

ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
CENTER FOR AFRICAN AND ORIENTAL STUDIES

AN APPRAISAL OF THE NILE BASIN
COOPERATIVE FRAMEWORK AGREEMENT

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June 2015

**AN APPRAISAL OF THE NILE BASIN
COOPERATIVE FRAMEWORK AGREEMENT**

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**A THESIS SUBMITTED TO THE SCHOOL OF GRADUATE STUDIES OF
ADDISABABA UNIVERSITY IN PARTIAL FULFILMENT OF THE
REQUIRMENT OF THE DEGREE OF MASTER OF ARTS IN AFRICAN
AND ORIENTAL STUDIES WITH SPECIALIZATION IN CITIZENSHIP
AND STATE**

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ACKNOWLEDGMENTS

The completion of this thesis is the result of the immense contribution of many people whom I am indebted to thank them in words, at least. Number one in the list, my heartfelt appreciation goes to my advisor, Tesfaye Tafesse (Dr), who had been supporting me throughout the course of doing this thesis. Had it not been his close follow up and unreserved effort to make this thesis to what it looks today, I couldn't have completed it now. Despite their busy schedule, the support of Fekahmed Negash, Dereje Zeleke (Dr), Hosni Mustafa and Zerubabel Getachew in terms of providing all the required information related to this thesis were hard to forget. Again, because you deserve to be thanked and here I am saying thank you from the bottom of my heart. Finally, by providing courage when I needed the most during the course of doing this thesis, my wife, Wegideresi Hamza was behind, thank you.

Abstract

The utilization of transboundary water resources among the basin states hasn't always been an easy task. The presence of large number of states sharing the river and absence of an agreement determining its use further complicates the already complicated issue of utilization among the basin states. Shared by eleven states, the Nile Basin is one among the basins without any legal and binding agreement determining the utilization of the waters of Nile. Until the establishment of the NBI in 1999 with the objective of ensuring equitable use among the basin states via its future institution of the NRBC, the contribution of the previous bilateral and/or colonially-induced Nile agreements and several other sub-basin institutions toward solving the age old problem of the basin had been very limited. Thus, the main objectives of this study are to evaluate the Nile Basin Cooperative Framework Agreement (CFA), one among the major trucks of the activities of the NBI which is currently waiting the ratification of three more states to have a legal status and to proclaim the establishment of the permanent NRBC. In order to achieve these objectives, the researcher selected Qualitative Research methodology. Information related to the study was gathered from both: primary sources- by interviewing experts, academicians, diplomats and government representatives in the field; and secondary sources- by analyzing books, articles, journals etc. The selection of sample was made based on purposive sampling technique.

The findings of this study revealed that the major problem in the Nile Basin lies not in the scarcity of the available water rather it is the dominance of artificially created hurdles blocking cooperation. The presence of different Nile water agreements in favor of the downstream states is one among the major hurdles that create a privileged downstream group in one hand and unprivileged upstream block on the other. The age old upstream-downstream disagreement has been between aimed at changing and preserving the status quo established by these Nile waters agreements. The findings of this thesis consolidated this argument since it is the rigid position of the downstream states especially Egypt in recognizing the rights of upstream states from a share to the resources of the Nile. In the eyes of the researcher, the unified position and ratification of the remaining signatory states of the CFA will offer strength to challenge the position of downstream states. Thus, unless cooperation mechanism is realized in the Nile Basin, the prevailing situation in the region will pose a threat to the utilization of the waters of the Nile in the future. Though the optimistic beginnings of the NBI in facilitating the implementation of water projects of basin wide importance and the conclusion of the negotiation of the CFA are considered as a big success, the opposition of the downstream states to the CFA is still a big challenge. Once again, the attempt of establishing a basin wide institution with the consent of all member states remained in question if the opposition of the downstream states to the CFA is going continue in the future.

Keywords: Cooperative Framework Agreement, Nile Basin, Watercourse Agreements

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ACRONYM

BCM	Billion Cubic Meters
CFA	Cooperative Framework Agreement on the Nile
CIDA	Canadian International Development Agency
CIE	Interstate Committee of Senegalese River
DRC	Democratic Republic of Congo
EAC	East Africa Community
ENTRO	Eastern Nile Technical Regional Office
ENSAP	Eastern Nile Subsidiary Action Program me
EU	European Union
FAO	Food and Agricultural Organization of the UN
FDRE	Federal Democratic Republic of Ethiopia
GEF	Global Environment Facility
GERD	Great Ethiopian Renaissance Dam
HEP	Hydro Electric Power
HYDROMET	Hydro Meteorological Survey of the Upper Nile Region
IIL	Institute of International Law
IISD	International Institute of Sustainable Development
ILA	International Law Association
ILC	International Law Commission
IMC	Interim Mekong Committee

JMP	Joint Multipurpose Program me
LMB	Lower Mekong Basin
LMS	Lower Mekong States
MRB	Mekong River Basin
MRC	Mekong River Commission
NBI	Nile Basin Initiative
NELSAP	Nile Equatorial Lakes Subsidiary Action Program
NELSAP-CU	Nile Equatorial Lakes Subsidiary Action Program-Coordinating Unit
Nile-COM	Council of Ministers of Water Affairs of the Nile Basin States
Nile-SEC	Nile Basin Secretary
Nile-TAC	Technical Advisory Committee of the Nile Basin
NRBC	Nile River Basin Commission
OERS	Organization of Boundary States of the Senegalese River
OMVS	Organization for the Development of Senegal River
SAC	Sect oral Advisory Committee
SADC	South Africa Development Community
SAP	Subsidiary Action Program me
SAP	Strategic Action Program me
SRB	Senegal River Basin
SVP	Shared Vision Program me
TAC	Technical Advisory Committee

TECCONILE	Technical Cooperation Committee for the Promotion of the Development and Environmental Protection of the Nile
UN	United Nation
UNDP	United Nations Development Program me
UNEP	United Nations Environmental Program me
UNESCAP	United Nations Economic Commission for Asia and the Pacific
WMO	World Metrological Organization

CHAPTER ONE: INTRODUCTION

1.1. BACKGROUND OF THE STUDY

From among the essential things in life, water plays an essential role for the existence of living things in the planet. Water's indispensable role in supporting life is manifested with its importance for irrigation, household and municipal use, and industrial uses. With regard to the availability of this precious "commodity", it is seemingly abundant as it covers over 70 percent of our earth's surface though it is only 3 per cent of the total amount of water on the earth's surface that is fresh and can directly be used for human beings' consumption whereas the remaining 97 per cent is sea water (Karyabwife, 2000:3). Even from the 3 per cent fresh water, only 0.3 per cent is found in rivers and lakes which are available for human consumption whereas the rest are found in distant icecaps and glaciers where easy usage for human consumption is extremely difficult. Surprisingly, the little amount of fresh water available in the rivers and lakes does not signify the level of scarcity to human consumption rather its uneven distribution complicates the issue of water sharing. The latter, in turn, paves the way for conflicts and diplomatic wrangling since some regions and countries are blessed with an excessive amount of fresh water while others are in grave scarcity (Tvedt, 1992 cited in Tesfaye, 2001:1). However, as the most vulnerable to the activities of upstream states, downstream states have little option to rely on force of arms to guarantee the continuation of the flow of a watercourse reaching them. Thus, water scarcity could also be source of cooperation (Wolf, 1998: 256).

Given the fact that most of the rivers and lakes are shared by two or more countries, rivalry among states sharing these water resources is expected realities some of the states depend on water flowing from outside their national boundary. The absence of cooperative framework management for the utilization of most shared watercourses is adding its fuel to the escalation of existed rivalries' as there is no mechanism of resolving problems among the basin states (Karyabwife, 2000:6). From among the 263 international watercourses throughout the globe, agreement for the utilization of these common resources exists in only 40 percent of them, with 80 percent involving only two countries even in situations where there are other states in the basin (WWF, 2002:5). These problems are also evident in Africa where more than 80 percent of its rivers and Lakes are shared by two or more countries. Therefore, fierce rivalry among states sharing common water resources has been the dominant history of Africa since the beginning of 20th century (Ibid).

The aforementioned problems have also been the basic characteristics' of the Nile Basin states that share the Nile River. The latter is the longest river in the world, traversing 6825 km from south to north following through central, eastern and northern parts of Africa (Cascao, 2012:230). It encompasses eleven countries within the basin viz. Egypt, Sudan, Eritrea, Ethiopia, Uganda, South Sudan, Kenya, Tanzania, Burundi, Rwanda and the Democratic Republic of Congo. The presence of numerous of countries sharing this river coupled with scarcity of water because of uneven water distribution resulted in an upstream-downstream political wrangling that covers the last 100 years of their history. According to Vakkilainem and Varis, the Nile Basin is one of the five regions in the world that is identified as a critical region in the analysis of inter-connection between water, food, poverty, and urbanization (1999 cited in Yassin, 2003:8).

The mistrust that prevailed in the basin necessitated the need to monopolize the water of the Nile by the downstream states which are the most insecure in terms of their water supply. Great Britain on behalf of her colonies viz. Egypt and the Sudan, engaged in a series of bilateral agreements with the upper riparian states where the different tributaries of the Nile originate starting from the last decade of the 19th century till the first half of the 20th century (Corniff, Molden, Peden, and Sileshi, 2012:10). To make things worse, the downstream states were engaged in sharing the water of the Nile among themselves as demonstrated in the 1929 and the 1959 agreements that declared their absolute dominance over the Nile. The economic and strategic importance of Egypt and Sudan to colonial powers contributed for the early developments of irrigation and other related projects in the downstream states. These water related projects enabled the downstream states, especially Egypt, to build better economy that paved the way for being the hydro-hegemony of the Nile Basin in the aftermath of the colonial period (Martens, 2011:5).

However, as a result of both global and regional changes in the decades after independence, the question of equitable utilization has recently been the motto echoed by the upstream states (Martens, 2011:5). Globally, the end of the Cold War reduced the instabilities in the Nile States. The emergence of new global powers widened the opportunity of the upper riparian states access to development funds. Regional factors like the rapidly growing population combined with ecological consequences and the increasing agricultural and industrial development which demands more and more water are aggravating the competition and make the potential for conflict over the Nile waters greater than ever (Tesfaye, 2001:2). Backed by these alternative sources of fund and increased water demand, the upper riparian states have been engaged in a rush to develop

projects along the Nile River, further triggering the opposition from the downstream states. The debates on the legality and recognition of the already contentious bilateral and/or colonially-induced agreements have also been a barrier towards the emergence of a mutual agreement (Ibid). As a region within such developments, the history of the relationship between major Nile basin states is dominated by conflicts, mutual distrust, and competition, that have in turn sown the seeds of disagreement that have been growing in the region with regards to an equitable utilization of their shared water resources.

Brunnee and Toope (2002 cited in Yassin, 2003:7) argue that, “other than conflicts, mistrust and confrontation, the countries of the Nile Basin have another story to be told: a story of growing cooperation among the basin states”. The countries of the Nile Basin had created many venues for cooperation and discussion that attested a transition from the previous bilateral agreements over the Nile toward establishing multilateral organizations. It started with the Hydro Meteorological Survey of the Equatorial Lakes (HYDROMET), to be followed by UNDUGU and Technical Regional Committee for the Promotion of the Development and Environmental Protection of the Nile (TECCONILE) in between the 1960s and beginning of the 1990s. However, lack of mutually agreed objectives and failure to enjoy the active participation of some of the countries of the basin, especially Ethiopia, had acted as stumbling blocks in creating basin wide agreement (Mohammed and Leulseged, 2008:3).

The failure of the previous efforts in forging a basin wide agreement necessitated the establishment of a new initiative in 1999 that brought all the countries sharing the Nile together, i.e. the Nile Basin Initiative (NBI). Its objective is to promote cooperation on the development of Nile basin to the common benefits of all the countries that share its water. NBI is a transitional institutional mechanism which comprises in its objective the task of forging Cooperative Framework Agreement (CFA) that can offer a permanent status to the cooperative institution. Thus, the CFA is a legal and institutional framework, designed to transform the NBI into a permanent Nile Basin Commission (NBC) with expectation to coordinate, guide and facilitate the mechanism of using, managing and protecting the waters of the Nile (Tesfaye, 2011:75).

After arduous and consecutive discussions that had been held throughout the past decades and along with disagreements on some of the articles between the upstream and downstream states of the Nile Basin, the CFA was officially tabled for signature on the 14th of May 2010 at Entebbe,

Uganda. It has got an immediate acceptance by all the upper riparian states, save DRC, and a fierce opposition from the downstream states of Egypt and the Sudan (Nebiyu, 2013). Thus, the CFA is the epicenter of this particular study. The reason behind its establishment, the ups and downs it went through together with the current and future challenges and possible scenarios are going to be analyzed critically in the coming chapter of this study. In order to have a clear understanding of the CFA, the earlier bilateral and/or colonial-induced agreements are discussed in-line with international water laws and conventions and experiences from selected river basins having similar upper and lower riparian states wrangling in the utilization of their common water resources. The policies and strategies of the countries of Nile Basin and other regional and international developments, which are supposed to have an impact upon the signing of this framework agreement, are also included in the study. In a nutshell, the study appraises the Cooperative Framework Agreement (CFA).

1.2. STATEMENT OF THE PROBLEM

Nile is not only the longest but also one of the smallest rivers in terms of its flow in comparison to the flow of other major rivers of the world like the Amazon and Congo. The Nile Basin covers a drainage area of 3.2 million square kilometers which is about one-tenth of the land area of Africa. Almost all of its small annual discharge is generated an area covering only 20 percent of the basin (most of it in the upper basin), while more than half of its water flows through arid and semi-arid regions that have got little or no rainfall. Thus, Egypt and Sudan are dependent on upper riparian states in which a significant number of their population also depends on the waters of the Nile for their survival. Unsurprisingly, due to population growth, development needs and growing water scarcity, upper riparian states have also recently been seeking to utilize the waters of the Nile. Put another way, Nile is a blood line for about 238 million people who reside in the Nile Basin out of the combined Nile countries population of about 437 million (NBI, 2014:1).

Reliance of such a huge number of population over Nile signifies the importance of cooperation among the basin states since Nile is a symbol representing their permanent bondage. Though nature, via the Nile River, established a situation of a life time “marriage” regarding the relationship among the Nile Basin States, the long inter-state history of relation of these states did not represent the expected commitment and spirit of cooperation in utilizing their common water resources. Since antiquity, the fear that upper riparian states, especially, Ethiopia might block the waters of Nile has always been the reason behind Egyptians nervousness. In order to cope up this

age old problem, Egyptians chose to use force in order to control the countries in which the waters of the Nile is coming from. Despite their success in Sudan, Egypt, however, failed to control Ethiopia, the country from where more than 85 percent of the waters of the Nile is originating from, in the 19th century (Verhoeven, Aljazeera 13 Jun 2013).

In the time when controlling the entire region of the Nile Basin by force was proved inconvenient, the geopolitical significance of Egypt and Sudan during the colonial period had been supporting the domination of the basin by these states through a series of treaties orchestrated by the colonial powers in their behalf during the first half of the 20th century (Corniff et al., 2012:10). Even after independence, in addition to concluding bilateral agreements with Sudan, Egypt's paranoia of decreased Nile flow resulting from upstream projects pushed them to secure the continuation of their dominant position via the establishment of sub-basin organizations viz. HYDROMET, Undugu and TECCONILE. Failure to advocate the principle of 'equitable utilization' in their objectives and to enjoy the full participation of the basin states, these initiatives expired before meeting their target (Tamrat, 2009 cited in Dereje, 2014:6). As a relatively strong state in terms of economy, military and good friends of the West, Egypt has also been supporting opposition groups of upper riparian states, more specifically, Ethiopia, part of their strategy to keep these states in civil war so that they couldn't have the capacity to carry out projects that affect the water flowing downstream. Their closeness with the West also allowed Egypt to block the financial request of upper riparian states to construct projects along the Nile.

Parallel to the above strategies, Egypt has also been busy in conducting unilateral projects as part of their ambition to establish 'existing uses' that are acceptable by most international water laws. If upstream states request arbitration regarding the utilization of the water of the Nile, this strategy of Egypt has been aimed at laying foundations that could convince negotiations against these states in the future. Thus, Egypt followed by Sudan has been the states dominating the development of hydraulic projects out of unilateral decisions. The series of dams and irrigation projects in these countries are examples in this regard.

Recently, however, the status of Egypt's hydro-hegemony has begun to be questioned by the hitherto disadvantaged upstream states. As a region that had been suffering from extreme poverty and internal problem in the decades following independence, the stability and high economic growth witnessed in the last two decades has been challenging Egypt's influence in the basin

(Ibrahim, (n.d.):284). Backed by these positive developments, upstream states showed strength when all of them were actively participated to establish a basin wide institution i.e. the NBI in 1999. In order to realize its objective of ‘ensuring equitable utilization and benefit from their common waters’, NBI has been implementing its activities under two tracks of cooperation. Facilitating the realization of short and long term projects that could foster mutual benefit among the basin states represent NBI’s first track of cooperation. Another track of cooperation was facilitating negotiation of the Cooperative Framework Agreement, part of the plan to establish the Nile River Basin Commission (NRBC) after its conclusion and ratification by the states of the basin (<http://www.nilebasin.org> retrieved on 16 May 2015).

It seemed a great success by many when Egypt and Sudan along with the rest of the basin states enshrined the shared vision of the NBI in 1999 stating: “to achieve sustainable socio-economic development through equitable utilization of, and benefit from, the common Nile Basin water resources” (<http://www.nilebasin.org> retrieved on 16 May 2015). However, the process of the negotiation of the framework agreement had been accompanied with challenges, more specifically, from the position of downstream states that aimed at preserving the existed status quo. Growing both in strength and unity, the attempts of upstream states to change this status quo, had been contributing for the gap accompanying the works of the negotiation committee. The fate of the previous bilateral and colonial agreements, the use of terms (Nile River Basin Vs Nile River System), issues on planned measures and the new concept, water security, were the main issues of disagreement during the negotiation of the CFA between the upper and lower basin states of the Nile (Fekahmed Negash, personal communication March 5 2015).¹¹

The process of negotiating the Cooperative Framework Agreement, started when preparatory works are commenced by the Panel of Experts in January 1997, continued through a decade long works of the negotiating committee. Step by step, the negotiation committee had been successful in resolving all issues of the above mentioned issues of disagreement among the states of the basin except the Article on water security as of June 2007 (<http://www.nilebasin.org> retrieved on 15 May 2015). The concept of water security, more specifically, Article 14(b) had been the main source of disagreement throughout the negotiation period. Regarding the construction of water related projects along the Nile, member states would work together “not to significantly affect the water security of any other Nile Basin States”, was the proposal supported by upstream states to be the

¹ Fekahmed Negashi- Executive Director of the Eastern Nile Technical Regional Office (ENTRO). Addis Ababa, Ethiopia

content of the contentious Article 14 (b). Conversely, Egypt and Sudan came up with their own proposal that should replace the content of the same Article worded “not to adversely affect the water security and current uses and rights of any other Nile Basin State”. It was at this stage that the cooperation sentiment that had been reflected from the downstream states during the establishment of the NBI was not deep-rooted. This was evident during the reservation of Egypt and Sudan after upstream states agreed to resolve the disagreement by annexing the Article for resolution by NRBC. Though the downstream states agreed in all other Articles, their refusal to sign even after the exclusion of the contentious Article could led some people to question whether these states acknowledged the rights of other states a share from the benefits of the Nile from the very beginning (Fekahmed Negash, personal communication March 5 2015).

As if they had been thinking the signing of the Draft Agreement, Egypt and Sudan requested to postpone, when upstream states placed for signature during the Ministerial Meetings held in Kinshasa and Sharm el-Sheikh in May 2009 and April 2010 respectively. Tired of such acts, Upstream states finally placed the Agreement for signature as of the 14th of May 2010 at Entebbe, Uganda and remained open for a year. As expected, upstream states, save the DRC, signed the Agreement while Egypt and Sudan have not yet been showing any signs of inclination towards accepting it. So far it was ratified by Ethiopia, Rwanda and Tanzania and waiting others to do the same in order to acquire the support of two-third member states for the Agreement to enjoy legal recognition and to the realization of the establishment of a permanent NRBC (Ibid; [http://.www.nilebasin.org](http://www.nilebasin.org) retrieved on 17 May 2015).

Despite the fact that there are progresses in the ratification of the CFA and hopes of its compilation in the near future, the opposition of downstream states will make the intended future cooperation a challenging task. Let say, the ratification of the remaining signatories will happen soon, the establishment of a permanent Nile River Basin Commission is inevitable. Given the opposition of the downstream states toward such cooperation mechanism, the future relationship of the basin states remained a question. Therefore, the priority of this thesis is appraising the Cooperative Framework Agreement in light of the challenges that have been witnessed and will be through. Besides, developing scenarios’ that will show the different probabilities that the relation among the states of the basin will be heading and the fate of the CFA is attempted to address in this study.

1.3 OBJECTIVES OF THE STUDY

GENERAL OBJECTIVE

The general objective of the study is to appraise the Nile Basin Cooperative Framework Agreement (CFA) from its inception till its present status and the near future scenarios with regard to the success, its challenges, and perspectives.

SPECIFIC OBJECTIVES

The proposed topic has included the following specific objectives:

- Assessing the impact of the different international organizations and super powers upon the Nile basin countries during the signing of the early basin wide agreements to the NBI and the ongoing CFA.
- Comparing the socio-economic, political and military scenarios' of downstream states to upstream states in a time frame and analyzing the impact of the changes of such scenarios' across time in relation to the progress of basin wide agreements on the Nile issue.
- Examining the different international laws and conventions on trans-boundary water in relation to their functionality and impact on the different bilateral and/or colonial agreements signed and the ongoing CFA.
- Analyzing the development of Pre-Cooperative Framework Agreements among the states in the basin and the overall process of CFA from its inception till the current and the near future challenges and predicting possible perspectives.

