration (e.g. WAEMU Council of Local Governments),
 - vi. exchanging knowledge and best practice (e.g. UCLG – GOLD reports),

³² UNACLA Minutes, 18 November 2010, Salon de Directores, Palacio de Minería, Mexico City.

- vii. assuming the role of employer bodies (e.g. SALGA), and
- viii. participate in law-making (e.g. Committee of Regions in Europe and SALGA's participation in the national parliamentary process)
- ix. assisting with dispute resolutions (e.g. ALAT)

4.5 Formalised Institutional Arrangements and Codified Modus Operandi

The institutional arrangements of the various bodies are aimed at suiting their mandate and purpose. Key observations include the following:

- a) *Global Level Institutional Arrangements*: At a global level the UN, through UNHABITAT, established the UN Advisory Committee of Local Government (UNACLA). In 2010 this body consisted of 20 people who are elected for three years. The key consideration was to have high profile Mayors from around the world who were committed to contribute to the status and substance of UNACLA.³³ UCLG at the time made ten nominations to include one nominee per regional section, one from Metropolis, and the President and Vice-Presidents. Presently UNACLA has 35 members. It meets twice a year and convenes special events such as conferences.³⁴
- b) *Continental Level Institutional Arrangements (observations from Europe)*: As noted earlier, there are two structures representing local authorities in Europe at a continental level. It seems that the EU has a working relationship with both bodies, notwithstanding the preferential status of the Committee of Regions. There are some similarities, but also key differences. The following key issues can be highlighted:
 - i. Both are formalised bodies with clear structures that accommodate its members. The Congress of Local and Regional Authorities accommodates both local authorities and regional governments in two separate chambers (.i.e. Chamber of Local Authorities and Chamber of Regions).
 - ii. The Congress represents 47 European States as members, many who are not formally part of the EU. The Committee of Regions falls directly within the ambit of the European Union. It represents 27 national delegations from EU countries.
 - iii. Plenary sessions of the Congress take place twice a year, while the Committee of Regions convenes five plenary sessions annually.
 - iv. Since the members of both structures are local and regional politicians, the members are divided into four broad political groupings.
 - v. There is a single President for the Congress, who is supported by a Permanent Secretariat that is elected on a 5 year basis. The Committee of Regions elects a President and two Vice Presidents every two years. The Secretary General is

³³ UNACLA Minutes, 23 March 2010 Meeting Held in Rio Janeiro

³⁴ See www.unhabitat.org

appointed for a 5 year term by a Bureau, that reports to the plenary of the Committee.

- vi. The Committee of Regions is divided into 6 Commissions.
- c) *Regional Level Institutional Arrangements:* There are a number of interesting varied and complementary observations from West and East Africa regarding the voice of local government and how it structured:
- i. The East Africa Local Government Forum has a range of members that go beyond Ministers in the region and the EALGA. It includes CLGF, UNCDF, UNDP, and UCLGA etc.
 - ii. The WAEMU Council of Local Government (WAEMU CLG) appears to have local government actors from the West Africa region as members, but excludes other international development partners. What is noteworthy is the explicit inclusion of individuals from the WAEMU diaspora.
 - iii. It is further interesting to note that the WAEMU CLG has a policy bias to making WAEMU a community of “peoples” rather than “states”. The structural and institutional implications of this are unclear.
 - iv. Part of the original thinking of the WAEMU Council of Local Governments was to have at least 30% representation from women at a political and technical level. The current status of this position will need to be confirmed.
 - v. It is unclear what formal relationship exists between the WAEMU Council of Local Governments and ECOWAS, since that latter is recognised by the AU.
 - vi. The latest institutional arrangements of the WAEMU Council of Local Governments and East Africa Local Government Forums are unclear.
- d) *Country Level Institutional Arrangements:* The structure of organised local government associations is broadly common in many African countries. The primary membership is that of local authorities and local governments. In many countries a distinction is made between various level local government and also between urban and rural local authorities.