1.4 RESEARCH QUESTION

The following are some of the questions that this study has tried to answer:

- How is the CFA viewed in light of international water laws and power politics?
- What are the basic reasons that are delaying the signing and ratification of a binding agreement among the states of the Nile Basin?
- What impact does the current economic, political and military power of the basin states together with the role of international donors and global super powers upon the ongoing water development projects along the Nile River and the signing of CFA?
- How are the agreements between the states in the Nile basin viewed in comparison to agreements of other basins having similar situation over the utilization of shared water resources?

1.5 SCOPE

The delimitation of this study is the overall evolutionary development of the Cooperative Framework Agreement of the Nile basin. The challenges faced include the attempts of reaching a binding basin wide agreement among the Nile Basin states in the past, present and the near future.

1.6 LIMITATION

Because of the political nature of the subject, access to a concrete truth, other than what is available in the academic area, with regard to the policies and positions of governments of the riparian states remained as limitations. Given the fact that the issue under study is a recent and ongoing one, the difficulty of accessing primary and first hand information could pose a challenge to analyze the issue under consideration better than what has been tried to present in this study.

1.7 SIGNIFICANCE OF THE STUDY

This study is significant by making clear about the complex and series of unsuccessful attempts of establishing a binding agreement on the Nile Basin to the policy makers and negotiators. The findings of this research could offer a profile of the ongoing realities among the protagonists in the process of signing the Cooperative Framework Agreement. Besides, the finding of the study could be helpful for the people living within the region since they have long been exposed to false political motive of their respective countries contrary to the realities on the ground. Above all, since the CFA is still in progress, the finding of this research adds to the debate on the recent developments visible to any concerned body.

1.8 RESEARCH METHODOLOGY

The approach employed in this research is qualitative. Since the priority of this paper is to examine the main challenges that the Cooperative Framework Agreement has gone through together with developing scenarios of future perspectives, reliance on analyzing prevailing documents is unavoidable. In so doing, policy papers and agreements and memorandum of understanding of countries were explored as a primary source. Moreover, in-depth interview was conducted with persons from the Ministry of Foreign Affairs and Sudanese embassy in Ethiopia. In order to undertake a critical assessment of the current state of the CFA, in-depth interview is also conducted with officials from the Eastern Nile Technical Regional Office (ENTRO) and expert from Addis Ababa University. The selection of the interviewees is based on Purposive Sampling.

Moreover, different international water laws, global power politics and international donors come in to play critically in accordance to their relation with and impact upon the CFA of the Nile basin. Besides, country specific information regarding economic, political, military information and policies of the basin states have also being highlighted. Given the fact that Egypt and the Sudan from the downstream states and Ethiopia from upstream states are the principal states representing the age old position on opposite ends on the negotiations for the utilization of the Nile waters, special emphasis is given to them.

In addition, Secondary sources of data such as books, journal articles, magazines, reports, documents of workshops and conferences were utilized. In addition, current issues released through different Medias regarding the Nile basin issues by government officials' experts and websites like "www. nbi.org" are used for the study.

1.9 ORGANIZATION OF THE THESIS

The paper is organized into five chapters. The introductory remarks dealing with the general lay out of the thesis are made in the First Chapter. The second chapter deals with concepts and theories in relation to water related agreements. The historical development of bilateral and/or colonial agreements and attempted basin wide agreements are the focus area in the third chapter. The fourth chapter tried to analyze and explain the main challenges faced in the process of coming up with a basin wide solution in signing the cooperative framework agreement on the Nile Basin. This chapter also tries to come up with a scenario prevailing in the process of the framework and the possible future perspectives. The last chapter provides conclusions and recommendations.

CHAPTER TWO: REVIEW OF RELATED LITERATURE

INTRODUCTION

As noted by Tesfaye (2001:3), “rivers neither know nor respect political boundaries. States, as recent human creations, are rather imposed or grafted on them”. From this explanation one can understand that, rivers, as gifts of nature contrary to states which are recent creations of humans, are flowing in their natural path by crossing the artificially created boundaries of different sovereign states. Due to this reason, the world possesses many transboundary or shared river basins. Put another way, 40 per cent of the population living in various regions of the world depend their basic needs on these rivers. Regionally, Asia stands first by having the largest number of international river basins, i.e., 50, to be followed by America, Africa and Europe having 43, 27 and 20 percents respectively (Kliot, 1994 cited in Tesfaye, 2001:3). Together, a total of more than 300 rivers, 100 lakes and yet to be determined number of aquifers are shared by more than one country worldwide (Salman, 2007:638).

Exacerbated by increasing demand of water due to population growth and changes in the way of life of the population, the question of utilization of these shared watercourses has been a challenging task. To resolve such challenge, the international community has been trying to develop different rules, laws principles determining the guidelines that states should follow in utilizing the resources of shared watercourses. These international rivers or watercourses are given different names by different writers and institutions such as, ‘International Basins’, ‘Transboundary Rivers’, and ‘International Watercourses’. Notwithstanding their differences whether to include the different water resources around the river or not, what one can understand is the fact that the different names given to international rivers are depicting water courses shared by more than one country. As noted by Zerihun (2011 citing Aaron 2008:15), international river is “... a widely shared common property resource used by many countries”. This terminology is selected for the purpose of this research representing the different names of international rivers that are used interchangeably. However, whenever it is necessary to explain and identify each of the different names, the necessary explanation is provided according to the particular context. The following section of the thesis tried to give an overview of the evolutionary development of transboundary watercourse agreements, doctrines and principles.

2.1. CONCEPTUAL FRAMEWORK: UNDERSTANDING THE NATURE OF WATER AGREEMENTS

Being found in a shared way, especially for a resource like water which is vital for economic and social wellbeing of people without any legal framework with regard to its utilization and management, it has always been accompanied by stiff competition among the riparian states. (United Nations Environmental Program (UNEP), 2002:3). What makes matters more complex is when these rivers, more specifically those with a small annual flow in comparison to the needs of the people, are shared among nations, regions, ethnic groups and communities. The physical, political and human interaction within these international river basins have also been responsible in further aggravating the competition and mistrust among the riparian communities, peoples or states if not attempted to establish a harmony among these factors (Ibid).

The competition over transboundary rivers sometimes escalates to minor skirmishes, though the record of major wars have so far been minimum. The mistrust, competition and minor conflicts that had erupted frequently forced nations to look for a solution, chief among them being signing a treaty among riparians' in an attempt to reach a compromise over the utilization of shared rivers. In this regard, basin states had a long experience since distant past. The oldest international water treaty dates back to 2500 BC between the Sumerian states of Lagash and Umma, ending a water dispute over the Tigris River. It is since then that the world witnessed the signing of thousands of water treaties with varying contents up until now. According to FAO, more than 3600 international water treaties dating from as far back as 805 AD to as recent as 1984 had been signed (Ibid:5). Between the years 1820 and 2007, 688 agreements was signed. The focuses of most of these treaties until the beginning of the 19th century were more on the navigational uses of shared water courses among riparian states. This was because of the dominance of navigational uses of international rivers over the non-navigational uses for agrarian life of people and their limited dependency on these shared rivers, most importantly for household and small scale agriculture. In the absence of legal and binding international water law, the small population size and limited dependency of the people to these shared watercourses, supported by treaties, prevent the escalation of disagreements that had erupted in the past toward a major war among riparian countries (Salman, 2007:627).

Though the navigational uses of transboundary rivers had been the focus of most treaties of the past, the beginning of the industrial revolution resulted in a dramatic increase of population, thus, necessitating in a massive movement of goods and peoples across continents in the last quarter of the 18th and beginning of the 19th centuries. This in turn elevated the already established competition among governments and industries over the navigational rights of shared watercourses to its climax. In order to avoid the increasing disagreement emanating as a result of excessive uses of rivers for navigational uses, European countries engaged themselves in establishing rules that determine the rights of riparian states over shared water resources at a regional level. With this motive, a series of Acts and Conventions starting from the beginning of the 19th century had been concluded, including the Act of Congress of Vienna in 1815; the General Act of the Congress of Berlin in 1884-5; the 1919 Treaty of Versailles; and the Barcelona Convention of 1921. The central theme of these Acts, Treaties and Conventions revolved around facilitating the rights of both riparian and non-riparian states navigational uses. These treaties and conventions, though they did not have a legal standing, represent the only available customary water laws that states referred in solving the inter-state disagreements in connection with navigational uses of shared water resources (Salman, 2007:626-627).

In the second half of the 19th century, further advancements in technology and rapid urbanization and industrialization created new interests on water resources. As a result, European countries had been forced to look for other uses of shared watercourse, such as the non-navigational uses of shared water resources for hydropower generation, irrigation agriculture and municipal uses. Such developments necessitated the emergence of different theories and principles regarding the non-navigational uses, apart from navigational uses, reflecting varying state practices on the uses of international rivers and lakes in the late 19th century (Salman, 2007:626-627). The positive developments that had been experienced in the diversification of the contents of these theories were partly because of the emergence of institutions that work on how to utilize and manage international fresh water resources. Regional Accords and Basin Treaties have also been responsible for the mentioned changes by resolving the frequently erupting conflicts over shared water resources among riparian states (UNEP: 4).

At the global level, the international community has developed guiding principles and laws for international freshwater management in the 20th century. More attention was given in developing and refining principles of international freshwater resources. As part of such a move, the work of

two scholarly non-governmental organizations, namely, the Institute of International Law (IIL) and the International Law Commission (ILC) as well as the contribution of the International Law Commission of the UN have a paramount significance. These institutions played a vital role in promulgating general principles and laws governing the utilization and administration of shared water resources with the best example being the 1966 Helsinki Water Rules, the International Law Commission of the UN and the Berlin Rules (Salman, 2007: 625).

Regionally, the different initiatives of regional organizations have further encouraged cooperation among co-riparian in their attempt of negotiation for shared water resources by creating regional specific guidelines. The works of the Organization for Economic Cooperation and Development (OECD), European Union (EU) and the South Africa Development Community (SADC) could be cited as best examples in relation to the establishment of protocols for the protection and management of transboundary watercourses in the last quarter of the 20th century (UNEP, 2002:5).

Though the efforts at both global and regional levels are very important to encourage cooperative spirits among basins states, it is indeed the agreements at the sub-regional basin level that are crucial in solving the real problems on the ground. As stated above, most of the water treaties of the past millennia could be grouped under the category of basin-scale agreements. The major focus of these agreements was determining the rights of riparian states in relation to navigational uses of shared water resources. However, changes in the focus of treaties had been witnessed since the first half of the 19th century by including non-navigational uses of transboundary water resources in addition to the long existing navigational uses in water agreements. Between 1820 and 1984, more than 400 water agreements focusing on different non-navigational uses of transboundary watercourses like irrigation, Hydro Electric Power (HEP), recreation, fishing etc had been signed (UNEP, 2002:5).

With regard to inter-state cooperation, the review of agreements of about 450 international freshwater agreements worldwide covering the years 1820-2007, showed three types of institutional arrangements: (a) no designation of institution to implement the agreement; (b) appointment of plenipotentiaries to facilitate the implementation of the agreement; and (c) establishing joint commission to facilitate inter-state cooperation. In the context of the first one, because of the narrow area of cooperation, countries inclined not to have any body or institutional mechanism whereas other countries also chose such type of institutional arrangements at the

beginning so that they will establish the permanent institution in the future. The best example in this regard is the NBI which began in 1999, continued through tough negotiation until 2007 which in turn results the Nile Basin CFA that calls for the establishment of a Permanent river Basin Commission (UN, 2009:10).

The second type of institutional mechanism, plenipotentiaries is typical for agreements concerning boundary water whereas joint commissions are mostly created to ensure the basin approach in protection and use of transboundary river basins. Currently, international practice showed that the institution for joint commission prevails over the institution of plenipotentiaries. This is due to the more developed structure that joint commissions have, most importantly: a decision making body; executive body; and working or subsidiary bodies. Thus, the practice of existing joint bodies together with the development of international law on the management of transboundary water resources allows for identifying activities within the organization, further increasing the efficiency of joint bodies and contributes to reaching a mature level in cooperation of the riparian states (UN, 2009:38).

Failure of more than half of the international basins without any type of cooperation mechanism signifies the potential for conflicts among riparian states is still immense. Even those basins which have agreements, implementation and interpretation of those agreements remained a challenge. Under the prevailing worldly developments such as high population growth, industrialization, urbanization, environmental degradation and hydrological variability's, the fear of conflicts in the future is more likely (Salman, 2007:638).

Despite the support given to the different international rules and laws on transboundary rules and laws on transboundary water resources towards the establishment of some form of cooperation among basin states, the contradiction within the meaning and interpretation of the major principles, left the room for the members of the basin to interpret according to their own interest. The 37 incidents of acute conflict out of the approximately 295 international water agreements signed since 1948 consolidated the assumption that shared waters have still the potential for conflicts among riparian states in the future. This reminds the international community to work hard on further refining the major conflicting principles and laws available in the current laws on transboundary waters (UNEP, 2002:3).

Out of the many incidents of conflict over transboundary watercourses, the Nile Basin also demonstrated the memory of actual animosity in the past, more importantly between Egypt and Ethiopia. In order to fulfill their economic and political ambition and due to the fear that Ethiopia might block the Nile, Egypt has always been thinking about controlling the former. This intention of Egypt is best explained by Munzinger, the architect of the Egyptian invasion of Ethiopia in the 1870s who said: "...Abyssinia with a disciplined army and administration, and a friend of the European powers is a danger to Egypt; therefore she (Egypt) must either take Abyssinia and Islamize it or retain it in anarchy and misery" (Sven Robenson, 1991:29 cited in Teferi: 2004:20). Therefore, it was to realize such a dream that the Egyptians launched a full scale war against Ethiopia in the last quarter of the 19th century, losing both at Gura and Gundit in 1875 and 1876, respectively at the hands of Ethiopians (Zewde, 1975 cited in Teferi, 2004:20).

Even after the independence of the other basin states and the subsequent denunciations of the previous agreements on the Nile, negatively loaded words and warnings to the extent of military action to any upper riparian country that tried to conduct any kinds of water-related projects have been echoed by the Egyptians. The current exchange of words between Egypt and Ethiopia after the latter's announcement of the construction of the Grand Ethiopian Renaissance Dam (GERD) has been the manifestation of the non-existence of a binding international water law in the basin. On the other hand, it has also made clear what the economic and political power of Egypt could do both at doing what they wish to do and preventing others, thanks to their closeness to the West and other donor institutions. Despite the gaps, the available water laws supported many basins to succeed in their negotiation, at the same time, they also fail to bring that success in other basins where there are differences in economy and political power among basin states like the Nile Basin where the strongest among them, Egypt does according to her interest irrespective of the negative consequence on the other states. Thus, one can raise the question-do these laws and treaties matter? (Zeitoun and Warner, 2006 cited in Martin, 2011:5)

In general, the available rules on shared water resources have been supporting many basin states attempt of negotiation or signing of a treaty for establishing a joint institution that monitors the utilization and management of transboundary water resources. In today's world where demand for water and its related uses are increasing at alarming rate, the role of water laws in governing the behavior of co-basin states is formidable. Besides, the available waters of rivers have recently been decreasing both in quality and quantity, mostly as a result of environmental degradation and

mismanagement. This in turn, worsens the competition for water among many basin states. Had it not been for the immense support of the available water laws, the probability of escalating to major wars might have been more frequent. However, lack of binding effect of these laws opens the room for the strongest states to dominate the smaller ones by carrying out activities on the river as they wish irrespective of the negative consequence upon the other basin states.

Fuelled by the scarcity of shared water resources, the discrepancies in the available rules and principles of different shared water courses both in the area of emphasis, weight of the different factors and above all their failure to have a binding nature open the room for basin states unilateral decisions. Who can come out of this mess profitably is a very simple question. The answer is the one with strong economic, political and military power in addition to being a close ally of the West and their subsidiary financial institution among the basin states. Such states have been successful so far either by utilizing all the water and water related uses of the shared river for themselves without giving due regard to the consequence to other basin states. Whenever their geographical position prevents them from doing harm over others, they managed to prevent other upstream states from any kind of water related projects, here again thanks to weak laws and their power. The following section tries to show the different theories, doctrines, principles and laws regarding transboundary rivers.

2.2. PRINCIPLES AND DOCTRINES REGARDING THE UTILIZATION OF TRANSBOUNDARY WATERCOURSES

With the objective of carving out baselines for the controversial debate of ownership and utilization related problems of shared water resources among riparian states, different water law doctrines, principles and theories have emerged. These include:

(a) the Doctrine of Absolute Territorial Sovereignty

According to this doctrine, a state has an absolute freedom of actions over the portion of an international watercourse that is situated within its territory irrespective of the consequence of such activity across borders. It asserts the right of an upstream state to unrestrained use of the resources within its territory with no regard for adversely affected downstream states. This theory is also called the “Harmon Doctrine”, named after the opinion of United States Attorney General Harmon in an 1895 response to Mexico’s protest against the utilization of the waters of the Rio Grande

whose major tributaries originated in the United States of America (McKinney, D.C., 2011:9). Despite the support of a few authors and upstream states to this doctrine, it is rejected by the majority of international jurists and states who claim its contradiction with international law on the principle of not to cause significant harm. Ethiopia, Kenya and Turkey are in favor of this doctrine mostly because of their upstream geographical position (U.N., 2002:36).

(b) the Doctrine of Absolute Territorial Integrity

This doctrine advocates that the right of changing the natural flow of a river is not given to any member of the riparian states so as to avoid the effect it brings to neighboring states. Hence, states with such geographical position are not only forbidden to stop or to divert the flow within their own territories but also to make use of the water if it causes damage to neighboring countries or preventing others from making proper use of the rivers (Oppenheim 1948 cited in Yacob, 2007:45). By giving the right to ask for uninterrupted flow of water from other riparian states, this doctrine favors downstream states since an upstream state may not utilize the water of an international river within its territory if it causes harm to the downstream states (U.N., 2002:36).

Though this doctrine has been applied to settle disputes between the member states of a federal state, the majority of legal publists and states rejected it due to its inequitable allocation of water resources and biased preference for downstream states. Besides, the little support that this theory has been receiving is partly associated in its failure to require lower riparian states to compensate upstream states for preserving the water. Like the doctrine of Absolute Territorial Sovereignty, this theory also represents an extreme position and thus rarely used to resolve conflicts (U.N., 2002:36).

(c) the Doctrine of Community of Property

This doctrine represents the most progressive of the water right theories. It goes up a step beyond the principle of equitable and reasonable use in that it advances the consideration of the entire basin as one economic and geographic unit by ignoring national boundaries. The attempt to achieve the greatest beneficial use of water possible is however at the cost of equitable distribution and other benefits of the states sharing the common river. Although this theory is regarded as the most efficient for the management of shared water resources and widely favored by international jurists and some state practitioners, its acceptance within the international community is limited. In

other words, this theory stressed the need to consult and cooperate with other riparian states for states who wished to use the water within their jurisdiction (U.N., 2002:39). Thus, the doctrine advocates states to distance themselves from causing unreasonable harm to other members of the riparian's, thus, strictly adheres the application of equitable use by all member states of the basin (Yacob, 2007:46).

(d) the Doctrine of Limited Territorial Sovereignty

This theory asserts that a state can freely use the water resources situated within its territory so long as this utilization does not negatively affect the territory or the interest of another riparian state. Frey (1995 cited in Yacob, 2007:46) argues that this theory forwarded criteria such as prior appropriation, arable land and population so as to share water resources among the riparian states. Wolf and Dinar (1994 cited in Yacob, 2007:46) also suggest that regardless of the country's position in international water course whether as a place of origin or traverses its territory, each riparian state has a stake in determining what measures are adopted within the water course as a whole.

In other words, this doctrine recognizes the reciprocal rights and obligations in the utilization of the water of an international river among riparian states. Despite the acceptance of this theory by the conventional law and international jurisprudence, it has limitation on sovereignty of states as it recognizes the stakes that all riparian states had on their common watercourse. However, some agree the possibility to minimize its limitation on sovereignty can only be filled by an agreement made voluntarily (McKinney, 2011:9).

(e) the Principle of Equitable Utilization

The failure of the two principles (Absolute Territorial Sovereignty and Absolute Territorial Integrity) in resolving transboundary water problems necessitated the emergence of the notion of "equitable and reasonable utilization". The emergence of this principle is the result of an attempt to create a compromise in response to the rejection of the above mentioned principles (McKinnen, 2011:9). Thus, this principle adheres that each riparian state is entitled to a reasonable and equitable share from the different uses of a common watercourse. In other words, it allows all basin states to share sovereignty over resources and their distribution is based on different factors (UN, 2002:38).

The principle of equitable utilization is grounded on the principle of “no significant harm”, where consequences are weighed against benefits gained. However, the relationship between these two principles has been the major area of debate in international water law for the last five decades. The debate and lack of consensus over the relationship of these principles have been manifested despite the extensive works by scholarly non-governmental organizations, namely, the Institute of International Law (IIL), International Law Association (ILA), as well as the works of the International Law Commission (ILC) of the UN. The works of these institutions resulted in some basic international water law rules, such as the Helsinki Rules of 1966, the 1997 UN Watercourse Convention and the Berlin Rules of 2004 (Kibrom, 2011:22).

The details of these international water rules attested the debate and lack of consensus regarding the relationship between the two principles. Art. IV of the 1966 Helsinki Rules states that “each basin state is entitled, within its territory, to a reasonable and equitable share in the beneficial uses of the water of an international drainage basin.” The same rule includes the principle of the no harm rule as one factor to be considered in determining whether it is reasonable and equitable (Art. V). Similarly, Art. 5(1) of the 1997 United Nations Convention on the Law of the Non-Navigational uses of International Watercourses (UN Convention) explains that “watercourse states shall in their respective territories utilize an international watercourse in an equitable and reasonable manner”. The Convention also mentioned the different factors to be considered in determining the equitable and reasonable share among watercourse states. Besides, Art. 7 (1) of the same Convention states that “Watercourse States shall, in utilizing an international watercourse in their territories, take all appropriate measures to prevent the causing of significant harm to other watercourse states.”

Regarding the relationship between the two principles, both the Helsinki Rules and the UN Convention share similar views in their attempt to establish and emphasize the right of each riparian state to an equitable utilization. However, regarding the ‘principle of the obligation not to cause harm’, there is no mention of the “No Harm Rule” in the 1966 Helsinki Rule except just an element among other elements for determining equitable utilization. On the other hand, the UN Convention, though followed similar approach, but added, unlike the Helsinki Rule separately as explained in Art. 7 and thus subordinated the obligation not to cause harm to the principle of equitable and reasonable utilization (Salman, 2007:636).

The relationship between the above-stated two principles has further been complicated by the Berlin Rules of water resources of 2004. Article 12 of the Rules states that:

Basin states shall in their respective territories manage the waters of an international drainage basin in an equitable and reasonable manner having due regard for the obligation not to cause significant harm to other basin states.

Since the term ‘manage’ is defined in Art.3 to include “the development, use, protection, regulation, and control of the waters”, the Berlin Rules obliges each basin state to manage the water of an international drainage basin in an equitable and reasonable manner. This is a deviation from the Helsinki Rules and the UN Convention that establishes and emphasizes the right of each riparian state to a reasonable and equitable utilization. Article 16 of the Berlin Rule addressed significant harm separately by stating that:

Basin States, in managing the water of an international drainage basin, shall refrain from and prevent acts or omissions within their territory that cause significant harm to another basin state having due regard for the right of each basin state to make equitable and reasonable use of the water.

Just like other international laws, the Berlin Rules also give credit to the principle of not causing significant harm. Of course, this principle is widely recognized as a general principle of international law since it is applied in numerous treaties and recognized by international funding agencies. Funding agencies like the World Bank will not offer any kind of financial assistance for projects that may cause appreciable harm to the people and territory of other riparian states of the basin. However, the level and extent of significant harm up on public health, economic productivity and environment of the other state is interpreted differently depending on the position of the state as upstream or downstream (UN, 2002:).

Thus, in general it is possible to conclude that by subjecting each principle to the other, the Berlin Rules present the two principles as equal as opposed to the Helsinki Rules which emphasized the principle of equitable utilization as its cardinal principle and also from the UN Convention that has subordinated the obligation not to cause harm to the principles of equitable and reasonable utilization. Therefore, despite its immense contribution to international water law in clarifying the relationship between the two principles, the Berlin Rules have added their own complication to the already existing confusion in this area (Salman, 2007:637).

(f) the Principle of Prior Notice and Good Faith Negotiation

The implementation of the principles of not to cause significant harm, reasonable and equitable use, and community of interest is materialized when states are further obliged to make timely notification to other states prior to launching water projects. Data and information about the planned projects should be notified to enable the notified state to objectively evaluate the project's potential effect and to make sure whether the project: (a) will cause significant harm to the water resources of another state; and (b) ensures to reasonable and equitable use. When the analysis of the notified state regarding the planned project suggests that significant harm will result from the notified state's action, the states involved have an obligation to jointly verify the finding and to attempt to reach an acceptable solution. Thus, throughout this process, good faith negotiation is required from the notifying state not to proceed with the planned activity until the dispute is resolved or until the notified state has had the time enough to respond to the effects accordingly (UN, 2002:31).

(g) the Helsinki Rules

The Helsinki Rules of 1966 were the first attempt by the international community in preparing codification of the law of international water uses. These rules were developed by the International Law Association (ILA); which is a scholarly non-governmental organization (Kibaogivi, 2002 cited in Zerihun, 2011:19). The Helsinki Rules are praised by the inclusion of the principles of “reasonable and equitable utilization” of the water of an international water course among the riparian states as its water law. However, its failure to explain well with regard to the allocation of surface and ground water, which resulted in conflict between the right of a state to utilize the water within its territories and the resultant harm to other riparian state are some of the shortcomings. In addition, not considering the different factors that determine equitable and reasonable utilization of an international watercourse is also another criticism against the applicability of the Helsinki Rules (Tefaye, 2001:67).

(h) the United Nations Convention

The United Nations Convention on the Law of Non-navigational use of International Water Courses was adopted on 21 May 1997 and entered in to force as of 17 August 2014 (International Institute of Sustainable Development (IISD), 2014:1). The support and/or opposition to these water laws among states demonstrated the lack of unanimity on the issue. The principle of “equitable and reasonable utilization” and the “no harm rules”, continued to have been challenges for the efforts

of the International Law Commission (ILC) as it was also a challenge to the Helsinki Rules (Tesfaye, 2001:68).

Although a number of criterion such as physico-climatic variables and socio-economic parameters and existing and potential uses of a river have been included to come up with “equitable” utilization, its implementation is still a big challenge. This is due to its failure to point out the weight in which each variable are measured and ranked. Such weakness in turn encouraged downstream states like Egypt and Sudan to overplay factors like ‘existing use’, ‘acquired right’ and ‘population dependant on the water course’ while upstream states prioritized factors like ‘contribution of water’, ‘potential uses of watercourse’ and ‘socio economic needs’. Moreover, the provision ‘not to cause significant harm’ added a fuel to the already contending provisions of “equitable and reasonable utilization” that makes things more complex with regards the utilization of waters of international water course (Tesfaye,2001:70).

(i) the Berlin Rules

After the approval of the UN Convention by the General Assembly, The International Law Association planned to further develop international water laws. With this motive, the water resource committee of the International Law Association (ILA) brought to table the Berlin Rules on water resources in 2004 (Fitzmaurice and Gerhard 2005 cited in Zerihun, 2011:22). The major changes included in Berlin Rules as compared to prior attempts were the consideration of the relationship between the principles of “equitable and reasonable utilization” and “no significant harm”. Accordingly, the Berlin Rules subjected the principle of “no significant harm” to the “equitable utilization”. This consideration of the Berlin Rules is a deviation from the Helsinki Rules that focus more on equitable and reasonable utilization and from the 1997 UN Conventions which subordinate the principle of “no significant harm” to “equitable utilization”. In addition, the Berlin Rules also showed deviation in terms of the definition of water related terms and uses “international drainage system”, a deviation from the previous “international watercourse” or “international river basin” (Aaron 2008 cited in Zerihun, 2011:22). Moreover, unlike the previous laws and conventions, the Berlin Rules are applicable to the management of all national and international water including surface or ground. Critics against the Berlin Rules are being directed for the ambiguous terms and concepts resulting from the consideration of the above mentioned principles as equal (Salman, 2007:635).

2.3 ASSESMENT OF THE PRINCIPLES AND LAWS OF TRANSBOUNDARY WATERCOURSES

The major problem of water course dispute among basin states is not in the usage of one of the doctrines rather the existence of these doctrines only in general principles. Thus, countries that engaged in water course dispute may go to any instance holding one of the doctrines that best support their interest. Accordingly, it has become a tradition that downstream states reject the ‘doctrine of Absolute Territorial Sovereignty’, while upstream states the ‘Doctrine of Absolute Territorial Integrity’. The absence of a binding treaty to govern the general and specific terms of shared water hence supposed to be responsible for the divergent situation among riparian states in reaching a solution (Naff, 1996 cited by Yacob, 2007:46).

Despite the acceptance of contemporary principles of “equitable utilization”, in the available international water laws and by riparian states during negotiations, its connection with the other principle of the “no significant harm” compound the already complicated issue. The difference in the priority and weight given to these two principles, as explained in the 1966 Helsinki Rules, the 1997 UN Convention and the 2004 Berlin Rules on Water, clearly demonstrated such ambiguity. The mixes of failure and success in securing agreements that ensure mutual benefit among the states sharing water resources throughout the globe signals both the ambiguity of these water laws and the lack of cooperative spirit among some of the riparian states (Tesfaye, 2011:68).

As a general framework, the available international water laws forwarded the basic principles, notwithstanding their gap that would serve as a reference to ensure the realization of mutual benefit from the common resources. Given the diversely of the hydrological characteristics’ of each basin and variation in the dependence of people to these basin, establishing general principle that could work to all the 300 shared water resources is impossible. Therefore, the remaining task, the commitment of the riparian states is mandatory to put specific basin-focused treaties so as to have a working formula during disagreements over their shared water resources. These agreements could lead to the establishment of Joint River Commission or other forms of institution that have the power of advising or making decisions (Yacob, 2007:47). In the presence of the same International Water Law, the success in establishing such mechanism among the states of the Senegal River Basin and the failure to do the same among the states of the Nile Basin amplified the role of cooperation as a prerequisite to utilize common water resources.

In general, though there are doctrines, conventions and rules on the utilization of shared water resources, its applicability on the ground depends on the willingness of the riparian states to accept and bound by them. Therefore, further negotiation between riparian states is mandatory in addition to the existing doctrines and conventions so as to come up with the best terms of a binding and acceptable legal and institutional framework. Thus, it could be appropriate to suggest that the existing doctrines and conventions by themselves do not result in a cooperative sentiment among the co-riparian states alone. So, negotiation between the riparian states and their subsequent legal or institutional framework on the utilization of shared water resource are the prerequisites so as to let the protagonists the option of taking reference in their attempt of water resource development within the riparian states (Yacob, 2007:48).

2.4 EXPERIENCE OF SELECTIVE RIVER BASINS

2.4.1 Lessons of the Mekong River Basin

From its source in China's Qiughai province, the Mekong River runs half of its total length of over 4800 kilometers through the South-Western region of China. It then flows through Myanmar (Burma), Thailand, Laos, Cambodia and finally meets the South China Sea through the Mekong Delta in the southern region of Vietnam (Baker, 2012:2). From geopolitical landscape perspective, the river is delineated in to an upper and lower basin. The section of the Upper Mekong Basin covering an area of about 200, 000 Square Kilometers is controlled by China and Myanmar (Burma) and is dominated by a series of mountain ranges and gorges that result the river to flow in steep descents and to have swift rapids. The Lower Mekong Basin (LMB), with a catchment area exceeding 600, 000 Square Kilometers, comprises almost all of Cambodia and Lao, one-third of Thailand, and one-fifth of Vietnam (Ringer, Von Braun and Rose grant, 2004:30). Mekong's Basin is home to more than 80 million people. These people depend on the Mekong River for resources ranging from drinking water, fish, transport, irrigation water to the fertile land in the banks and Delta and forest products of its catchment area to Hydropower, which is the river's greatest potential (Baker, 2012:2).

In utilizing the resources of the Mekong, the genuine and exemplary cooperation of the LMB states is the very important lesson that other international basins states should copy. The cooperation that started in the Mekong Committee (1957-1975), continued though the Interim Mekong Committee (IMC) (1975-1995) and the current Mekong River Commission (MRC)

perceived by many as their unique quality. The consistent and continued cooperation spirit, despite the ups and downs of their history of relationship among themselves, resulted in identifying the major tasks that should be done as per their technical and financial capabilities and level of priority and urgency of the activities in their attempt of developing the basin resources. The unwavering commitment to jointly work and utilize their common resource enabled the LMS to effectively use their limited financial and technical resource to investigate the potentials of the water resources of the basin and to plan in the best possible way before disagreements emanated out of the lack of precise information among the basin states (Ringer et al., 2004:40).

The early accomplishment of the basin's activities in their priority and order provides a useful model for any international basin. The success of these orderly achievements of the basin-establishment of joint management, data collection, feasibility studies of both technical and social aspects of development, implementation- represents exemplary operational process that contribute the basin states to work closely even at times of problems among member states. These accomplishments backed the consolidation of the works of the IMC and most importantly contributed for the realizing the diversified scope during the 1995 agreement of the basin states. This new agreement establishing the MRC is unique in its scope to most other international river basin management. It significantly moves away from a narrow view of river management and the development of one or two major economic sectors, to the broad and modern view of integrated, sustainable development of the entire ecosystem. Such kind of mutual and basin wide scope and action enables the basin states to manage and develop their shared river basin in a more responsible way, before it is too late and costly to restore (MRC, 2004:3).

For the relative success of the LMS, the technical and financial contributions of international institution and donors have been very immense. Getting such huge support, only secured as a result of cooperation spirit of the basin states, is a great lesson that other international watercourse states should bear in mind. Especially, for the LMS, developing water projects have been very challenging due to: first, their economy is not sufficient enough to construct water related projects that require ample technical skill and huge financial resources; second, developing projects in a basin without the full recognition of the other riparian states might ended up to a conflict; third, the technical and financial contribution offered to the planning and implementation of the projects might have not realized had it not been the recognition and cooperation of the basin states, which

is the precondition requested by most of the international organizations and donors for their assistance (Le-Huu and Nguyen-Doc, 2003:6).

In addition to the support of various international institutions, the secret behind the success of the LMS is their consideration of the lower basin as a single and unified basin which other international basin should give due attention. This perception led riparian states to allow the construction of any kinds of projects in any part of the basin where it suits so that when completed, the project will serve the other states as well. The peculiar example in this regard is the Nam Ngum Dam, built in Laos to supply nearly 80 per cent of its energy to its neighbor. Other than dams and hydropower development, the strong cooperation of the lower basin states succeeded in the development of irrigated agriculture. Thus, techniques in relation to experimental farms, seed multiplication and fisheries have been enhanced and expanded to most of the basin areas which result the achievement of food self-sufficiency among basin states since the 1980s (Le-Huu and Nguyen-Doc, 2003:6).

Despite the above mentioned strength of the LMS, the discrepancies observed in the basin also provide important experience as well. One major weakness is the lack of inclusiveness in membership. In comparisons to a regime in which all stakeholders are engaged members, a regime that does not include all stakeholders will have a limited scope for policies and actions especially when the regime is dealing with an ecosystem such as river basin. In states with territories within a river basin boundaries, their decision not to be, or are not invited as members of the joint regime, the regime will lack both the legitimacy and scope to manage the entire ecosystem. This is true in the case of the Mekong River Basin where China and Myanmar are not members of the successive joint river basin's administration. Because of the incomplete membership, the Mekong Committee, IMC and MRC are prevented from addressing the basin's problem to the entire basin due to lack of access to data from areas outside its range. In addition, failure to advocate the principles of cooperation among China and Myanmar in their management of the river basin area in their territory results suspicion and fear among the Lower Mekong States (Backer, 2007:46).

The costs of incomplete membership such as mistrust, competition and conflicts are the prices that the other states of the basin are expected to pay in response to the unilateral implementation of projects by states which are not bound to the cooperation and agreements of the basin. The seven dams that China has been constructing along the Lancang-Mekong mainstream without consulting

the other states of the basins demonstrated the consequence of such incomplete membership. The failure to bring upper riparian states in dealing with the issue of Mekong complicates the works of the MRC and the unilateral projects of these states could also result ecological problems in the downstream states. On the other side, the basic reason that makes China to refuse any kind of basin wide cooperation is also the major issue to be understood. Lack of benefit out of cooperation is believed to be responsible for states within an international basin to distance them away from any kinds of request made by other states of the basin aimed at facilitating equitable utilization. Therefore, refusal of China and Myanmar from being a member in the series of joint committees and cooperation attempts of the LMS clarifies the assumption that if countries felt there is no benefit in cooperation, they do not show willingness to participate in any kind of initiative aimed at utilization of resources equitably. This perception is because of China and Myanmar's upstream geographical position which allow them to construct projects as they wish and without worrying about the impacts of other basin states activities upon the quality and quantity of the river's flow (Freeman, 2009:454).

In addition, refusal of China to cooperate with the LMS is also partly emanated from its strong economic, military and political power as compared to the other lower riparian states. These power disparities among the Mekong states reflect the difficulties of negotiation when the negotiating partners are very different in their economy and military power. Besides, difference in the Chinese goal of development that prioritize the development of many dams to support its growing economy's electricity need is another challenge that further widen the gap with the other basin states which also focused in agriculture and fishing. Surprisingly, the available international water laws regarding the utilization and administration of transboundary watercourses offers little support to bring China to the negotiation or to the resolution of the problem (Freeman, 2009:481).

Thus, a close observation on the activities of china reflects: first, whenever a country within an international river basin finds cooperation not beneficiary, it either try not to participate at all or try to lengthen negotiation until compulsory developments or other incentives that pull their attention emerges; second, though there are different modern laws on the utilization of transboundary watercourses, China's refusal to cooperate with other states signals and made clear that the available laws do not contribute much for resolving such kind of disputes so long as there is no willingness on one side of the negotiating partners; third, despite the continuous uproar and opposition of the downstream states, China's unilateral decision in constructing series of dams

along the Mekong and planned the construction of several other reflects the fact that if countries have the military strength and the financial resource enough to carry out large projects, the role of the international community, water laws and the other basin states in preventing such moves and harms to the other basin states are very minimum (Freeman, 2004:454).

From the developments above, one can draw similarity between the Mekong and Nile Basins. Particularly, the difference in economy, military and political power and development need of negotiating partners, the major reason behind the failure of China's active participation with the other states of the Mekong Basin, are also the reason partially responsible for the failure of basin wide cooperation in the Nile Basin. Though the downstream geographical position makes Egypt at the mercy of upstream states entirely to the flow of Nile and hence supposed to be cooperative with them, the relatively strong economy, military and political power is behind Egypt's refusal to cooperate with upstream states. The 1959 agreement between Egypt and the Sudan demonstrates the lack of intention among them to cooperate with the upstream states. Just like China and Myanmar's refusal to cooperate with the LMS, partly understanding the lack of benefit coming out of cooperation, also led Egypt and the Sudan not to actively involved or prevent the emergence of a united stand among the basin states in relation to the utilization of the resources of Nile. This is due to the fact that since the two downstream states utilized the entire flow among themselves, cooperation and making new agreement regarding the utilization of Nile will lead to a lesser flow to the downstream states (Buxton et al., 2003:28).

The other lesson in the Mekong Basin is China's attempt of dividing the unity of the LMS. China inclined to offer financial and technical support to individual states and negotiating with the basin states bilaterally than multilaterally. The main objective of such acts is to influence the poor basin state easily during negotiations and to avoid the strength resulting from the unity of the basin states altogether. In a similar fashion, Egypt, understanding the difficulty of negotiating with all the basin states together, has been active in providing financial and technical support to the equatorial lakes and pioneering the establishment of sub-basin organizations which all aimed at preventing the unity of the upper riparian states. The role of Egypt in HYDROMET, UNDUNGU and in the process of negotiating the CFA demonstrated its tactic of dividing upstream states and diverting them away from the central issue of equitable utilization (Fekahmed Negash, personal communication, March 5, 2015).

After critically analyzing the minimal impact of international water law, international community and the weak LMS opposition upon the damming of China along the Mekong River, some legal scholars recommended to explore the possibility for a non-legal resolution of solving the dispute in the basin through the formation of a Joint Development Agreements (JDA). The strong economic and political relation that China have been showing to establish with the Mekong Basin States will be an incentive to pull China for negotiation in which the Mekong River development is not enough to convince. Growing commitment between China, Vietnam and Philippines to encourage cooperation in gathering data and searching for oil in the South China Sea are examples showing strong China motive to cooperate in the economic sector. Thus, the shared interest of all the basin states regarding energy, technology and economic cooperation may create a room for the realization of joint development agreements. Thus, these additional incentives will convince China to cooperate in the negotiation with the other basin states and also resolve the dispute (Goh, 2004:7-8).

In general, the very important lesson that other basin states should learn from MRB is that: first, by understanding the division tactics of the hydro-hegemonic state within the basin such as offering financial and technical support and conducting bilateral negotiation, the other weak riparian states should be committed to stand together and focus on the long term results of negotiation coming out of unity than the short term incentives that they receive individually from the other party; second, since economic backwardness and political instability are the root causes that makes weak states to negotiate without equal power, focus more on transforming the economic and political situation of the country will led to acquire the needed strength; third, so as to withstand the difficulty of getting financial assistance for the construction of water resource projects, poor basin states should first rely on utilizing the available little resource of the state and mobilizing the public to contribute for the grand water projects. This will consolidate the states to have a bargaining power in the future negotiation; fourth, exploring non-legal resolution mechanism of solving the dispute through joint economic cooperation agreements (Freeman, 2009:462).

2.4.2 Lessons of the Senegal River Basin

Senegal River originates in the Fouta Djallon Mountain of Guinea, and then travels 1800 kilometers crossing the high plateau in the north of Guinea, west of Mali, and southern regions of Mauritania before flowing in the borders of Senegal. Among its many tributaries, the Bafiang and

Faleme which arises in Guinea's and the Bakoye, from its source in Mali contribute 80 per cent of the river's flow (Parnall and Utton, 1976:237). By moving away from its source, the river passes through regions of growing rain shortage and inter-annual variation of hydrological behavior (Sene and Soubeyran, 2007:1919). Geographically, the Senegal Basin is located in the Sahelian and desert zone. Though, there is a great variation from about 1500 mm in the Guinea highlands to less than 200 mm in the northern part of the basin in Mauritania, the Basin's average rainfall is 550 mm. By receiving average rainfall of about 550 mm, the region becomes one among those suffering from shortage of freshwater in the continent. Since the late 1960s and early 1970s, the basin experiences severe rainfall deficits. Compared to the period 1940-1969, the average annual rainfall in the basin showed a decline by 30 per cent since the early 1970s. As a result, the average flows of the river also declined by more than 50 per cent (Niasse, (n.d.) Para. 3).

In dealing with the above mentioned problems, the commitment and effort of cooperation of the basin states of Senegal River has been exemplary and one can say that their shared water resource have been a source of cooperation as opposed to many other international basins where these resources are sources of conflict. The 1972 Statute born out of an extraordinary cooperation spirit among the members of the basin, later became reference to the 1997 UN Convention and also praised for being one of the first agreements in the world for comprehensive river management including non-navigational and navigational uses. Besides, their cooperation effort is also unique in that it did not grow out of a conflict, rather the vulnerability of the population of the basin states to the effects of severe drought in the 1960s and 1970s served as a catalyst for their remarkable cooperation (Newton, (n.d.):2).