There are important insights from Mali and South Africa regarding the institutional arrangements of the intergovernmental platforms that accommodate local government:

- i. In Mali the High Council of Local Governments is a national body that represents and is comprised of all sub-national levels of government. As indicated earlier, this High Council is made up of all 8 regional assemblies, the Bamako District and three Malians from abroad. Local government representatives from the regional assemblies come from the District local authorities.
- ii. The members of the High Council are National Counsellors who are elected on a 5 year term. The High Council is located in Bamako.
- iii. In South Africa, the Intergovernmental Relations Act (2003) provides the legislative framework for the establishment of intergovernmental structures where local government is represented. These structures are established and functional at all

- three levels of government³⁵ and are accountable to the executive arms of each level of government.
- iv. Organised local government and municipalities are represented at each level of government in these inter-governmental structures in South Africa. These structures are usually serviced by the relevant “higher” sphere of government and therefore do not have an independent Permanent Secretariat. Since membership is largely regulated, there are no elections of members at the inter-governmental level of the body.
 - v. Finally, the National Council of Provinces (NCOP) in South Africa allows for explicit membership of organised local government, while noting that SALGA has a non-voting status. SALGA participates fully in all political discussions of this second house of parliament.

The overall assessment regarding the functionality and effectiveness of these various institutional platforms and inter-governmental bodies requires closer examination. In general there are cases where the voice of local government is making a difference at a global, continental, regional and country level. There are examples from UNACLA, Europe, EALGA, Tanzania (ALAT), and Mali (the High Council of Local Governments) which support their positive value add in multi-level governance and development.

At the same time as can be seen by the on-going discussions between the UCLG and UN-HABITAT / UNACLA and the limited impact of the Committee of Regions on EU policy process (i.e. only one-third of legislative decisions of the EU Commission are influenced by the Committee of Regions) the position, voice and impact of local government is not yet ideal.

In 1996 a study³⁶ undertaken on the impact of regional and local authorities on EU decision-making (which is now quite dated) argued that the Committee of Regions had a number of structural and operational defects and that overall its impact has been muted:

- Committee of Regions delegates are appointed by EU member States, and not elected.
- This Committee suffers from internal divisions between regions and localities; and
- This Committee has an uneasy relationship with the other EU institutions.

³⁵ Key intergovernmental structures are as follows: national – Presidents Coordinating Council; provincial – Premiers Coordinating Forum; and District – District Coordinating Forum. The names of these bodies differ across the country.

³⁶ Joseph Rowntree Foundation (1996) “*The Impact of Regional and Local Authorities on EU decision making*” Local and Central Government Research Relations 51, October 1996 (www.jrf.org.uk/sites/files/jrf/g51.pdf)

5. STRATEGIC RECOMMENDATIONS AND CONSIDERATIONS

A number of catalytic and strategic issues require attention to hasten the adoption and establishment of a High Council of Local Authorities in Africa. The key high-level strategic recommendations and considerations are:

5.1 Entrench and Strengthen the Policy Position and Role of Local Authorities and Local Governments in the Development Paradigm and Governance Architecture of the African Union

The first task is fundamentally a political task of deepening and broadening the consensus of the position and role of local government in Africa. Notwithstanding the strident gains made by bodies such as AMCOD and UCLGA at a continental level, additional ways and means must be sought to adopt new resolutions, Charters and Conventions etc. that will indelibly locate the role of local governments and local authorities within the African Union.

In this regard the adoption of an African Charter on Decentralisation, Local Development and Local Governance can become the overarching policy instrument that should be the policy foundation and measuring gauge for the unstoppable trajectory of local self-government, local free administration and democratic and developmental local government on the continent.

Regional Economic Communities and individual States in Africa should also urgently advance and deepen the status of this local sphere of government. There are already lessons emerging from the West African Monetary Economic Union Council of Local Governments (WAEMU CLG) and the East African Local Government Forum.

5.2 Establish an Inclusive, Democratic and Well-Resourced Advisory High Council of Local Authorities in Africa

A continental institutional platform that accommodates local authorities and local governments must be inclusive, democratic and well-resourced in order to have credibility and legitimacy. Many principles or indicators can be developed for an effective High Council, only four are highlighted:

- a) *Advisory Status*: The current governance paradigm globally recognises sovereign states as the principal and paramount unit in multi-lateral affairs. The implication of this is that at the level of the AU, the envisaged High Council of Local Authorities cannot have an

equal political and legal status as that accorded to the Pan African Parliament, the AU Assembly nor the AU Commission. It is within this framework that the High Council should be viewed as an advisory body whose main focus is to represent the interest of local authorities on the continent. Specific policy and legal innovations should be found within the AU to that ensure the High Council becomes a mandatory body to consult, which can also be challenged if consultation is deemed to be absent or insufficient.