As part of a conflict resolution mechanism, the effort of Mali and Mauritania in persuading Guinea back to the participation in the Interstate Committee of Senegal River (CIE) is worth to mention as a good lesson to other international watercourses. Because of the political problem that Guinea had with Senegal and the former decision to suspend from participation in the CIE in 1967, reversed, thanks to the efforts the other member states which succeeded in bringing Guinea back in 1968 during the establishment of the Organization of Boundary States of the Senegalese River (OERS) (Newton, (n.d.):3). In terms of preventing the emergence of conflict, the Senegal River Basin states also displayed a remarkable achievement. A notable example in this regard was the efforts of the other basin states to reverse the unilateral decision of Senegal to develop a project for the revitalization of dry valleys in the north of Senegal on June 2000. The project consisted in

deviating part of the water from the Senegal River to a 3000 Kilometers network of ancient watercourse in the Farlo, Saloum, Sine, Baobolon, Car Car and San Dougou valleys. However, because of Mauritania's criticism and fear of water reduction, Senegal announced a freeze on the project. Therefore, such kind of reasonable decision highlights the commitment that Senegal displayed not to endanger the well being of the other basin states, i.e., a big lesson to other international basins. (Atlas on regional integration in West Africa, 2006:9).

Regarding consideration of the contemporary laws and conventions related to common water uses, the series of agreements and conventions concluded by the basin states included the common customary principles such as equitable utilization, prior notification and coordinated developments. What is surprising during the 1972 agreement is that the member states relinquished their sovereign control over the river dependant resources and vested the power to the institution (Vick, 2006:217). Currently, with regard to the management their common watercourse, all the Organization for the Development of Senegal River (OMVS) member states recognized the portion of their territory located in the Senegal basin to be governed by the agreed OMVS conventions. The water code that Mauritania adopted in 2005 is a testimony as it refers to the OMVS Water Charter for the management of all its water resources located in the Senegal River Basin (Niasse, (n.d.) Para. 13).

In general, the situation in the Senegal Basin highlights, it is not the presence of legal rules and conventions rather it is the commitment and willingness among basin states, that is very crucial for the utilization shared resources peacefully, especially, for the Nile Basin States that still failed to reach a consensus over its utilization while there have been so many watercourse agreements and different rules to be referred.

CHAPTER THREE: HISTORICAL DEVELOPMENT OF NILE WATER AGREEMENTS

INTRODUCTION

The river Nile is shared by 11 states and partly due to the dependence of some of the states to its flow, the competition among these states to control this shared river has always been fierce. Because of its downstream position, the role of Egypt in trying to dominate the hydro politics of the basin has been very significant. The fear that Ethiopia might block the flow of the river has been the reason behind Egypt's attempt of controlling the basin since the 1820s. Failed to succeed in their ambition of controlling the upper riparian states by force, Egyptians shifted their strategy towards concluding agreements. Backed by Britain, Egypt managed to conclude colonial and bilateral agreements since the last quarter of the 19th century with the upstream states and colonial powers controlling these states (Coniff et al., 2012:10). After the independence of the upper riparian states, several attempts of establishing basin wide institution has been tried including the HYDROMET, Undugu, TECCONILE and the present NBI. The major highlight of these bilateral and/or colonial agreements and attempts of basin wide institutions will be made in the following part of the study.

3.1 DEVELOPMENT OF BILATERAL AND/OR COLONIAL AGREEMENTS IN THE NILE BASIN

3.1.1 The 1891 Anglo-Italian Protocol

This protocol was signed on 15 April 1891, between Italy, representing Eritrea and Britain, representing Egypt and Sudan (Nicole 2003 cited in Ndung'u, 2013:27). Though the protocol was primarily meant for delimitating the colonial boundary of Britain and Italy in the Sudan and Eritrea, the water of Nile was also given utmost emphasis. Article III of this protocol represented the real intent of the British in safeguarding the interest of the Egypt that read as "the Government of Italy undertakes not to construct on the Atbara any irrigation or other works which might sensibly modify its flow into the Nile" (Owiro, 2004:6).

What makes this protocol senseless and irrelevant is the fact that it did not include, or make reference to, the upper riparian states, where the majority of the water of the Nile comes from. For

Ethiopia, this protocol is irrelevant since Italy which is one of the parties to this protocol was neither in control of Ethiopia nor, the Nile, which did not flow in the territory colonized by Italy. In general, a close look of this protocol, one can understand that Italy was engaged in negotiation over the head water found in Ethiopia which was then not under her control. The obligation imposed on Italy also further explains the strong ambition on the side of Britain to safeguard the interest of Egypt ((Nicole 2003 cited in Ndung'u, 2013:28).

3.1.2 The 1902 Treaty between Great Britain and Ethiopia

This agreement was signed between the United Kingdom, acting for Egypt and Anglo-Egyptian Sudan, and Ethiopia on May 15, 1902 in Addis Ababa. Even though the main aim of this treaty was to establish the border between Ethiopia and Sudan, Article III was specifically related to the use of the Nile Water. The English version of this article provided that:

His majesty Emperor Menelik II, king of kings of Ethiopia, engages himself towards the government of his Britannic Majesty not to construct or allow to be constructed any work across the Blue Nile, Lake Tana, or the Sobat, which would arrest the flow of their waters except in agreement with His Britannic Majesty's government and the Government of Sudan (Owiro, 2004:7).

On side of the Ethiopians, one can argue saying that not to arrest (stop) the flow of the Nile River didn't mean not to use; second, the treaty was made between Ethiopia and Britain, not with the Sudan. Therefore, after Sudan gained independence and British rule was no longer effective in Sudan, the agreement is not legitimate at present. Failure of Britain to ratify the agreement and its rejection by the Ethiopian government in the 1950s also further explains as to why Ethiopia is not bound by this treaty (Elias 2007 cited in Ibrahim, (n.d.):229).

Ethiopia has also other argument that supports its right not to bind by the 1902 Treaty. Britain's recognition and support to the invasion of Ethiopia by Italy was a clear testimony of the violation of the 1902 Agreement. Violation of the terms of the treaty by either of the parties gave the other the right to terminate or suspend the whole or part of the Treaty as mentioned in Article 60 which reads: "a material breach of a bilateral treaty by one of the parties entitles the other to invoke the Breach as a ground for terminating the treaty or suspending its operation in whole or in Part" (Ginour 1906 cited in Ibrahim, (n.d.):229).

In addition to the above interpretation by Ethiopians, the Amharic version of the article also reflected different meaning and understanding to Ethiopia. The difference in the interpretation of the treaty between Sudan and Ethiopia has also been source of disputes. By referring to this article Sudan tried to put pressure up on Ethiopia not to use the water of the Nile without its permission and Ethiopia claimed the opposite. Therefore, unless a mutual agreement and compromise is reached among these states, forbidding the Nile water from being arrested by Ethiopia is of less relevance in advocating equitable utilization (Kefyalew, (n.d.):2).

3.1.3 The Agreement between Britain and the Government of the Independent state of the Congo

This agreement was made between Britain and Belgium on the colonial boundary of Congo on May 9, 1906. Ironically, Belgium signed the treaty on behalf of Congo which was named an independent state during the signing of the treaty. Though the main target of the treaty was delimitation of boundary, Article III of this treaty highlighted the issue of water use and read:

The government of the independent state of Congo undertakes not to construct or allow the construction of structures on the Semiliki or the Isango, or nearby, which would reduce the volume of water entering Lake Albert except, in agreement with the Sudanese Government (Owiro, 2004:7).

Belgium, which agreed on behalf of Congo, as stipulated above is unfair in every sense. The lack of incentives given for Congo is a clear manifestation of the plots of colonial powers that only targeted to benefit their own economy via the downstream states of Sudan and Egypt (Kefyalew, (n.d.): 3).

3.1.4 Agreement between Britain, France and Italy concerning Abyssinia (Ethiopia)

This agreement was signed on 13 December 1906 between Great Britain, France and Italy so as to safeguard their common interest in case of changes of situation that may occur in Ethiopia. From among the common interest of these powers, the issue of the Nile Water was treated in Article IV (a). It stated that, “in order to preserve the integrity of Ethiopia and provide further that the parties would safeguard the interests of the United Kingdom and Egypt in the Nile Basin, especially as regards the regulation of the water of that river and its tributaries...” (Owiro, 2004:7). Just like the other colonial treaties, this treaty also denied Ethiopia’s sovereignty over its water resources and

also failed to include incentives, rather the accustomed inclination of preserving benefits for themselves and for the colonies that they administer. Though lacked the military, economic and political capability enough to influence the colonizers, Ethiopia has rejected this agreement (Kefayalew, (n.d.):3).

3.1.5 Exchange of Notes between United Kingdom and Italy concerning Lake Tana

This agreement was signed between United Kingdom and Italy on December 20, 1925 in Rome dealing with issues of the Nile Water (Owiro, A.O., 2004 cited in Ndungu, 2013:30). Italy agreed not to construct on the head waters of the Nile that sensibly modify the flow of the river reaching Egypt and Sudan. The agreement incited a fierce opposition from Ethiopia which voiced its objection immediately after the conclusion of the agreement. The government of the United Kingdom, following Ethiopia's rejection of the agreement, renounced its position and disclosed as it was bilateral and was not binding to Ethiopia (Nicole 2004 cited in Ndungu, 2013:30).

3.1.6 The 1929 Agreement

The shortage of cotton in the world market in the early 1900s was believed to be a reason that necessitated a change among Egypt and Sudan from their traditional flood-led methods of agriculture to perennial irrigation. In an attempt to augment this motive, the Nile Project Commission that was established in 1920, conducted a study and estimated that the Nile's average flow is 84 billion cubic meters per year. Out of this, Egypt's need was to be 58 billion cubic meters, however, Sudan's share was considered as if their irrigation need could be met from the Blue Nile. So to hold water for Egypt, Britain proposed in the same year a comprehensive water development along the Nile which included a storage facility on the Uganda-Sudan border, a dam at Sennar in South Sudan and at the White Nile.

However, the planned major structures outside their territory worried the Egyptians. In an attempt to please the Egyptians, Britain established a new water commission in 1925. The commission finally led to the Nile Water Agreement between Great Britain and Egypt on 7 May 1929. According to Kimenyi (2010:10), the main terms of this agreement reads as follows:

- Egypt and Sudan utilizes 48 and 4 billion cubic meters of the Nile flow per year (92.2 percent for Egypt and 7.7 percent for Sudan of the total utilizable flow).
- Egypt was granted the right to monitor the Nile flow in upstream states.

- Egypt was given the right to undertake Nile River related projects without the consent of the upper riparian states and to veto any construction projects in upper riparian states that would affect her interest adversely.

The agreement had implication for Sudan which was not only restricted with regard to the amount of water it could use but also forced to seek the approval of Egypt before undertaking any irrigation project. As if the 48 billion cubic meters per year of the Nile flow was not enough, Egypt was given the right to monitor the flow of the Nile in upstream states together with the power to veto any construction project along the Nile River in the upper riparian states. The terms mentioned above reveals that the 1929 Agreement leaned heavily in favor of Egypt. While all these basic decisions took place regarding a river shared by 11 countries, the illegality of this agreement is the fact that not all the relevant stakeholders were consulted during its negotiations and ultimate conclusions. Therefore, this treaty clearly showed a deliberate exclusion of the upper riparian states by Egypt and its colonial master, Great Britain (Ibid).

As a means of consolidating and supplementing the 1929 Agreement, two agreements were concluded: first, in 1932, an agreement was signed between Egypt and Sudan which mainly focus on the construction and maintainace by Egypt of a storage reservoir near Khartoum, Sudan; second, Britain (acting for Uganda) concluded an agreement with Egypt in 1952 concerning the construction of the Owen Falls Dam in Uganda, then under British colonial administration. The purpose of the second agreement was to control the waters of the Nile and to produce hydroelectric power for Uganda. It also provided that, during the period of the construction of the dam, the Egyptian resident Engineer and his staff were allowed to be stationed for supervision. In general, the agreement proved the continuation of the predominance of the Egyptian interest in the flow of the Nile Water as defined in the 1929 Agreement. In general, Uganda's sovereign right to deal with the dam subjected to the established and future interest of Egypt (Owiro, 2004:9).

3.1.7 The 1959 Nile Water Agreement

The dissatisfaction of Sudan in the 1929 water agreement led to the conclusion of another water agreement with Egypt on 8 November, 1959. The 1929 treaty, which was signed between Egypt and United Kingdom on behalf of the Nile Riparian States demonstrated by being one side. It was meant to safeguard and appease Egypt in exchange for a secure sea route via the Suez Canal. As the main terms of the treaty explains: Sudan was granted annual allotment of 4 cubic meters; Egypt

was granted a water allotment of 48 billion cubic meters and the right to veto any upstream projects on the Nile. Since Ethiopia and Democratic Republic of Congo were not the colony of Britain, however, the British secured agreement with the temporary representative of these parties, i.e. Italy and the Congo Free State. Accordingly, these contemporary representatives agreed not to alter the flow of the Nile without obtaining permission first from the United Kingdom. Therefore, it was against this shortcoming that the Sudanese government officials in the 1950s made clear their resentment of Sudan's water quota and demanded renegotiation of the 1929 water treaty (Dellapana 1994 cited in Katz, 2013:1256).

Claiming the United Kingdom lacked the legal authority to enter into negotiation on her behalf, Sudan had attempted to void the 1929 treaty. However, the attempt made by Sudan lack success as stated in the preamble of the 1959 water agreement which reads "the Nile Water Agreement concluded in 1929 provided only for the partial use of the Nile Water and did not extend to include a complete control of the river water." Therefore, the request of Sudan was ignored as mentioned above and besides the preamble also further underlined the main motive of this treaty as follows:

As the River Nile needs projects, for its full control and for increasing its yield for the Full utilization of its waters by the Republic of the Sudan and the United Arab Republic...full agreement and cooperation between the two republics in order to regulate their Benefit and utilize the Nile Water in a manner which secures the present and future requirement of the two countries (the 1959 Agreement).

Thus, from the above explanation, one can conclude that the 1959 agreement can be read as the broadening of the 1929 treaty. Besides, it also showed the extent in which the two downstream states have gone to utilize the waters of the Nile without consulting the other riparian states. As opposed to the 1929 agreement where the British represented their East African colonies, at least nominally, Egypt and Sudan reached an agreement by ignoring the other riparian states. Therefore, it is possible to conclude that the 1959 Agreement could be considered more narrowly than the 1929 Treaty in this regard (Knobelsdorf, 2006 cited in Katz, 2013:1257).

Regarding the terms of the 1959 Water Agreement, the UN (2002:11) summarizes the main ones as follows:

- Sudan agreed to the construction of the High Dam at Aswan in return for Egypt permission to the construction of the Roseires Reservoir on the Blue Nile.

- Out of the annual base discharge of the Nile measured at the new Aswan Dam which is estimated to be 84 billion cubic meters, the acquired rights of the two Republics (Egypt-48 billion cubic meters and Sudan-4 billion cubic meters) and the average losses of over-year storage of the Sudd EL Aali Reservoir shall be deducted from this yield. Then the balance shall be divided between the two Republics at the ratio of 14 ½ for the Sudan and 7 ½ for the United Arab Republic. Accordingly, out of the 22 billion cubic meters of additional water, 7 ½ was allocated to Egypt and 14 ½ billion cubic meter to Sudan, thus makes their total allotment of 55 ½ billion cubic meters and 18 ½ billion cubic meters respectively (Article I and II).
- Whenever a need arises to make any negotiation with other riparian states concerning the Nile waters, Egypt and Sudan agreed to have a unified stand as per the study of their Permanent Joint Technical Commission, which comprises equal number of representatives.
- Sudan agreed to give a water loan that did not exceed 1.5 bm^3 to Egypt to augment its agriculture expansion.
- In agreement with Egypt, Sudan also agreed to launch projects for increasing the Nile water by preventing the waste of water in the swampy areas of Sudan and other branches of the Nile.

The above mentioned terms of the agreement clearly demonstrated the full utilization of the Nile waters by the downstream states. Besides, these states not only secured their present utilization but also devised strategies to cope up with questions that would arise from the upper riparian states. What makes this treaty surprising is that it was bilateral and did not include any of the other riparian states of the Nile. Even, Ethiopia from where more than 80 percent of the water comes was neither consulted nor informed when the treaty was concluded. The treaty also divided the Nile's average water flow between Egypt and Sudan. Of course, as opposed to the 1929 Treaty, the 1959 Agreement has attempted to recognize the interest of the other riparian states at least on paper. Egypt and Sudan agreed that the combined needs of the upper riparian states would not exceed more than two million cubic meters per year. Despite the nominal recognition, this small amount of water to the whole of upper riparian states could be considered as a paradox (Lumumba, 2007:18).

3.1.8 The Framework for General Cooperation between Egypt and Ethiopia

This agreement represents the first bilateral framework for cooperation between Ethiopia and Egypt after the colonial period. It was signed in Cairo on 1 July 1993, between the two countries with respect to future negotiation on the utilization of the waters of the Nile. Article 4 of the agreement explains the consensus that the two countries reached to discuss the issue of the Nile via experts of both countries on the basis of the rules and principles of international law. Other Articles with the intent of good neighborliness, non-interference in the internal affairs of states, and conserving and protecting of the Nile Water, were became part of the agreement. Despite being the first bilateral agreement between the two countries, the framework focused on the basis of future negotiation and failed to inculcate detailed rules (Ndung'u, 2013:32).

3.2 POSITIONS OF THE NILE BASIN STATES TOWARDS THE NILE TREATIES

As explained above, the position of Ethiopia towards the Nile Agreements is clear. The same response has also been shared by the rest of the upper riparian states. The states of East Africa favor the Nyrere Doctrine immediately after their independence. Julius Nyrere, the first president of Tanganyika (later Tanzania) refused to accept the inheritance of treaty obligation from Britain which is known as the “Nyrere Doctrine”. He forwarded that the application of universal succession to newly independent former colonies meant continuing the yoke of colonization. The doctrine gives each new independent state a two year window period to evaluate, re-negotiate and withdraw from the obligation of the treaties. Favoring this doctrine, Tanzania, Kenya and Uganda declared their formal repudiation of the 1929 treaty, claiming that they were colonies at the time of the conclusion of the treaty. Since the 1959 Nile Water Agreement was an extension of the 1929 Agreement, the rejection to the 1929 Agreement meant indirectly rejecting the 1959 Agreement (Katz, 2013:126).

3.3 ATEEMPTS OF ESTABLISHING BASIN WIDE INSTITUTIONS

3.3.1The HYDROMET Project (1967-1993)

HYDROMET (Hydro-metrological Survey of the Equatorial Lakes) was initiated by the Great Lakes Region states immediately after independence in the 1960's. The motive behind its establishment was to analyze the hydro-metrological survey of the catchment of Lake Victoria, Kyoga and Albert and to reduce the disaster of flood resulting from heavy rainfall in the area. So as to deal with these problems, in 1967, Hydromet was established by all the riparian states of the Nile except DRC (Zaire), Ethiopia and Kenya who participated as observers. UNDP and World Metrological Organization (WMO) has also been called to the negotiation table by the Great Lakes region states to provide financial and logistical arrangements and to execute the implementation of the proposed projects (Adar, 2007:7).

In 1968, a technical committee was established in Entebbe, Uganda and facilitated the actual installation of 24 hydro-metrological, 156 rainfall, 67 hydrological stations and 14 lake level measurement. In 1970, Egypt and Sudan proposed the establishment of the Nile Basin Commission under the aegis of Hydromet, but rebuffed by other members due to the development of mistrust and suspicion over the domination of the organization by the downstream states. In response to this fear, in 1977, Rwanda, Burundi, Tanzania and Uganda formed their own organization named the Kagera Basin Agreement that aimed at developing the Kagera River, but failed to succeed due to lack of finance and political stability in the region (Tesfaye, 2001 cited in Yeakob, 2011:7).

In general, lack of incentives made DRC and Ethiopia to join Hydromet lately as an observer in 1971 and 1977 respectively. The failure of bringing the major contributor of water, Ethiopia on board and the perceived mistrust among the basin states contributed for lacking the implementation of the intended objective. Though the project lasted 25 years, it failed to succeed in establishing a basin wide institution partly due to the political instability witnessed in the region. Despite its failure, HYDROMET was praised for being the first attempt in the basin to establish a basin wide organization and paved the way for the emergence of other basin wide attempts such as Undugu (Swain, 2011 cited in Yeakob, 2011:19).

3.3.2 Undugu (1983-1993)

Undugu meaning brotherhood in Swahili project was initiated by Egypt in 1983, alongside with HYDROMET project. On the part of Egypt, this initiative was the result of changes in the domestic policies towards solving the issue of the Nile via cooperation. The initiative was accepted by Egypt, Sudan, Uganda, DRC and Central African Republic (though not a state in the basin) which led to establishment as an organization in Khartoum, Sudan, in 1983. Burundi and Rwanda joined this group later where as Kenya, Tanzania and Ethiopia participated as observers (Tesfaye, 2001:105). Regarding its aim, Undugu attempted to discuss issues of the Nile water for agricultural development and the promotion of economic, scientific and cultural cooperation among the riparian states. However, the hidden agenda of Egypt that was to preserve their dominance in the region contributed for the fear of the other riparian's to genuinely participate in this initiative (Soffer, 1999 cited in Dereje, 2014:5).

Besides, Egyptian insistence of making electric generation and joint hydroelectric projects in their country to become the top agenda of Undugu was also another issue of disagreement that lowered its acceptance by other member states. Especially, at a time when the Egyptians had been developing giant irrigation and land reclamation projects without consulting others further undermined the informal discussion by making other states to perceive Egyptian move as the continuation of British imperial design for the Nile. Unfortunately, the organization was disbanded without achieving its intended objectives. Lack of clear objective, failure to incorporate Ethiopia and the development of mistrust as a result of Egyptian activities contributed for the failure of this basin wide initiative (Collins, 2002 cited in Dereje, 2014:5).

3.3.3 TECCONILE (Technical Cooperation Committee for the Promotion and the Development of the Nile Basin) (1993-1999)

This organization was established in 1992 by Egypt, Rwanda, Sudan, Tanzania, Uganda and DRC, with Ethiopia, Burundi, Eritrea and Kenya opting to stay as observers. Its goal was to coordinate common interest and objectives of the basin states. Gradually, with the exception of Eritrea, the other three countries became members. Unlike the bilateral and multilateral attempts that had been made in the basin's entire history, TECCONILE was the first to focus on a longer-term development agenda and became a spring board for the next phase of the cooperation in the Nile Basin (Tamrat, 2009 cited in Dereje, 2014:6).

With the support of the Canadian International Development Agency (CIDA) and the international community, TECCONILE launched a series of Nile 2002 conferences to provide an informal mechanism for dialogue among the Nile Basin countries. As a result, it prepared a Nile River Basin action plan in 1995. In 1997, with the request of the Council of Ministers of Water Affairs of the Nile Basin States (Nile-COM), the World Bank, the United Nation Development Program (UNDP) and CIDA became cooperative partners to facilitate cooperation among the basin countries. Therefore, unlike Undugu and Hydromet, TECCONILE was successful in bringing the countries of the basin together for a dialogue that result for the inception of a more consolidated organization, i.e. the NBI (Bronee and Toope, 2002 cited in Dereje, 2014:6).

3.3.4 The Nile Basin Initiative (NBI)

As a successor to TECCONILE, the Nile Basin Initiative (NBI) was launched in Dar es Salaam, Tanzania, in February 1999 by all the Nile riparian states except Eritrea which holds an observer status. Unlike the previous basin-wide attempts, NBI's establishment demonstrated a fully-fledged participation of all the basin countries. It was because of the inclusion of the issue of water allocation in its agenda from the very beginning that attracted countries like Ethiopia to join and actively participating in the NBI. In addition, a shift on the side of Egypt from the usual gate-keeping role toward a cooperation to result a legal and institutional framework was also the other reason behind the success of NBI in attracting all the basin states together during its beginning. According to Tesfaye (2011:264), three factors have been responsible in changing the age old Egyptian policy regarding Nile issues. These are: first, pressure from the World Bank and the UNDP to cooperate; second, the threat from upstream states to carry our water related projects unilaterally; and third, the role of Abu Zeid, the then Water and Irrigation minister of Egypt, in making the higher officials understand the need to make the change of their position.

Boosted by the above mentioned developments, the NBI was established to serve as a transitional institutional mechanism pending the conclusion of the cooperative framework to facilitate the implementation of subsidiary action programs that emanated from its shared vision: “to achieve sustainable socio-economic development through equitable utilization of, and benefit from, the common Nile Basin water resources” (Nile Basin Initiative Act 2002). Its objectives also include: (a) to develop the Nile Basin water resources in a sustainable and equitable way to ensure prosperity, security, and peace for all its peoples; (b) to ensure efficient water management and the

optimal use of the resources; (c) to ensure cooperation and joint action between the riparian countries, seeking win-win gains; (d) to target poverty eradication and promote economic integration; (e) to ensure that the program results in a move from planning to action (<http://www.nilebasin.org/index.php/about-us/nile-basin-initiative> retrieved on June 6 2015).

The operational structure of the NBI consists of the Nile-COM, which provides policy guidance; the Technical Advisory Committee (Nile-TAC), which provides technical assistance to the Nile-COM; and the Nile Basin Secretariat (Nile-SEC), which offers administrative service to the Nile-COM and Nile-SEC from its base in Entebbe, Uganda. In order to implement NBI's vision in to action, the countries of the basin devised a Strategic Action Program (SAP) that promotes a Shared Vision Program (SVP) and two investment Subsidiary Action Programs. The SVP is given the task of building the institutional capacity and the necessary technical skill needed to facilitate the two investment programs of the NBI: the Nile Equatorial Lakes Subsidiary Action Program (NELSAP-involving Egypt, Ethiopia, Sudan and South Sudan) and the Eastern Nile Subsidiary Action Program (ENSAP-involving Burundi, the DRC, Egypt, Kenya, Rwanda, Sudan, Tanzania, and Uganda) (<http://www.nilebasin.org/index.php/about-us/nile-basin-initiative> retrieved on June 6 2015).

The SVP became operational in 2004 and ended in December 2009. It focuses on projects at the whole basin level with the objective of utilizing the resources of the Nile equitably to promote the socio economic development of the people in the basin. To put this sacred objective in to practice, it has identified many sub-programs such as Applied Training Project, Nile Transboundary Environmental Action Project, Efficient Water Use for Agricultural Production, Confidence Building and Stakeholder Involvement, Socio-economic Development and Benefit Sharing, Shared Vision Program Coordination Project, Regional Power Trade, and Water Resource Planning and Management. In addition, various projects under the Shared Vision Program have regional project management units located in Cairo (applied training), Addis Ababa (water resources planning), Dar es-Salaam (power trade) and Nairobi (agriculture) (Batisha, 2011). The status of these SVP project portfolios' showed that almost all of them are at different stages of completion (Mohamed and Mekonen, 2008:17).

ENSAP, managed by the Eastern Nile Technical Regional Office (ENTRO) seeks to develop the water resources of the Eastern Nile Basin states in a sustainable and equitable manner. Its activities are grouped in to fast-truck investments and long term multi-purpose track investments. In the

early 2008, the fast-track investments included four projects: (a) the Regional Watershed Management Project-aims at establishing sustainable management of watersheds in Lake Nasser/Nubia in Egypt, Jamma, Reb and Gumera sub-basin and watershed management in Tana Beles in Ethiopia, and the lower Atbara, Ingessena Mountains and areas of around Dinder National Park in Sudan; (b) the Ethiopian Power Export Project, formerly known as the Ethiopian-Sudan Interconnection Project-aims at connecting the power grids of the two countries; (c) the Regional Irrigation and Drainage Project-focuses on expanding irrigated agriculture area and improving productivity. This project consists of: Egypt-West Delta Water Conservation band Irrigation Rehabilitation Project; Ethiopia-Irrigation and drainage Project in Rib and Magech drainage areas; and Sudan-Upper Atbara Irrigation Project; and (d) the Flood preparation and Early Warning Project-aims at improving dissemination of flood warning information and building flood forecasting capabilities (www.nilebasin.org/ retrieved on 6 June 2015).

The second one, the Multi-Purpose track also includes studies aimed at developing common Analytical Tools and plans for coordinated investments called the Joint Multipurpose Program (JMP). The programs included in this category are the Watershed Management Cooperative Regional Assessment, the Eastern Nile Power Trade Investment Projects, the Irrigation and Drainage Cooperative Regional Assessment and Eastern Nile Planning Model. The other Multi-Purpose track, the JMP is a long term program (25-30 years) of ensuring the management and development of shared water resources through coordinated investment such as the Abbay (Blue Nile), Tekeze (Setit)-Atbara, Baro-Akobo-Sobat, Portion of the White Nile and the Main Nile (www.nilebasin.org/ retrieved on 6 June 2015).

Regarding the implementation of the planned ENTRO projects, Fekahmed Negash explained their success with the exception of the two: (a) the Eastern Nile Planning Model Software-its failure is associated with the disagreement between Ethiopia and Egypt over making Cairo/Addis Ababa the place to develop the planning model; and (b) the Joint Multipurpose Project (JMP)-despite the general consensus in its initial stage among the basin states, the signing of the CFA by the upper riparian states triggered the refusal of Egypt and Sudan to cooperate and finally to withdraw from their participation in ENTRO (personal communication, March 5, 2015).

NELSAP, the second investment program of NBI is managed by NELSAP Coordinating Unit (NELSAP-CU) from its base in Kigali, Rwanda. Its program comprises of two broad program

areas: Natural Resource Management and Development, and Power Development and Trade. The Projects of the former included the Kagera Transboundary Integrated Water Resource Management and Development project that is shared between Burundi, Tanzania, Rwanda and Uganda; the Mara Transboundary Integrated Water Resource Management and Development project shared between Tanzania and Kenya; the Lake Edward and Lake Albert Fisheries Pilot project in Uganda and DRC; and the Reduction of the Water Hyacinth on the Kagera River project, shared by Burundi, Kenya, Rwanda, Tanzania and Uganda (www.nilebasin.org/ retrieved on 6 June 2015).

On the other side, the Power Development and Trade Program of NELSAP focuses on investment planning and conducting preliminary studies of major investment projects. These include: the Regional Rusumo Falls Hydroelectric and Multipurpose Project in Uganda which is expected to have a dam in its associated run-of-the river hydropower plant, believed to benefit Burundi, Rwanda, and Tanzania; and the Transmission Interconnection feasibility studies include a design for four key transmission lines between Burundi, DRC, Kenya, Rwanda and Uganda (ibid).

Despite the slow rate of implementation, the above mentioned investment programs both in ENSAP and NELSAP are praised by many as they advocate mutual benefit throughout the basin and in terms of narrowing the gap that have long been the norm among the states of the basin. In general, the shared regional projects explained above in the Nile Basin represent one among the two tracks of cooperation of NBI has. Despite the slow implementation of most of the planned projects, NBI played a great role in terms of bringing the countries of the basin together so as to implement projects of mutual benefit.

CHAPTER FOUR: ANALYSIS OF THE STATUS OF THE COOPERATIVE FRAMEWORK AGREEMENT

INTRODUCTION

Shared by eleven states, the Nile basin is a home to a population estimated more than 280 million. Given the rising demand of water due to the ever increasing population of the basin states, the presence of large number of states sharing Nile without any legal agreement determining its utilization has always been a big challenge to the overall security of the region (Salman, 2013:2). Emanated from their absolute dependence of the downstream states and their relative economic and political power in the basin, Egypt and to some extent Sudan have been dominating the hydro politics of the Nile Basin for the last 100 years. Though Ethiopia have been rejecting the previous Nile Agreements from the very beginning, after the end of colonial period, the newly independent states also rejected the colonially-induced treaties that have been backing the position of the downstream states. Following these position of the upstream states, a new type of sub-regional institutions had been attempted to establish i.e. the HYDROMET, Undugu, and TECCONILE. However, these institutions did not take the basin for the better due to the lack of participation of all basin states and lack of mutual objective (Ibid: 19).

However, the year 1999 heralded the beginning a basin wide institution with the participation of all the basin states during the establishment of the NBI. As a transitional institution until the establishment of the NRBC, the NBI has been facilitating the implementation of water related projects of basin wide importance and the negotiation of the CFA (Salman, 2013:20). Evaluating the achievements and challenges in relation to the CFA is the major focus of this chapter. In general, the evolution of the CFA, the factors delaying the signing and ratification of the CFA, the relationship between the CFA and other international water laws and basin wide agreements will be explained in the following part of the study. Besides, scenarios highlighting the fate of the CFA are also made part of the focus of the study.

4.1 EVOLUTION OF THE CFA

Parallel to the technical projects, the second track of cooperation of the NBI is the process of negotiating the Cooperative Framework Agreement. First known as the D3 Project, soon renamed

as the CFA was one of the several projects identified in the Nile River Basin Action Plan in 1995 (Tesfaye, 2011:265). The content of the CFA was developed over more than a decade of intensive work. The task of developing the text or working documents of principles, rights and obligations and institution of the CFA was started by the Panel of Experts in 1997. It passed through a decade long negotiation until it was placed for signature in May 2010. The major issues of disagreement that had been taking most of the time of the negotiators were the following: Use of Terms (Nile River Basin vs. Nile River System); Seat of the Headquarter of the NBI; Notification on Planned Measures; and Fate of the existing agreements and Water Security (Fekahmed Negash, personal communication, March 5, 2015).

Regarding the disagreement on the use of terms, it was between the terms “River Basin” and “River System”. Since Nile River Basin “means the geographical area determined by the watershed limits of the Nile River system of water” including the land, water, forest and groundwater found in the entire basin, it was accepted by Egypt and Sudan. On the other hand Ethiopia claimed to use the term Nile River System which means “the Nile River and the surface water and groundwater which are related to the Nile River”. Since this term includes only the river and its tributaries, it was thus accepted by Ethiopia. The disagreement persisted for a long time because of the inclination of the other upstream states towards the position of the Egyptians. Despite the rejection of previous colonial agreements, upstream states, failed to understand the implications of the different terms, accepted the positions of Egypt. Not to lose the support of other upstream states at the beginning of the negotiation, Ethiopia was forced to make changes and later agreed: (a) to use the term “Nile River System” to issues related to water utilization; and (b) to use the term “Nile River Basin” to issues related to environmental protection, conservation or development (Fekahmed Negash, personal communication, March 5, 2015; and Article 2).

Hosting the seat of the headquarters of the new basin organization was another controversial issue during the negotiation period. Ethiopia, claiming her enormous water contribution to the Nile, argued to make Addis Ababa the seat of the headquarters of the NBI. The upstream states wished to host the seat in Entebbe, Uganda. In order to widen the difference among the upper riparian states, Egypt and Sudan stood in favor of the argument of making Entebbe the seat of the headquarters of the NBI. Again, Ethiopia understood the danger of division among upper riparian states with this minor issue as not substantive. Besides Egyptian’s support to Uganda so as to use as a leverage to isolate from Ethiopia was also the reason behind the changes in the position of the

latter. Not to make unnecessary disagreement with her potential supporters in the future regarding the Nile, Ethiopia agreed with the rest of the basin states to establish the headquarter of the NBI in Entebbe, Uganda (Fekahmed Negash, personal communication, March 5, 2015).

The third point of disagreement was regarding the issues on Planned Measures, a principle that deals with the exchange of information among the Nile Basin States regarding projects along the Nile River. In relation to projects constructed along the Nile, Egypt supported the Article dealing with Planned Measures in the 1997 UNs Convention. Article 8 of the Convention explains that: “watercourse states shall exchange information and consult each other and, if necessary, negotiation on the possible effects of Planned Measures on the condition of an international watercourse”. This Article explains the obligation in any state that tries to construct water projects to discuss and negotiate on the possible effect the project brings upon other basin states. Thus, according to this Article, Egypt would have the probability to oppose projects of upstream states. By arguing the inequality among the states of the basin utilization from water related projects, Ethiopia refused to accept the article on planned measures which hinders upstream states from developing projects without the consent of the downstream states. Surprisingly, other upstream states supported not only the concept but also the procedures which Egypt followed by copying directly from the 1997 UN Convention (Fekahmed Negash, personal communication, March 5, 2015).

As explained above, the position of the upstream states isolated Ethiopia, thus forced to make changes. Besides, the concept of “Planned Measures” has recently been part of most customary international water law. Fuelled by these developments, Ethiopia accepted the concept, but refused the procedures constructed by Egypt, claiming that they are general and lack relevance to the basin at this level. Accordingly, Ethiopia prepared the content of Article (8) on Planned Measure that worded “Nile Basin States agree to exchange information through the Nile River Basin Commission”. Thus, by limiting the information to be exchanged via the NRBC, Ethiopia partially succeeded given the opposition of downstream states towards the establishment of the NRBC at least soon. For example, according to this Article, Ethiopia’s responsibility of sharing information regarding the GERD to downstream states should be via the NRBC, though the former did out of its will. In general, the disagreement was resolved when Ethiopia, satisfied by the modification, accepted the article on planned measures and the agreement of Egypt, due to the inclusion of the concept in itself in the CFA. Regarding the position of other upstream states, since their support

toward the position of Egypt was emanated due to lack of knowledge of the issue, Ethiopia's effort to show the problems associated with the position of downstream states had become successful at the end to enjoy their full support (Fekahmed Negash, personal communication, March 5, 2015).

All the concepts that led to disagreement mentioned above were solved except the fate of the existing agreements which had been the most controversial and took lengthy negotiation. Upstream States, as a disadvantaged group obviously refused them and forwarded these agreements should be cancelled and void. On the other hand, the downstream states argued that the current framework should respect the existing agreements. The wide gap between the two groups of the basin results in a failure for the negotiation to bear fruit. The disagreement was so intense up to making a suspension of the negotiation for two years (Fekahmed Negash, personal communication, March 5, 2015).

The stalemate prevailed in the negotiation was lifted by the World Bank, the facilitator of the negotiation process, which came up with a new idea of "Water Security". The concept of water security is very broad and diffuses across different disciplines. With regard to the issue of transboundary watercourses, the context of water security includes not only the water sector alone but also other problems tied with water such as food production, poverty reduction, sustainable development and human security (Mirumach, 2013:2). By claiming as this new concept is not mentioned in most of the contemporary legal rules, Ethiopia forwarded her refusal to it. However, downstream states gave an immediate support to this new concept. What was surprising is the position of the other upstream states, which inclined in favor of the position of Egypt and Sudan. The support of the upstream states was not only accepting the new concept but also the articles that were proposed by Egypt as a whole. Standing alone, Ethiopia was forced to accept the concept but requested to prepare the articles in a manner suitable for the upstream states. This argument was the result of the perception on the side of Ethiopia that the Egyptian proposed articles are totally excluding the interest of the upper riparian states. Finally, Ethiopia prepared the contents embodied in this controversial concept of water security mentioned in Article 14 of the framework agreement and finally supported by the other states (Fekahmed Negash, personal communication, March 5, 2015).

Above all the other contentious issues, the main source of disagreement throughout the negotiation period was the Article on water security. In the document, the Article 14 (b) explains that member

countries would work together “not to significantly affect the water security of any other Nile Basin State.” While all the countries agreed to this proposal, Egypt and Sudan on the other hand rejected it and came up with their own proposal that should replace the content of the same Article worded “not to adversely affect the water security and current uses and rights of any other Nile Basin State.” Since this Article has been the most controversial throughout the negotiation period, the Extraordinary Meeting of the Nile-COM held in Kinshasa, DRC, resolved the issue by annexing it so that the resolution is laid on the shoulders of the would be NRBC within six months of its establishment. In general, a close look at the processes of the negotiation of the CFA, one can conclude as there was an information gap in most of the upstream states to reflect views aimed at changing their disadvantaged position of the past. Their immediate support to the concepts enshrined by Egypt despite Ethiopia’s attempt of making the problems visible to them could be considered as a notable example in this regard (Fekahmed Negash, personal communication, March 5, 2015).

Table 1: Evolution of the Cooperative Framework Agreement

Dates	Stage	Brief Description
January 1997-March 2000	Panel of Experts	Text, or working documents of principles, rights and obligations, and institutions, prepared.
August 2000-August 2001	Transitional Committee	Text converted in to draft.
December 2003-December 2005	Negotiation Committee	Draft Agreement negotiated with full mandate. Numerous reservations remain.
March 2006-June 2007	Ministerial Negotiation	Draft Agreement advanced, with all but one reservation removed (Article 14, Water Security). Final reservation referred to Head of State.
August 2008	Nile-COM	Reengagement, re-opening of the file at Ministerial level.
Kinshasa Meeting May 22, 2009	Nile-COM	7 member countries agree to annex Article 14b for later resolution by NRBC; reservation by Egypt; Sudan not present at time of decision, but subsequently expressed its reservation.
Nairobi July 3, 2009	Meeting of country negotiators	7 countries agree on a cleaned text; strong reservations by Egypt and Sudan.

Alexandria Meeting July 27/28, 2009	Nile-COM	Joint decision to allow for more time to seek joint agreement.
Entebbe, September 2009; Dar es Salaam, December 2009; Sharm el Sheikh, April 2010	Joint Nile-TAC and Negotiators Committee	Deliberation on options to move forward together.
Sharm el Sheikh Meeting April, 2010	Nile-COM	7 countries agree to open CFA (cleaned text) for signature; position rejected by Egypt and Sudan.
May 14, 2010	CFA opened for signature	4 countries (Ethiopia, Rwanda, Tanzania, and Uganda) signed the opened CFA in Entebbe, Uganda.
May 19, 2010		Kenya signs the CFA in Nairobi, Kenya.
February 28, 2011		Burundi signs the CFA in Bujumbura, Burundi.
June 13, 2013	Ratification	Ethiopia ratifies the CFA.
August 28, 2013	Ratification	Rwanda ratifies the CFA.
March 26, 2015	Ratification	Tanzania ratifies the CFA

Source: www.nilebasin.org/index.php/about-us/the-nb-cooperative-framework retrieved on 1 June 2015.

As explained in the table above, the negotiation via the committee reach its final stage in 2007, a time when signing the agreement had already been planned during the ministerial meeting, though delayed due to Egyptian request. The signing of the Agreement was placed again during the Ministerial Meetings held: first, in Kinshasa in May 2009; and second, in Sharm el-Sheikh in April 2010. Again, due to Egypt's request, the signing of the Agreement had been delayed. Upstream States, tired of such acts of Egypt, finally, placed the Agreement for signature as of the 14th of May 2010 and remained open for one year until 13th of May 2011 (Ibid). In the very opening day, Ethiopia, Rwanda, Tanzania, and Uganda signed the CFA in Entebbe, Uganda. Kenya followed suit on May 19 2010 and Burundi also signed on February 28, 2011. Again, Ethiopia also took the lead in ratifying the CFA on June 13, 2013 and Rwanda did the same on August 28, 2013 and recently Tanzania also followed their footsteps. South Sudan and the DRC have also shown interest to sign any time soon. As expected, Egypt and Sudan strongly opposed the agreement (Tsfaye, 2013:10).

Regarding the contents of the CFA, since it looks the experience of other basins and international water laws, it is a verbal copy of the 1997 UN Watercourse Convention. The states of the Nile River Basin took the extraordinary initiation of trying to solve the age old problem witnessed in the basin through the CFA. As explained in its preamble, the states of the Nile River Basin convinced that “a framework agreement governing their relation with regard to the Nile River Basin will promote integrated management, sustainable development, and harmonious utilization of water resources of the basin”. And its scope limited to “the use, development, protection, conservation and management of the Nile River Basin and its resources and establishes an institutional mechanism for cooperation among the Nile Basin States”.

The framework agreement comprises of 45 Articles. The scope and use of terms are included in Article 1 and 2. The remainder of the text is divided into six parts on: (I) general principles; (II) rights and obligations; (III) institutional structure and role of the NRBC; (IV) subsidiary institutions; (V) miscellaneous provision, and (VI) final clauses. The general principles include established customary principles of international water law that serve as a guide to countries on how to implement and how to manage and develop the resources of the river in a sustainable manner. The second part deals with specific rights and obligation of state parties. Part III of the framework comprises issues related to the establishment of the NRBC. The possibility of establishing subsidiary institution is included in part IV and outlines of dispute resolution and establishment of bilateral and multilateral instruments that augment the CFA are made to be part of part V. The last one, part VI comprises procedures for amendment, ratification and entry in to force of the CFA.