- b) *Inclusivity*: The High Council must be inclusive of all local authorities on the continent. For example, a political decision can be taken that allows even non-AU members to be represented in the High Council. The position of women must be enshrined in the founding texts of the envisaged High Council. A discussion should be facilitated that starts off with the premise that women should make up 50% of all structures of the High Council. Four additional questions arise. Firstly, in the case of Europe, both the Congress of Local and Regional Authorities and the Committee of Regions represent *both* regional and local authorities in Europe. Should this be the approach adopted for the African High Council of Local Authorities (clearly the name may need to change)? The second question is, given the increasing recognition of “local governance, should provision not be made to include other actors and stakeholders that function at a local level, e.g. traditional and tribal leaders, civil society, community and non-governmental organisations etc.? Thirdly, what position and role, if any, should be given to African Ministers responsible for local government in the envisaged High Council? Finally, how can participants of the African diaspora be accommodated in the High Council?
- c) *Democratic*: The composition and membership of the envisaged High Council must be democratic and representative of all local authorities on the continent. The starting point should be the eight designated Regional Economic Communities (RECs) to structure membership. However, it is suspected that given the diverse nature of local authorities across and within the RECs that additional conceptual categories should be considered to deepen the democratic nature of this new body. For example, if traditional and tribal leaders are accommodated in the High Council should they have the same voting rights as local government representatives? The final composition of the High Council must make provision for a consultative chamber (or chambers) that is conducive and supportive of democratic and meaningful discussions and dialogue at a plenary level.
- d) *Well-Resourced*: Democratic governance has a cost which should be provided for. All the noble intentions of the envisaged High Council will be fruitless if it is not resourced with competent support staff, sufficient funding from members to ensure ownership and accountability, adequate physical infrastructure and equipment to diligently discharge its duties, and technical assistance from development partner institutions who respect the independence of the AU and the core principles of multilateralism and development cooperation.

5.3 Clearly Define the Envisaged Roles and Responsibilities of the High Council of Local Authorities

If the starting premise of the envisaged High Council as an advisory body is accepted, then the two primary roles should be advocacy- and support-related in nature:

- a) *Advocacy Role:* The roles of advocacy and lobbying should be central to the High Council. Its defining relationship with the AU should be one of structured on-going engagement and dialogue. The notions of structured, on-going and *mandatory* reciprocal dialogue on matters of mutual interest is what should separate the High Council from other lobby groups. The nature and form of advice and lobbying should be clearly spelt out in Conventions of both the AU and the High Council. The preparation of formal opinions and Resolutions, as seen in the Congress of Regions, has lessons that should be closely studied.
- b) *Support Role:* As a Pan-African High Council on Local authorities, there are a number of reasons why its role should not be limited to that of advocacy. At the continental level the High Council should be able to anticipate the implications of various AU decisions and proactively support local authorities in embracing the impact. Two obvious examples relate to matters of regional integration and peace-keeping operations that are often associated with refugee camps.

A rich variety of other support roles³⁷ was referred to earlier. What would be necessary is to unclutter and delineate the various support roles that are currently performed by a number of international development organisations and partners, continental bodies (e.g. UCLGA and AMCOD), regional bodies (e.g. EALGA and WAEMU Council of Local Governments), central governments and Ministries responsible for local government, and organised local government formations. This singular role in itself will do much to optimise limited resources and maximise the impact to local authorities across Africa.

6. CONCLUSION

Returning to the fundamental question posed at the outset of this discussion paper, i.e. “*what should be the nature, status and role accorded to local government in the continental governance architecture of the African Union?*”, it is clear that there are lessons from the African continent and from Europe.

³⁷ See section 4.4

Dialogue on the envisaged High Council of Local Authorities must consistently be grounded in the policy discussions of advancing, deepening and protecting the position and role of local government in a progressive and democratic governance paradigm for Africa. We need to learn from everywhere, but make decisions informed by the African reality and African vision for a better and prosperous continent.

End, 20th February 2013