The most important water sharing principles are also explained in the same manner to the 1997 UN Watercourse Convention and the other contemporary water rules. The principle of equitable and reasonable utilization, one of the most important water rules is mentioned in Article 4. Section one of this article expects the activities of the basin states in their respective territories in relation to the utilization of the water resources of the Nile River System should be in an equitable and reasonable manner. In ensuring such equitable and reasonable use of the Nile water, the second section of the same Article further explains the factors that the states of the Nile Basin shall take in account, including but not limited to the following: (a) geographic, hydrographic, hydrological, climatic, ecological and other factors of a natural character; (b) the social and economic needs of the Basin States concerned; (c) The population dependent on the water resources in each Basin

State; (d) the effects of the use or uses of the water resources in one Basin State on other Basin States; (e) existing and potential uses of the water resources; (f) conservation, protection, development and economy of use of the water resources and the costs of measures taken to that effect; (g) the availability of alternatives, of comparable value, to a particular planned or existing use; (h) the contribution of each Basin State to the waters of the Nile River system; and (i) the extent and proportion of the drainage area in the territory of each Basin State (the CFA-see annex 15).

The other important principle, the obligation not to cause significant harm, is also explained in Article 5. In the process of utilization of the Nile River water resources, the basin states of the Nile have agreed “to take all appropriate measures to prevent the causing of significant harm to the other Basin States”. However, in times where significant harm is caused to another state in the basin, the state “whose use causes such harm shall ... take all appropriate measures, having due regard to the provisions of Article 4, in consultation with the affected State, to eliminate or mitigate such harm and, where appropriate, to discuss the question of compensation”.

With the objective of facilitating the implementation of the principles, rights and obligations included in the framework agreement, the commission shared such a huge task to its 5 organs: (a) Conference of Heads of State and Government (the Conference); (b) Council of Ministers (the Council); (c) Technical Advisory Committee; (d) Sectoral Advisory Committees; and (e) the Secretariat. The Conference is composed of Heads of State and Government of Nile Basin States and shall be the highest policy-making organ of the commission (Article 20 and 21). Composed of the Minister for Water Affairs of each Nile Basin States, the council may serve as a forum for discussion and refer matters to the Conference (Article 22 and 24). On the other hand, the Technical Advisory Committee (TAC) and the Sectoral Advisory Committees (SAC) are also established to deal with special questions and specific sectoral matters respectively (Article 25 and 27). The last organ, the Secretariat, from its office that shall be situated at Entebbe, Uganda, is responsible for the administration and finances of the Commission (Article 30).

4.2 THE CFA AND ITS RELATION WITH OTHER INTERNATIONAL WATER LAWS

The beginning of the 20th century, the time in which the CFA had been negotiated is conducive for its overall process. This is because of the fact that the contemporary world had already developed

numerous rules and laws regarding transboundary water resources. Besides, the experience of other basins such as the Mekong and Senegal also provides an important input for a basin like the Nile which for so long is known to have no legal rule binding the utilization of its shared water. These factors necessitated the negotiation process of the CFA by providing a relatively up to date contemporary water law and by exposing to the experiences of other basins. Thus, as a framework that took the experience of other basins and international water laws, most of its contents are similar with the 1997 UN Watercourse Convention and other basin agreements like the SADC. The contents of the CFA are also to some extent similar to the agreement of the Mekong Basin. However, it is different from the Senegal River Basin Agreement that focuses on developing infrastructure for a joint purpose (Fekahmed Negash, personal communication, March 5, 2015). According to Dereje Zeleke, an expert in the issue of Nile, despite the present of international laws and experience of the above mentioned basins, the downstream states position of refusing the establishment of a basin wide institution equipped with a framework that ensure equitable utilization for all the basin states had been the reasons for the lack of consensus in the Articles included in the CFA (Personal communication with Dereje Zeleke, April 8, 2015).

.According to Dereje Zeleke², though he shares the fact that the CFA is a verbal copy of the 1997 UN Convention, the inclusion of the new notion of water security is its major departure. The inclusion of this new concept which is not found in other basins makes the CFA exceptional in comparison to both the Mekong and Senegal basin agreements. As a late 1990s notion grown out of international security studies, water security focuses on ensuring access sustainably to preserve the security of the people. Securitizing the issue of shared water poses a grave challenge to inter-state relation in the basin. Let alone the Nile that has a very small flow, even the much bigger Amazon River could not guarantee the sustainable access of water to the people living in the basin. In addition to ensuring sustainable access to the people dependant on the river, the notion of water security also involves sharing the risks as much as sharing the benefits. From this perspective, the CFA failed to address specifically who is going to share the risk in case of unexpected problems that would cause a decrease in the flow of the river. For instance, if the Nile water drops say from the current 84 Billion Cubic Meters (BCM) to 40 BCM, who should take the risk, is the question that the CFA failed to address. The simple wording of ensuring access which is mentioned in the water security section of the CFA is a difficult content given the difficulty of providing assurance

² Dereje Zeleke (Dr)- an expert on the issue of Nile and a staff member of Addis Ababa University

in the future regarding the support that the Nile provides to the people living in the basin (Personal communication with Dereje Zeleke, April 8, 2015).

In the interview, Dereje, also kept on saying that the CFA is a repetition of the 1997 UNs Convention, as one of its major drawbacks. Since international frameworks are prepared to deal with divergent basin characteristics, the preparation of a general (broad) framework is the best way. From this broad framework, the assumption is that, basin states will specify guidelines according to their basin special characteristics. However, in the case of the Nile Basin's CFA, what has been done is the repetition of the international framework that does not give solution to the age old problem of equitable and reasonable utilization from the common river. In other words, the CFA lacks precision and hence destructive to use it as a reference for developing water related projects in the future. For a basin without any legal agreement for the utilization and a perceived wide gap between the interests of the states, a move from framework to framework is a trend witnessed in the CFA which ultimately ended up before laying the foundation and specifying the guidelines that will help to minimize disagreements emanating from water sharing (ibid).

While appreciating the efforts of all the countries of the Nile Basin to come up with the framework agreement, a departure from their entire history, the question to be raised is the success of the future Nile River Basin Commission (NRBC), which is going to be guided by the CFA. As stated above, the success of the NRBC is going to be challenged, given the present circumstance where the CFA failed to specifically carve out guidelines and included controversial concepts. In a situation where the political actors during the negotiation period of the CFA failed to resolve, it is very unlikely to assume that the experts of the future NRBC would resolve the age old problem of the basin. The exaggerated hope, expecting the commission would resolve future disagreements by supervising the water related projects is more of an illusion, according to Dereje Zeleke. He argues, at a time where Egypt disagrees over any reduction of water, how on earth would the decision of an expert in the NRBC succeed? Besides, the probability for Egypt to sign and ratify the CFA soon is almost unthinkable which in turn complicates the acceptance of the decision of the experts of the NRBC (ibid).

Conversely, Fekahmed Negash has a different view. He said, once the CFA is ratified by the six signatory states, it becomes an international law and will have a binding effect on all countries of the basin including the downstream states which have so far failed to sign it. Therefore, any

country that believes in international law will accept the NRBC. Here, the question to ask: is there a justice at an international level? In addition to the relatively strong economic, political and military power of Egypt as compared to the states in the basin, its strategic importance to the major powers and financial institutions also further complicate the acceptance of the decision of the NRBC. In today's world, where permanent benefit is the philosophy that determines the nature of relationship between states, no matter what the truth will be, Egypt's strategic importance is going to catch the interest of the western powers and their financial institutions. These, in turn, will discourage the attempts of the other states from developing water projects that are very expensive if there will not be a change in the preconditions usually set to support hydraulic projects (Personal communication with Fekahmed Negash, March 5, 2015).

However, despite the fact that many Western Nations and their associated financial institutions considered Egypt as a victim and stood on its side, the role of the other basin states for the commission to work its task effectively is the major alternative available at hand. The increasing political development and stability in most of the upstream states will allow them to develop water projects by mobilizing their own resource, even any attempt of securing finances from sources sympathetic to Egypt ended unsuccessful. In this case, the role played by Ethiopia is exemplary. Given the successful track record of Egypt in blocking any form of finance to water projects, the decision to mobilize funds from within the country proved so far successful. In addition, the coming of new emerging super powers, most importantly, China, also strengthens the economic power of the upstream states which indirectly consolidate the means of substituting foreign aid by local revenues. Therefore, despite all the challenges, in comparison to the times where the region had been for so long without an acceptable legal rule, the ratification of the CFA will increase the ability of the upstream states to challenge Egypt's status as a hydro-hegemony and change the overall status quo (Zerubabel Getachew³, personal communication, April 17, 2015).

³ Zerubabel Getachew- Expert and Designated officer for Nile River and the GERD at the Ministry of the Federal Democratic Republic of Ethiopia

4.3 RELATIONSHIP BETWEEN THE SOCIO-ECONOMIC, MILITARY AND POLITICAL SITUATIONS OF THE NILE BASIN STATES AND THE CFA

Until the beginning of the 20th century, with the exception of Egypt, most of the states of the Nile Basin had been under chaos as a result of political instabilities following independence. The region is historically known as one of the most unstable on the whole of the African Continent. Intra-state and Inter-state conflicts and wars have characterized the behavior of most of these states in the basin. Inter-state wars and civil war causes immense atrocities, loss of life and the displacement of people in the Nile Equatorial Lakes region. The situation remained the same for Ethiopia and Sudan that have been in civil war in most of the last quarter of the 20th century. What makes this region unique was that other than individual state's internal problem, interference by neighboring countries in the politics of the other states has been the reason behind the instability covering most part of the basin.

The fact that most of the basin states share more than one ethnic group, any kind of political unrest in one country has a spillover effect in the overall stability of the other country having similar culture and ethnic composition. Since intra-state and inter-state conflicts have been the characteristics of the region, the beginning of ethnic conflict in one state could trigger interference by other states or ethnic group to its internal affairs. The genocide in Rwanda could be taken as an example where conflict spread both in terms of the geographical coverage and countries affected. Interference against the politics of the other state, one among the major reasons, costs both Ethiopia and Sudan to lose part of their territories with the creation of Eritrea and South Sudan respectively. The lack of stability also ravaged the economies of these states for most of the second half of the 20th century. While these states had been through these troubled decades, Egypt has enjoyed a relative stability. The stability coupled with their strong tie with the major powers has benefited Egypt to build a strong military and economic power which in turn contributes for its ascendance as the hydro hegemony power in the basin (Dereje Zeleke, personal communication, April 8, 2015).

The ascendancy of Egypt as the hegemonic power of the basin is defined by Zeitoun and Warner (2006 cited in Cascao, 2009:248) in three dimensions. First, *material power* - relates to the level of economic, military, political power and access to external political power and financial support.

Due to its geostrategic location, the country has benefited from its closeness with the US, Europe and Middle Eastern countries, which enabled them to enjoy a strong political backing and major international financial support from international financial institutions. Egypt received \$76 billion in bilateral foreign aid including \$1.3 billion a year in military aid from 1987 to the present from the United States and \$20 billion from the Gulf States since the ousting of former president Morsi in July 2013 (Sharp, 2015:7-11). These developments helped them to consolidate their military power with the capacity enough to protect their interest. Second, *bargaining power* is related to the ability to determine and influence the agenda of negotiations. Egypt is also strong in terms of controlling the agenda and determining the ‘red lines’ of the negotiations up to dictating exactly what is ‘on’ and ‘off’ the agenda. For example, Egypt had been able to impose the perspective of its “historic rights” in the negotiation of the 1959. It also tried to do the same during the negotiation of the CFA. An emphasis that has been made water security, the most controversial issue in the CFA, is also another example that explains their bargaining power. Third, Egypt has also the strongest in the basin in *ideational power*.⁴ It has been able to highlight to the world its absolute dependence on Nile Water and the need to preserve its historical right and to define water availability as a matter of “national Security”. By securitizing the issue, it has promoted the rising of ideas favorable to their position and to discard any water resource development from other upstream states. Therefore, it is the combination of stronger material, bargaining and ideational power that allowed Egypt to ascend to the hydro-hegemonic status in the basin and to maintain the status quo for a long time without much challenge.

Still influenced by the zero-sum mentality of not trusting others regarding the water of the Nile, Egypt’s controversial decision to construct the High Aswan Dam and to conclude the 1929 and 1959 water agreements had been guided by these age old perceptions. The agreements that were signed at the expense of upstream states, despite their success in making Egypt the hydro-hegemony of the basin, created permanent tensions between upstream and downstream states for decades. Proxy wars which took the lives of millions of people between the 1960s and the early 1990s were caused by the issue of water, among other reasons. Especially, the struggle between Cairo and Addis Ababa for primacy in the Nile Basin has been dominating in the Nile upstream-downstream disagreement. Egypt had been successful in terms of blocking Ethiopia from

⁴ Ideational Power-a power that determines the ability to influence knowledge and construct discourse. Egypt is able to show the world its dependence on Nile thus reflecting their strong ideational power. For Detail see Cascao, 2009:248

developing water related projects by blocking funds and supporting discontented groups within the country so that the later would be busy to solve internal problems than focusing on projects that would affect Egypt's water quota (Verhoeven, 2013).

Surprisingly, Egypt, which was more stable than its neighbors' in the past decades, has recently been under intra-state conflicts with radical Islamic groups (Link et al., 2014:22). In general, in the last 15 years, Egypt's hydro-hegemony has progressively declined due to a combination of factors. First, once a respected personality around the continent, Hosni Mubarek, systematic neglect of Africa and the African Union from its foreign policy cost Egypt a lot by diminishing the country's influence in the Nile Basin and the rest of Africa. Egypt's focus more on the issue of the Middle East after the assassination attempt of Hosni Mubarek is partially the reason behind neglecting Africa from its foreign policy (Unstable power structure, 2014). Its closeness with Sudan has soared since Sudan's military-Islamist revolution in 1989. By adding another competitive state to the water of Nile, the independence of South Sudan in July 2011 has also reduced Egypt's dominance as the latter due to its unprivileged status, could be on the side of other upstream states. Second, in the last 15 years, unemployment, inequality and corruption have grown to the extent of sparking instability which culminated in the 2011 revolution that ousted Mubarek. The revolution continued again by ousting the elected President, Mohammed Mursi, and left the office for Al-Sisi. However, peace has not yet been secured due to the dissatisfaction of numerous religious and ethnic groups over the socio-economic and political situations of the country. Third, the coming of China on the African scene has given financial and technical option to upstream countries hydro-infrastructurel projects. As it is to recalled closed to upstream states for most of the 20th century by Egypt, through its alliance with Washington and international financial institutions which argued that it would be politically destabilizing (Verhoeven, 2013).

On the other hand, recently, the available literature attested that there has been a decrease in armed conflicts and increased political stability in the Nile River Basin. As a result, upstream countries have transformed themselves as relatively stable economic, political and military power from what they had long been known as a region of instability, conflict, hunger and wars. The arrival of China has lifted the age old embargo set by Egypt and its friends towards funding water related projects in the upstream countries. With this new source of funding, Ethiopia and Sudan are planning to build more than 25 big hydro-electric dams that are supposed to transform the regional political economy. The recent big push by Ethiopia on the construction of the GERD is the result

of its increasing economic and political muscle that has been underway for years and that a weakening Egypt failed to stop it (Cascao, 2009:249).

The current multi-polar world political system also allows the poor countries like Ethiopia and the rest of the basin countries to enjoy the opportunity of getting access to multiple donors. According to Zerubabel Getachew, Ethiopia has managed to engage these world powers into competition among themselves which in turn benefited the country in many areas. The recent economic development witnessed in the country together with the role it played for the security of the Horn of Africa, increased the interest of global powers. The US, which prioritizes the role of Ethiopia regarding the security of the region and China that focuses in establishing closer ties to the growing markets of states, are the reasons behind the increasing friendship with Ethiopia (personal communication with Zerubabel Getachew, April 17, 2015). According to Wiki leaks cable, Egypt had already threatened to bomb new hydro-infrastructure projects on the Blue Nile back in 2009-2010 but was opposed by the US and Sudan in addition to the extremely challenging logistical problem. Thus, as a key ally of the US in the fight against terrorism and piracy in the Horn of Africa and the Arabian Peninsula, Ethiopia managed to secure the support of the US in its row against the Egypt (Verhoeven, 2013).

Ethiopia's diplomatic effort which is very important in ensuring not to go to war again and cooperation over oil export for both Sudan and South Sudan also further strengthened its relationship with these states. As opposed to the soared relationship among these states in the past, Ethiopia's role in terms of negotiating these countries towards peaceful separation coupled with increasing economic integration resulted in each of them to care not only for the stability of their own country but also for the peace of others. A very clear example of such increasing integration is Ethiopia's connection by road to Djibouti, Somalia, Kenya, Sudan and South Sudan. In addition, Ethiopia's HEP is already connected with Djibouti and Sudan. With the support of the African Development Bank, the electric transmission line which is currently under construction from Welayita, Ethiopia to the East African power pool in Kenya is also planned to extend southwards to meet the growing power demands of Kenya, Rwanda, Uganda and Burundi (Ethiopian Reporter, 18 April, 2015).

The rest of the riparian states of the Nile basin are also progressing towards regional economic integration. The East African Community (EAC), reestablished in 1999 comprises of Kenya,

Uganda, Tanzania, Burundi and Rwanda. This regional intergovernmental organization aims at widening and deepening co-operation among the partner states. EAC also established the Lake Victoria Basin Commission in an attempt to facilitate the development of hydraulic structures. Similar developments in the Kagera River are also planned by Rwanda, Burundi, Tanzania and Uganda (Phillips et al., 2006 cited in Cascao, 2009:251). Despite the various level of implementation of the objectives of these sub basin organization, as opposed to their previous history, these states have increasingly been integrated economically and politically. The interstate infrastructure interconnection and increase of interstate trade also further cemented the development of integrated socio-economic regime.

The increasing cooperation and interdependence among the upstream states, contrary to the long existed interference in the politics of these states against each other, have changed the fate of the region for the better. As Zerubabel Getachew explains, the link Ethiopia made with its neighbors' in air, rail and road networks as well as the power trade in addition to strong dependence on security, boosted their mutual benefit. The improved relation of these states has changed the consideration of many of the states in the region that neighbors' are sources of problems either by harboring opposition groups of the other state or by directly supporting discontented groups of the other state. The traditional enmity and suspicion of states like Ethiopia towards its neighbors is now replaced by cooperation relation. This in turn encouraged all states to care for each other since a problem in one of them might affect the benefit of the other. Taking in to consideration the great role energy is playing in the world's power play, the dependence of these East African states over the power coming from Ethiopia clearly exemplified the trust and confidence among themselves. Consequently, the established interrelation in these areas will indirectly make countries of the region to keep the security of the region for their own sake and benefit (personal communication with Zerubabel Getachew, April 17, 2015).

In general, the last 15 years history of the countries of the Nile Basin attested that the status of Egypt as the hydro-hegemonic power has recently been challenged. The major problem of the upstream states such as instability, lack of water development strategies, poor economic performance and lack of financial support, have recently been decreasing. Especially, Ethiopia as the arch rival of Egypt for millennia on both the issue of the Nile and domination of the region, now with increasing economic and political strength, is starting to implement unilateral projects.

These projects, underscoring challenges to the basin's hydrological regime is now emerging (Cascao, 2009:248).

Here, the question to be answered is: what has the developments explained above got to do with the CFA? In response to this question, Zerubabel explains the indirect impacts of the positive changes in the upstream states upon the CFA. The economic gains resulting from stable internal politics, decreasing inter-state wars, and availability of multiple sources of funding are contributing to the consolidation of the economic, military and political power of most of the upper riparian states. Given the growing dominance of unilateral hydraulic projects in the basin, the growing economies of these states might have the capacity to support the construction of projects that could influence the quality and quantity of the waters of Nile flowing downstream. Put another way, increasing numbers of hydraulic projects in the upper riparian states might force the downstream states to accept the Agreement so that the probability of minimizing its impact is at least the option at hand than waiting the grave impacts of such projects in a situation where there is no room for cooperation (Personal communication with Zerubabel Getachew, April 17, 2015). To the same question, Fekahmed Negash explains the relationship between the positive developments in the upper riparian states and the CFA as debatable. However, he argued, the more the economy of upstream states is getting the strength to fund projects like the GERD in the future, their impact upon the interest of downstream states could also be great. This in turn could force downstream states to support the Agreement and to avoid the hurdles challenging the future works of the NRBC (personal communication with Fekahmed Negash, March 5, 2015).

4.4 REASONS FOR THE RELUCTANCE OF SOME COUNTRIES TO SIGN THE CFA

The most important factor that has delayed the signing of the CFA is the rigid Egyptian positions of not accepting the legitimate request of other basin states to share from the benefits that the Nile could offer. Apart from the previous colonial and bilateral agreements on the Nile which enabled Egypt to monopolize its use, the basin wide attempts that had been pioneered by Egypt in the second half of the 20th century didn't bring about the desired basin wide organizations. The focus of Egypt's pioneered initiatives of the HYDROMET and Undugu showed as there was no more intention to share the other basin states from their own river, Nile. Since these initiatives were geared as per their interest, the rest of the basin states lacked the incentive to participate

actively. Its combined result led to the halting of these initiatives before bearing a fruit (Dereje Zeleke, personal communication April 8, 2015).

Taking in to consideration of the above mentioned position and acts of Egypt, its agreement to establish NBI was considered historic. She agreed together with other basin states to abide by NBI's shared vision to achieve "sustainable socioeconomic development through the equitable utilization of, and benefit from, the common Nile Basin water resource" (Batisha, 2011:4). However, a closer look at the process of negotiation of the framework agreement, one could understand the wrong conclusion of changes in the position of Egypt during the establishment of the NBI in 1999. The issues of disagreement between upstream and downstream states, most importantly between Egypt and Ethiopia remained the biggest challenge as long as the issue of water utilization of the Nile is concerned. The wider gap between these two countries, most importantly, the unchanging position of Egypt has been contributing for the worsening of the relationship among the states in the basin and its subsequent failure to establish a joint regime that facilitates equitable utilization of the Nile water (ibid).

According to Fekahmed Negash, among the basic issues of disagreement, i.e., fate of the existing agreements, use of terms and the concept of water security, which directly affected the amount of water reaching downstream, other issues of less importance like the seat of the future headquarters of the NBC, also took ample time of the negotiation committee. Such deliberate acts of stretching the process of the negotiation are against the sacred objectives of the NBI. The sharp difference regarding the fate of the existing agreements reached up to halting the negotiation for about two years. This could also become another technique of buying time by giving hope to other states. Put another way, it showed the lack of real intention on the side of Egypt, other than buying time, towards realizing equitable and reasonable utilization (personal communication with Fekahmed Negash, March 5, 2015).

After restarting the negotiation, the unresolved disagreement on the status of the existing agreements had been replaced by the most controversial concept of water security as the main focus of the negotiation. Being aware of the procrastination of the negotiation, the committee had already planned the signing of the agreement during the Ministerial Meeting in 2007 but had been delayed at the request of Egypt. The decision of upstream states by placing in the Ministerial Meeting of Kinshasa, DRC, in 2009 and at Sharm el Sheikh, Egypt, in 2010, again failed due to

Egypt's deterrence. Thanks to her dominant political power, their opposition to the contentious issue of water security, i.e., Article 14(b) was excluded. However, despite the initial agreement on all the other issues, Egypt and Sudan refused to sign the CFA at the eleventh hour, which, according to Fekiahmed Negashi, is a question worth millions of dollars (ibid).

Even during the signing of the CFA in May 2010, the failure of the DRC to follow suit just like what the other upstream states did get a muted response due to the fear of not offending Egypt. Despite the difference in their parliamentary procedures, the delay in ratification of the signatory states of the CFA, in the eyes of the researcher, might be associated with the fear of Egypt. The cold reception that the researcher observed from the embassies of the Nile Basin States when they saw the title of the research could have been another manifestation of their fear in responding to questions related to the Nile. This assumption of the researcher is emanated from the response of the representative of Tanzania Embassy to Ethiopia. After reading the interview question, the representative in the embassy shout loud and asked back whether the researcher is a student or not. He also continued saying as I am either a politician or a journalist before replying his intention to request his bosses a permission so as to respond to my questions. However, this entire allegation is notwithstanding the role of the upstream states themselves for the delay in the ratification of the CFA.

States like Ethiopia that urgently wish the ratification did it first. Similar moves were taken by Rwanda and very recently by Tanzania. Regarding the position of Kenya, Uganda and Burundi, according to Fekahmed Negash, Director of the ENTRO, they are at a different level of preparation to ratify it by the parliament. The Director is also against the argument that the ratification of the CFA took long time by comparing the 17 years it needed to ratify the UN Convention. Therefore, despite the difficulty of exactly forwarding the date, as a victim of the existing colonial treaties and their immediate rejection to it following independence, their support to the agreement is unquestionable. Besides, it is also unlikely for these states to sign an agreement which they will not ratify. However, the perceived problem lies on the position of South Sudan, the newly independent and most pivotal state in terms of determining the relationship between the two opposite groupings of the Nile Basin. The civil war erupted not long after its independence results the country to give more focus on security than the expected participation in the issue of the Nile. Similarly, internal problems and less dependence over Nile also put the position of the DRC in question (Personal communication with Fekahmed Negash, March 5, 2015).

The birth of South Sudan in July 2011 has made clear the emergence of a new riparian state harboring the Sudd Swamps which are crucial for the flow of White Nile. It's crucial position has added a new opportunity to potentially influence the downstream upstream relation by a new coalition (Link, et al., 2014:9). Despite its absence at the time of the signing of the CFA, its disadvantaged upstream position would push its alignment to the rest of upstream states. As a state rejecting both the 1929 and 1959 Nile Water Agreement, there is a hope by many that South Sudan will accede to the agreement in the near future. As a testimony to such conclusion, they managed to ratify the CFA recently, but became unacceptable because of their failure to follow the right procedure. Again, by following the normal track, the CFA is waiting the parliamentary procedure to be ratified (personal communication with Fekahmed Negash, March 5, 2015).

However, the potential of South Sudan to influence the upstream downstream relation following its independence remained a question. The half a century struggle to acquire independence from Sudan, though succeeded in 2011, but failed to achieve the required stability. Power struggle between the president (Salvakir Mayardet) and vice president (Riek Mechar) ended up in a severe civil war between the two dominant ethnic groups, the Dinka and Nuer. This contemporary development opens the room for the temporary changes in the relation of South Sudan with its neighbors' in the basin. Egyptians approach in securing military pact and financial support to build small dams with South Sudan is testimony to the changes in power asymmetry which temporarily over shadow the issues related to the Nile Water (Husni Mustaffa⁵, personal communication, May 12, 2015). In general, the Egyptians will do everything in their power to approach South Sudan to side them or remain indifferent. Their attempt to hinder the independence of South Sudan is a recent memory that justifies the fear that Egyptians expected following its independence. Besides, Egypt also wishes the continuation of the problem since a weak South Sudan will not raise a question of water for some time and hinders her alignment to the other upstream states. On the side of South Sudan, though survival is their utmost priority, their interest towards the water of Nile has not been forgotten. According to Zerubabel Getachew, the unwavering position of South Sudan towards Nile issue was seen when the former independent fighters of Sudan People Liberation Army (SPLA), even before controlling power had managed to block the Jonglei Canal. The suspension of this project that was planned to augment additional flow to Egypt and Sudan clearly explains that their real intention over the issue of Nile is clear. This actions of South Sudan shows

⁵ Husni Mustafa- Diplomat at the Embassy of the Republic of the Sudan to Ethiopia

as there is little love left over with downstream states. Therefore, despite the unusual friendship between the two countries, when situations are getting better, there will be a probability for South Sudan to come back to their senses and ratify the agreement (personal communication with Zerubabel Getachew, April 17, 2015).

The case of the other country, DRC, however, is different from South Sudan. Of course, the unresolved internal civil war and rough relation with its neighbors' since independence, makes DRC to have a similar situation with South Sudan. However, the fact that DRC interest in the Nile is very minimal is the main reason that differentiates it from South Sudan. This is due to the small contribution of the tributaries of Nile emanating from DRC, i.e., Semiliki River to the development needs of the country. Rather, it is the Congo River which is 16-18 times bigger in terms of the volume of the flow to the Nile River, that DRC is highly dependent for its developmental needs. Therefore, as a country which failed to utilize other precious resources for the good of the country, it is very unlikely for them to focus on the water of Nile that might spark problems with other basin states (Fekiahmed Negash, personal communication, March 5, 2015). The argument of DRC to sign the CFA when there is a unanimous support from all the basin countries including Egypt and Sudan shows their lack of interest to sign it. In addition, by signing the CFA, which has little relevance for their development, they do not want to endanger their relation with Egypt. Most importantly, it is the interference of Rwanda and Uganda which has been responsible for the worsening of the civil war that ravaged the country's economic and political stability. Therefore, it is natural for DRC not to have much interest in signing the agreement to support her enemy neighbors' and further complicate their relation with Egypt (Dereje Zeleke, personal communication, April 8, 2015).

Regarding the position of Sudan, Husni Mustafa, a diplomat at the Sudan embassy to Ethiopia, said that his country does not reject the CFA, rather, as the issue is more sensitive and signing it will have a ramification on the interests of the people and its relation with other neighbors, taking enough time enough to analyze and think is the phase that his country is doing currently. He further stressed the delay for his country to sign the framework agreement is emanated from the need to consider the contents from the interests of the country, not from any kind of political inclination to support their age old friend, Egypt. Therefore, as a state under preparation and further study, forwarding the exact date in which Sudan is going to sign the CFA is very difficult (personal communication, May 12, 2015).

4.5 IMPACTS OF UPSTREAM WATER RESOURCE DEVELOPMENTS ON THE CFA

Unilateral development of hydraulic projects is not a recent phenomenon in the Nile basin. For most of the 20th century, Egypt did it by building a series of hydraulic projects. The construction of the High Aswan dam and the ongoing projects of the West Delta, Toshka and North Sinai are examples of this trend. Opposition to these projects from the weak upstream states has been given a deaf ear by Egypt. However, the positive socio-economic and political changes in most of the upstream states in the last decade enables these states to generate income by themselves and hence is solving the problems of security and finance, the major hurdles behind the failure of these states in developing such projects in the 20th century. As a result of these changes, upstream states are engaging themselves in the planning and development of unilateral water related projects. To put specifically, unilateral move is becoming the norm in the basin, a similar track that the downstream states have been doing for most of the 20th century (Casacao, 2009:249).

It is obvious that the rush among upstream states unilateral development of water related projects will have a huge impact on the water flowing to downstream states. In the absence of a binding legal framework for utilization, the impact of these projects in terms of the relationship among the states of the basin is going to be much worse. Due to the weakness of upstream states, unilateral projects of downstream states have been developed without much challenge, except official rejection. As a result, serious conflicts have not been triggered with the resentment of these upstream states. Due to the relative strength of Egypt in the basin, the unilateral projects of the upstream states are not going to be treated in the manner that these states have been doing against Egypt's projects in the past. However, the demand requested by the high population growth of most of these states are pressurizing upstream states to see the water of the Nile as a means of satisfying their needs irrespective of the impacts of their projects in the interest of downstream states. In addition to mobilizing internal resources to fund projects, the coming of China to the scene of Africa has augmented the capacity of these countries in terms of finance and technical expertise (Cascao, 2009:263). The impact China brings to the basin in terms of hydraulic projects is very huge and the list of these projects are shown in the table below.

Table 2: Chinese supported Hydraulic projects in the Nile Basin Region

Country	Project	Out put	Year completed	River	cost
Sudan	Merowe Dam	1250 MW	2010	Nile River	\$1.2 billion
Sudan	Roseires Dam heightening	Plus 4Mm ³ storage capacity and plus 50% MW	2013	Nile River	\$396 million
Ethiopia	Fincha (Amerti Neshi) river hydroelectric dam	100 MW	2011	Fincha River	
Ethiopia	Tekeze hydroelectric dam	300 MW	2009-2010	Nile River	\$224 million
Uganda	Ayago north and south hydropower dams	530 MW	2018	Nile River	\$900 million

Source: International Rivers 2008 cited in Cascao, 2009:260; Kinyangi et al., 2012:22 edited by the author.

The table above put specifically the increase in the number of water related projects developed in the upstream states. China, the source of finance of these projects, widens the opportunity that these states are accessing as compared to the times that these states had been denied by the West and other donors' that are sympathetic to Egypt. Boosted by the support of China and the consolidation of their economy and internal stability, these projects are going to have an impact on the amount of water reaching the downstream states especially Egypt. Besides, these projects are also challenging the long held hegemonic power of Egypt. Geographically, these projects are developed across the states of the basin, however, taking in to consideration of the weight of the impacts of these projects, a closer look in the hydraulic activities of Sudan and Ethiopia is given due attention. The ongoing and planned hydraulic projects in Sudan, which have the largest irrigable land and Ethiopia, which has the greatest potential in terms of HEP production, highlights the focus that these upstream states are given in terms of utilizing their resources and its related impact up on the basin hydro politics in general.

As a country which so far failed even to utilize the water quota given during the previous bilateral agreements due to economic and security related problems, the recent changes are supporting Sudan to execute its dream of utilizing the untapped resource of the Nile. Other than China, the Gulf States are contributing financially to the realization of the ongoing and planned projects.

Backed by the finance and technical capacity of the Saudi Arabia, Sudan is developing several irrigated agriculture and dam projects and planning to develop others in the near future. The notable example in this regard is the beginning of the construction of the Rumela and Burdena dams which aimed to increase irrigated area and agriculture production in New Haifa area currently irrigated by Khashim El Qurba dam (Corniff et al., 2012:20). Of course, the projects that Sudan has implemented so far have not utilized the water of the Nile above 18 billion cubic meters. However, its recent moves are posing a threat to Egypt which has been using the unutilized share of Sudan. In addition, the increase in the number of these projects will also reduce the water reaching the Aswan Dam which Egypt proposes to pump the water to its reclaimed land, i.e. Toshika. Although, Ethiopia's hydraulic projects are always considered the biggest challenge to the current hydro politics regime, the greatest immediate challenge could be is Sudan (Husni Mustafa, personal communication May 12, 2015).

Given the greatest agricultural potential of the country, the ongoing and planned projects of Sudan have caused a grave concern for Egypt. The projects of the other country, Ethiopia is also showing similar trend with Sudan. Because of its highland topography, the country is developing numerous dams along the different tributaries of the Nile. Although, several studies have shown Ethiopia's hydraulic projects may not significantly affect the flow of Nile, the challenges of its unilateral infra structure development is the strong political message it sends to downstream states: first, these projects may represent the end of Egypt's monopoly of the Nile water; second, inclination of Ethiopia to continue developing unilateral projects than waiting multilateral negotiations. Thus, Ethiopia breaks its silence and increases its influence over regional hydro politics relation and to contribute to a shift in the basin's regime. In other words, the increasing unilateral projects of Ethiopia offered the downstream states a choice to: (a) the achievement of multilateral negotiation that allows the allocation specific water to Ethiopia; and (b) the development of unilateral projects with or without the consent of Egypt (Cascao, 2009:256).

In general, unilateral trends have become more visible in the Nile Basin: Merowe dam and heightening of the Roseires dam (completed in 2010 and 2013 respectively) in Sudan; Tekeze dam (completed in 2009) and the GERD and Bujagali dams in Ethiopia and Uganda respectively (both planned to complete in 2017). In addition, several dams are proposed in most of the upstream states: the Karodabi, Border, Mabil, Beko Abo, Mendeya, and Chemoda dams in Ethiopia; Dal-I and Kajibar dams in Sudan; and Kalagala, Karuma and Ayango dams in Uganda. Of course,

riparian states of the Nile, especially, Ethiopia also tried to focus on multilateral strategies in an attempt to derive benefits which are financially supported by the World Bank and its acceptance on the downstream states. The proposed dams of Karadobi, Border, Boko Abo and Mendeya are among projects planned via the ENSAP thus showing Ethiopia's focus to derive benefits from multiple sources and to reduce the opposition of downstream states (Corniff et al., 2012:22).

In sum, the increasing unilateral projects in the upper riparian states may have an impact on the water flowing downstream and in terms of challenging the hydro political relation of the states. According to Cascao (2009:256), the correlation between unilateral development and cooperation among the states of the basin as follows: first, despite the ongoing cooperation in the NBI, the unilateral trends show the ambition of the states to increase utilization of water aiming at putting facts on the ground and to subsequently claim a legal right in the future renegotiation of water allocation. These developments in turn show that the failure of the NBI's "shared vision" to realize projects that ensure mutual benefit. Second, the probability of the collision of unilateral projects with the idea of basin wide resource management, planning and development identified by the NBI is going to be more real. This is again a failure to the ongoing cooperation in the basin.

Zerubabel Getachew argues that, the decline of Egypt's influence in the basin against the rising number of unilateral projects might push them to participate and sign the framework agreement. This is because of the fact that the participation of the downstream states might give them the opportunity to discuss and negotiate on the ways of decreasing the impacts of the planned projects in the upstream states would pose on their interests (Personal communication with Zerubabel Getachew, April 17, 2015). On the other side, given the fact that Egyptians consumed more than 75 percent of the water, in the eyes of the researcher, they are not going to get extra water out of any kind of negotiating in the NBI, thus, the probability of signing the CFA is very minimal. In support of this argument, Egypt's deliberate tactic of lengthening the realization of a legal regime and their refusal to sign it at its eleventh hour is mentioned as a testimony. Thus, the lack of hope in this regard might also push Egypt to choose dealing with a single and poor country that planned to develop projects at a time than dealing with a combined strength of all the basin states together. Thus, negotiating with a single country is far easier than negotiating with the strong arm of the future NBC. A very peculiar example of such scenario is the recent agreement that Egypt secured with Ethiopia regarding the GERD project.

In the absence of other means other than opposition towards Ethiopia's assertiveness in the construction of the GERD, Egypt chose to conclude an agreement with the former. The leaders of Egypt, Ethiopia and Sudan signed a preliminary agreement on Declaration of Principles on the Grand Ethiopian Renaissance Dam Project (GERDP) in Sudan's capital Khartoum on the 23 of March 2015. The agreement comprises 10 principles. These are: (a) principle of cooperation; (b) principle of development, regional integration and sustainability; (c) principle not to cause significant harm; (d) principle of equitable and reasonable utilization; (e) principle to cooperate on the first filling and operation of the dam; (f) principle of confidence building; (g) principle of exchange of information and data; (h) principle of dam safety; (i) principle of sovereignty and territorial integrity; and (j) principle of peaceful settlement of disputes (Horn Affairs, 25 March, 2015). In general, despite the contents of this agreement is becoming a bone of contention by different groups in Ethiopia, Sudan and Egypt, in the eyes of the researcher, one thing is clear, Egypt inclined to conclude specific treaty with Ethiopia.

4.5.1 The Grand Ethiopian Renaissance Dam (GERD) and the CFA

In response to the question raised regarding the impact of the GERD up on the CFA, Fekahmed explained its indirect relationship. Since the CFA does not prohibit countries unilateral action so long as the project is promoting development, no significant harm and exchange of planned measures, the direct impact of the GERD is minimal (personal communication, March 5, 2015). The response of Dereje to the similar question raised above is quite different. He replied the GERDP in Ethiopia might be a good example of the failure of the CFA. The construction of other giant water projects such as: the Merowe, Burdana, Rumela, and Shiraik dams and heightening of the Roseires dam in Sudan; Fincha Amertineshi and Ribb dams in Ethiopia; Nyarabango in Rwanda; and Buyagali dam in Uganda might be a good example of the failure of the CFA (Corniff et al., 2012:22). Dereje also further explained that the unilateral moves of these countries in the middle of CFA negotiation is against the cooperation sentiments that these states committed to work to the realization of shared vision of the NBI: "utilization and benefit from the common water resources". Thus, the impact of unilateral projects like the GERD up on the CFA is more negative which will question the credibility of the future task of the NRBC (Personal communication with Dereje Zeleke, April 8, 2015). On the other hand, Zerubabel responded the impact of the GERD up on the CFA as debatable, but hoped as it might force Egypt and Sudan to come back and sign the framework. His argument was that, the failure to sign the agreement might

encourage other upstream countries like Ethiopia to construct projects that might affect their interest (Personal communication with Zerubabel Getachew, April 17, 2015).

In addition, given the challenge of securing funds for big water projects from international sources, Ethiopia's initiation to build a \$4.5 billion project out of her own public financing could provide a strong stimulus to the other upstream states. What Ethiopia is doing in terms of the construction of GERD is also positively encouraging other upstream states to follow suit in the near future. The economic gains that Ethiopia is expected to secure by exporting energy to neighboring countries also further boosts the morale of upstream states to do the same. The friendship and closeness of Ethiopia with her neighbors that the power trade would result also cemented the consolidation of peaceful coexistence among the states in the basin. This will again provide a time for Ethiopia to focus on pulling out of its poverty stricken people than dealing with opposition groups and instabilities that have for so long been taking the limited resources. Therefore, these positive developments will equip Ethiopia to have a stable political environment and the necessary economic muscle to deal with the confrontation against Egypt in the future (Husni Mustafa, personal communication May 12, 2015).

Despite the strong opposition towards the construction in hydraulic projects of Ethiopia, Egypt has been supporting minor projects in the other upstream states. Such a generosity is the result of Egypt's deliberate attempt to isolate its biggest contender in the basin, i.e. Ethiopia. With this motive, Egypt has been providing financial and technical support to most of the Equatorial Lakes States. For instance, in response to the call from Uganda in 1998 to control the growth of aquatic weeds that blocked the outlet of both Lake Kyoga and Albert, Egypt offered a three phase technical and financial support to deal with the problem (Vidaurrezaga, 2012:1). Recently, Egypt concluded an agreement with South Sudan on the construction of a new dam in the northwestern city of Wau as part of the \$26 million in aid the former has pledged since 2011. In addition, seventeen groundwater wells and three drinking water wells have already been dug in the different districts of South Sudan. Humanitarian and military support to the war torn country, are other areas in which the assistance of Egypt is extending. These developments overshadowed the role of South Sudan in terms of contributing for the change in the balance of power in the Nile Basin (Gatwech, May 16, 2015).

4.6 SCENARIOS ON THE FATE OF THE CFA

The failure and/or success of concluding basin wide agreement over the issue of the Nile has always been associated with the economic, social, political and security related motives of the basin states in particular and the interest of global powers in general. The imperialist motive of Britain, Italy and France resulted in establishing a regime favored only by the downstream states. The established strength with the help of these colonial powers also boosted the economic and military power of Egypt which in turn contributes for its quick ascendance as the hydro-hegemonic power of the basin. Therefore, as a basin characterized by the domination of the downstream states, the increasing strength of the upstream states to change the established status quo highlights the recent picture of the relationship of the states in the basin.

The attempts of establishing basin wide institutions in the Nile Basin exemplifies the clash of interest between the dominant downstream and the weak upstream states. The negotiation of the CFA that has taken 14 years, ended in the refusal of the downstream states to sign and ratify it. Except the unity of upstream states against the downstream states hoping the ratification of the signatory states of the CFA in the near future, the changes witnessed in the basin remained as it has been for so long. Thus, focusing on the developments prevailing in the region, the following four scenarios' are identified and tried to explain along with their implications.

4.6.1 Sudan will sign the CFA

Taking into consideration the present position of Sudan towards the GERD project, it is possible to guess that Sudan may sign it. As opposed to the 1959 water agreement that demands both countries to have a common position whenever upstream states are developing hydraulic projects, Sudan's support to Ethiopia's big projects signals its detachment from the previous commitments. The presence of a very large irrigable land in Sudan has the potential to lift up its people from poverty. The secession of South Sudan taking 75 percent of the oil is obliging Sudan to focus on the large agricultural potential it possesses. The dependence on agriculture might push them to consolidate their cooperation with the upstream states from where the water is coming from. The progressing economy of the country will further boost their capacity of implementing their ambition. The strong friendship the country has with China and the Gulf States will also make the task in relation to accessing finance for the projects an easy task. Thus, the availability of finance and technical

skill to develop irrigation and dam projects might encourage Sudan to seek cooperation with the upstream states and will sign the CFA.

Therefore, if all the above interests of Sudan are getting dominance in the near future, the question that should be raised will be on the implication of such interest up on Egypt, the other upstream states and the CFA and its future institution, the NRBC. In the first case, the signing of the CFA by Sudan will herald the climax of the breakdown of their alienation with Egypt that started by their support to the GERD. Given the role of the common position of the two countries up on the hydro politics of the basin, the separation of Sudan from the established hydro hegemonic group of the basin is going to be a huge blow for Egypt. By making Egypt alone in the confrontation against upstream states, the position of Sudan will further consolidate the bargaining power of upstream states in their future negotiations. Consequently, the rivalry between Egypt and the unified position of upstream states will be heading in favor of the later. In general, these developments will either force Egypt to come to the negotiation table or sign the CFA. Even if Sudan refuses to sign the framework, given the favorable economical and political situations in most of the upstream states, the power and dominance of Egypt in the basin will not be sufficient enough to block and prohibit the hydraulic projects of the unified upstream states as before. In other words, if all the countries ratified the framework agreement, the future works of the NRBC will be much stronger than its activity without the membership of Sudan.

4.6.2 Both Sudan and Egypt will sign the CFA

Though it seems to be more optimistic to think the realization of this scenario, if it happens, it will declare the high time in the relationship between the countries of the basin in their entire history. The rough upstream-downstream relation is going to be solved so that institution born out of such cooperation will have a favorable time to implement the joint vision enshrined in the NBI. Especially, as the major tag of war has been between Egypt and Ethiopia since the time immemorial, political commitment on the side of Egypt will avoid the long standing barrier between them for good. The cooperation spirit between the age old rivalry states will contribute for the smooth functioning of the basin's institutions working in Nile water. Given the less expected performance of HYDROMET, Undugu and TECCONILE, changes in terms of narrowing the gap between these states will decrease their hidden interest that overshadowed the cooperation in the

basin. The hurdles put in place throughout the negotiation period of the CFA, mostly because of the disagreement between Egypt and Ethiopia is going to be replaced by cooperation.

In addition to the smooth functioning of the future works of the NRBC, the signing of the CFA by the downstream states will avoid the acrimonious relationship between upstream and downstream states that for so long has been the reason for the rough relation among the basin states. The phobia that stronger upstream states might affect the water flowing downstream has been the reason for Egypt to interfere in the internal politics of most of the upstream states. Egypt's support to the opposition groups of Ethiopia, its interference in Sudan and South Sudan could reflect the intention of Egypt to keep these states unstable so that it will have the required flow of the Nile. The internal problems of these countries together with the interference of the relatively stronger Egypt have been responsible for the chaos prevailing in the region. As part of their intention to divide the position of upstream states, Egypt's support of financial and technical assistance to some of the upstream states is another barrier which in turn contributes for the worsening of the relationship among the states in general. Therefore, under this optimistic scenario of downstream states position, the future works of the NBRC and the stability of the region are going to be secured.

4.6.3 Sudan and Egypt could refuse to sign the CFA

It represents the current scenario of the Nile Basin. As was the norm, the refusal of the downstream states to sign the CFA reflects the continuity of the rough relation and upstream-downstream states division of the past. This type of relation has resulted in the loss of life of hundreds of thousands of people and instabilities across the region. Though upstream states are getting more stable in their politics and economy, refusal of the downstream states to sign the framework is going to contribute for the continuation of the previous relationship that have been responsible to play the role of catalyst in the already unstable region. Let's assume that the recent positive developments are going to have dominance and thus overcome the influence of Egypt-the strength resulting from these positive developments in the upstream states will contribute for the increase in the number of unilateral hydraulic projects.

Given the increasing economic and political muscle of upstream states and the coming of China with the finance and technical skill to assist the ambitious projects, unilateral projects of states might affect the quality and quantity of the water of Nile reaching downstream. In the absence of a legal framework determining the utilization of their common resources and the high dependence of

Egypt up on the river, unilateral projects of upstream states might end up in a conflict between upstream states and downstream states. In addition, if either of the options suggested above is not going to happen, the likely alternative left for Egypt is to make a bilateral agreement with any upstream state developing a hydraulic project. The example in this perspective is the recent agreement of downstream states with Ethiopia over the GERD. In general, all these developments are going to have a negative impact up on the future works of the NRBC and the stability of the basin. Therefore, the only way out for the upstream states under this scenario will depend on keeping the strength and unity of these states. This is because- united position will make these states more strong in their negotiation despite the strength of Egypt and its continued strategic role to the major powers.

4.6.4 Delay in the Ratification of the Signatory States or failure to do it altogether

Though Ethiopia, Tanzania and Rwanda ratified the agreement in the five years time since the document was ready and put to signature, be it the bureaucratic parliamentary procedure of ratification process or out of less interest to ratify it soon among the signatory states, its delay will contribute for the continuation of a divided and weak upstream states. It will also make the playing field more comfortable for Egypt. Of course, as states for so long denied any kind of privilege from their own water and the fact that they rejected the previous Nile agreements, the probability of these states in ratifying the agreement which they once signed is more likely. However, given the current situation in some of the upstream states, one can put the realization of the ratification process in question. The current political crisis in Burundi and the unsolved homework in the DRC, Sudan, South Sudan and Somalia might spread to other states in the basin and will finally result to a chaos in the region and halt the ratification.

CHAPTER FIVE: CONCLUSSIONS AND RECOMMENDATIONS

5.1 CONCLUSSIONS

In today's world where population is growing at an alarming rate along declining resources resulting from the impacts of climate change, unwise utilization of these resources further exacerbate the competition among states. Given the importance of water to the survival and the overall development of states, such kinds of competition reached to its peak when states share a common river. The prevailing situation in the Nile Basin represents both the presence of intense competition among the states to utilize the waters of the Nile and the absence of any forms of agreement that avoids the spirit of competition among the basin states. By highlighting the major problems hindering the Nile Basin states from establishing an institution that facilitate equitable utilization from the Nile, this paper is going to be significant to anyone who aspires to be familiar with the complex factors that have been prevailing in the region. Moreover, as the issue of the Nile has been intermingled with the stability of the region and among the factor that determines the relationship among the states of the basin, this thesis could contribute by being a supplementary source to experts and academicians working in the region.

Situated in one of the poorest and unstable region of Africa, the Nile River has been serving as a permanent bondage among its basin states. Despite the compulsory nature of cooperation to utilize the nature gifted resources of Nile, however, the realities on the ground have not been yet showing the expected spirit of cooperation. The absolute dependence of the downstream states to the flow of Nile partly shaped their behavior in dealing with the issue of Nile with the rest of upstream states where the waters of Nile is originating. The fear that upstream states especially Ethiopia might block the flow of Nile has been behind the development of suspicion on the side of Egypt since time immemorial. As a solution to such exaggerated fear, Egypt had been tried to control Sudan and Ethiopia in the 19th century though controlling the later ended unsuccessful. The beginning of colonial period fulfilled the failed attempts of Egypt to control upstream states by force via the series of Nile Waters agreements orchestrated by imperialist power on behalf of the downstream states. The strategic and economic importance of the downstream states to the imperialist powers had been the reason behind the conclusion of Nile agreement in favor of the downstream states.

As the only independent state in the basin during the conclusion of the early Nile agreements, Ethiopia rejection to these agreements did not make a change. The rejection of these agreements by the newly independent upstream states have not yet been successful in terms of establishing the required unity and strength among themselves to deal with the hydro hegemonic power of the basin i.e. Egypt with regard to their right in sharing benefits from the resources of Nile. Understanding the difficulty of controlling the Nile with the previous colonially-induced agreements, Egypt went ahead in signing a bilateral agreement with Sudan in 1959 which results the sharing of the entire flow of the Nile among them. Unsatisfied even with these agreements, Egypt constructed the High Aswan Dam in the 1960's in order to store water to be utilized whenever there is reduction in the flow of the river due to upstream activities or natural problems.

Despite the above mentioned efforts of Egypt to preserve the established uses over Nile, the continued opposition of upstream states have been increasing its fear and forced to try another mechanisms. One among such mechanisms was the establishment of basin wide institution that has recently been the tradition in resolving problems related to the utilization of international rivers among basin states. The establishment of Egypt's pioneered institutions such as HYDROMET, Undugu and TECCONILE could be a testimony in this regard. However, these institutions failed to last long due to the lack of mutual objective and active participation of all the basin states, most importantly Ethiopia. Parallel to this move, the paranoia of a decreased flow resulting from hydraulic works of upstream states has been driving Egypt to focus on destabilizing the region. As a result, the weak and unstable upstream states of the Nile could not have the time and financial resource needed to build projects that could affect the quantity and quality of water reaching downstream.

The difficulty of recognizing the rights of upstream states from their share in the Nile, the major problem of the Egypt in relation to the question of equitable and reasonable utilization from the common river, has been challenged by economic and political changes of upstream states after the 1990s. Forced by the increasing strength of other states in terms of political stability and economy, downstream states were forced to join with the rest of upstream states during the establishment of the NBI in 1999. As a temporary institution until the establishment of the permanent NRBC, the NBI is aiming to ensure equitable and reasonable utilization of the resources of Nile among its basin states. To realize such noble objective, the new institution has been facilitating the implementation of investment projects in the basin and negotiation of the CFA. The CFA, the

prime focus of this thesis, had been negotiated for more than a decade and ended with the signing of Ethiopia, Uganda, Rwanda, Burundi, Tanzania and Kenya. Though not opposed the agreement, the DRC is expected to accede in the future. As it was the tradition, downstream states remained in their opposition.

Absence of basin wide institution, the major problem of the Nile Basin, seems to be achieved through the efforts of the NBI. However, the realities on the ground have not yet been showing the anticipated changes. Waiting only the ratification of Uganda, Kenya and Burundi to have a legal status, the CFA seemed a success to the hitherto disadvantaged upstream states. Given Egypt's relative economic and political strength and its closeness to the West, the likelihood of success of the activities of the future NRBC remained in question. The researcher shares the big role of downstream states especially Egypt behind the escalation of upstream-downstream division over the procedures to be followed in utilizing the resources of the Nile equitably. Put another way, it is the lack of political willingness on the side of downstream states, particularly, Egypt to recognize the natural rights of other states to share from the benefits of Nile.

The different issues of disagreement during the negotiation of the CFA between the upstream and downstream states of the basin further clarifies the failure of Egypt to recognize the rights of other states of the Nile. Let assume the issues of notification on planned measure and use of terms be issues of reasonable importance to deal with during the negotiation, however, making minor issues like the seat of the head quarter an agenda of negotiation was not showing the expected commitment among the basin states in resolving the issue of the Nile. Despite the rejection of the previous Nile Water agreements by upstream states and their gathering in a hope to change these hurdles in the NBI, Downstream states decision to put these issues again during the negotiation reflected their unchanging position. After the coming of the contentious concept of "water security" replacing the previous agreements as a major issue of disagreement, the challenge of resolving the problem of the basin is getting more complicated. Article 14(b), the major issue of disagreement in the section of water security, though, being postponed to be resolved by the future NRBC, refusal of downstream states further questioned the interest of these states out of the more than decade long negotiation.

Unless cooperation is not the working formula in relation to the issue of Nile among the Nile Basin states, the increasing number of unilateral hydraulic projects in most upstream states might

contribute for the continuation of mistrust, competition and even conflict among the states of the basin. The relatively stable socio-economic situations in upstream states and the coming of China to the region with the financial and technical capability to the hydraulic projects in the basin, the probability of further increase in the number and impact that these projects could cause on the quality and quantity of the water reaching downstream states is going to be significant. The researcher also argues the need to have a unified position among upstream states and urgency to ratify the already signed agreement in order to counter balance the age old hegemonic power of the downstream states in the basin. Given the dynamic changes in the basin and political nature of the topic, the researcher believes as the complex problems of the basin could have been more visible than the details addressed in this study had it been the full support of the samples selected to provide the required primary data. Thus, the major limitation of this thesis lied in the failure to encompass the views of the representatives of the different Nile Basin states embassies to Ethiopia due to their reluctance to reply to the questions raised by the researcher.

5.2 RECOMMENDATIONS

In the basin where the need for water is increasing due to the high growth in population, and urban and industrial needs, unless a cooperation mechanism is installed, the possibility of its scarcity will create a challenge to the overall stability of the basin. The impacts of climate change and improper management of the basin's hydrology is posing an immediate challenge to the development, stability and relationship between the states in the basin. Since most of the people of the basin are among the poorest in the world, the only way out of this mess depends on relying on different mechanisms that will grow out of cooperation. Avoiding hurdles responsible for the failure to come up with basin wide agreement and smooth relationship among the basin states is the only alternative safe enough to ensure mutual benefit from their common resources. Therefore, in order to realize the establishment of a regime that can catalyze the efforts of these states to escape from the vicious circle of poverty through a cooperative spirit of managing and utilizing the water resources, Nile Basin States should:

- understand the impossibility of solving the problems of the basin by sticking to the unjust bilateral and colonial agreements. More specifically, Egypt and Sudan should change their outdated position and sign the CFA so that the future works of the NRBC could be easy.

- recognize the role of ratifying the CFA soon, more specifically the signatory states of the CFA, towards the establishment of the long awaited NRBC. Realizing it could give the hitherto disadvantaged states of the Nile Basin the legal basis to utilize their common resources and to challenge the domination of Egypt.
- distance themselves from developing unilateral projects that are against the objectives of the CFA. Rather, basin states should work hard to realize the establishment and consolidation of the capacity of the NRBC so that any kind of hydraulic projects developed in the basin will pass through its close supervision as per the guidelines of the framework agreement.
- more than anything else, especially Egypt accept the rights of other upstream states a share from the resource coming from their own territory. Unless a change in perception Egypt's policy regarding Nile, reaching consensus be it in contents of the framework agreement or future negotiation in the increasing hydraulic projects across the Nile will remain in limbo.
- understand the potential benefits of collective security and stability across the basin. Avoiding the perception of the weak and destabilized neighbors as a guarantee for the continuation interests untouched by these troubled states, rather, looking far to enjoy the potential benefits from a stable neighbors is far more recommended.
- believe the possibility of sharing more benefits outside of the issues of the quantified allocation of the water of the Nile by enhancing economic integration among them. The economic return of such inter-state trade will fill the gap left from the unreasonable utilization of the resources of the Nile by the downstream states.
- work together to enhance the water available in the region through proper management of the available water, developing alternative sources such as ground water and desalinization, and devising mechanisms to reduce the water lost due to evaporation in the vast expenses of South Sudan and other states.
- change the livelihood of the people especially in the downstream where the relatively diversified economy of Egypt has the shoulder to carry such responsibility. Rather than complaining for the decline of every drop of water because of upstream hydraulic projects, given the current economic muscle of Egypt, to try in changing the dependency of their economy other than agriculture which is related to the fluctuating flow of the Nile due to different reasons.

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APPENDICES

Appendix-1

Guiding Questions for Interviewing Experts in the Nile Basin

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation!

- 1- Regarding the Cooperative Framework Agreement;
 - What is the essence of the Cooperative Framework Agreement (CFA)?
 - What are the major issues of disagreement between the upper and lower riparian states of the Nile Basin?
 - How do you evaluate the content of the CFA in light of major international Water laws and basin laws such as the one made on Senegal and Mekong River Basins?
 - Do you think the ratification of the CFA will equip the NBC with legal power to carry its task notwithstanding the downstream opposition and donors' inclination towards Egypt?
 - Do you think DRC and South Sudan will sign it? If yes, how soon? If no, why not?
 - Do you think the signatory states will ratify it soon? If no, why?
- 2- In relation to the GERD;
 - What are the negative impacts and benefits of GERD for downstream states?
 - What are the recommendations forwarded by the International Panel of Experts on GERD?

- What is the difference in position between Egypt and the Sudan toward GERD and the recommendations of the IPoE?
 - How do you evaluate the impact of GERD up on the CFA and its message to the upper riparian states?
- 3- What alternative is available to make a balance in the future between the ever increasing demands of water in the region and the currently available water resources (the demand-supply gap)?
 - 4- How do you evaluate the current relation of the upper riparian states with the Western Powers, BRICS and donor agencies? To what extent does this relation influence the work of the future NBC in general and Projects like the GERD in particular?

Thank you in Advance

Essa Mohammed

Addis Ababa University

Appendix-2

Guiding Questions for Interviewing the FDRE Ministry of Water, Irrigation and Energy

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation

- 1- What are the major water and irrigation projects that Ethiopia is implementing in the Nile Basin right now? What are the success stories and challenges of these projects?
- 2- Regarding the Cooperative Framework Agreement;
 - What are the major issues of disagreement between the upper and lower riparian states of the Nile Basin?
 - How do you evaluate the content of the CFA in light of major international Water laws and basin laws such as the one made on Senegal and Mekong River Basins?
 - Do you think the ratification of the CFA will equip the NBC with the legal power to carry its task notwithstanding the downstream opposition and donors' inclination towards Egypt?
 - Do you think DRC and South Sudan will sign it? If yes, how soon? If no, why not?
 - Do you think the signatory states will ratify it soon? If no, why?
- 3- In relation to the GERD;
 - What are the negative impacts and benefits of GERD for downstream states?
 - What are the recommendations forwarded by the International Panel of Experts on GERD?

- What is the difference in position between Egypt and the Sudan towards GERD and the recommendations of the IPoE?
- How do you evaluate the impact of GERD up on the CFA and its message to the upper riparian states?
- 4- What alternative is available to make a balance in the future between the ever increasing demands of water in the region and the currently available water resources (the demand-supply gap)?
- 5- How do you evaluate the current relation of the upper riparian states with the Western Powers, BRICS and donor agencies? To what extent does this relation influence the work of the future NBC in general and Projects like the GERD in particular?

Thank you in Advance

Essa Mohammed

Addis Ababa University

Appendix-3

Guiding Questions for Interviewing the FDRE Foreign Affairs

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation

1- Regarding the Cooperative Framework Agreement;

- What is the essence of the Cooperative Framework Agreement (CFA)?
- What are the major issues of disagreement between the upper and lower riparian states of the Nile Basin?
- Do you think the ratification of the CFA will equip the NBC with the legal power to carry its task notwithstanding the downstream opposition and donors' inclination towards Egypt?
- Do you think DRC and South Sudan will sign it? If yes, how soon? If no, why not?
- Do you think the signatory states will ratify it soon? If yes, how will the upper riparian states persuade the downstream states in signing the CFA? If no, why?

2- In relation to the GERD;

- What are the negative impacts and benefits of GERD for downstream states?
- What are the recommendations forwarded by the International Panel of Experts on GERD?
- What is the difference in position between Egypt and the Sudan towards GERD and the recommendations of the IPoE?

- How do you evaluate the impact of GERD up on the CFA and its message to the upper riparian states?
- 3- How do you evaluate the current relation Ethiopia with the Western Powers, BRICS and donor agencies? To what extent does this relation influence the political landscape and economy of Ethiopia and Projects like the GERD?
- 4- What are the major objectives of Ethiopia's foreign policy towards the other members of the Nile basin? How do you explain the success and/or failure of this objective in the last 30 years?
- 5- How do you explain South Sudan's recent turmoil and the military pact between Egypt and South Sudan up on the security of the region, the CFA and GERD? Which external forces and to what extent do these forces influence the overall security of the new state, GERD and the CFA?
- 6- To what extent will Egypt's recent attempt at lobbying donors' and other countries against the GERD be successful? What should Ethiopia do to minimize the risk?
- 7- What does the recent US-Russian disagreement mean to the Nile Basin states in general and to Ethiopia and Egypt in particular?
- 8- How do you evaluate the election of Al Sisi as a president in Egypt with regards to the fate of the CFA, GERD and Ethio-Egyptian relation?

Thank you in Advance

Essa Mohammed

Addis Ababa University

Appendix-4

Guiding Questions of Interview for the Embassy of Arab Republic of Egypt to Ethiopia

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation

- 1- What are the major guiding principles of Egypt's Nile Basin policy?
- 2- How do you evaluate the progress of the relation of Egypt with the Nile Equatorial States economically? How do you assess the progress in the volume and diversification of Egyptian assistance of any kind toward these states?
- 3- What are the guiding principles of Egyptian foreign policy towards the upper riparian states?
- 4- How do you see the out of basin irrigation projects of Egypt (Toshika and El-Salam) with regard to its legality in accordance to the available international water laws?
- 5- How do you evaluate the progress in the volume and diversification of Egypt's economic relation with Eastern Nile Basin states in the last 20 years? Is there any kind of assistance to the Eastern Nile Basin states in the last 15 years? If yes, what are the focus areas?
- 6- Do you think the GERD will pose a threat on the downstream states? If yes, why is Sudan in favor of its construction and agreed to recognize the recommendation of the International Panel of Experts while you opposed it?

- 7- What are the major issues of concern for Egypt regarding the CFA? Will there be a change of position in the near future?
- 8- How do you evaluate Al Sisi's election as president of Egypt in relation to the fate of the CFA, GERD and Ethio-Egyptian relation?
- 9- How do you explain the recent military pact between Egypt and South Sudan up on the security of the region and GERD?
- 10- To what level does Egypt allow Upstream States to use the Nile Waters?
- 11- What does the inclusion of Nile security in the new Egyptian constitution mean to Egypt and the upper riparian states?
- 12- Does Egypt have a plan to take a military action over Ethiopia in order to stop the construction of GERD? If no, how do you explain the comment forwarded by one of the presidential candidate to bombard GERD in order to stop its construction?

Thank you in Advance

Essa Mohammed

Addis Ababa University

Appendix-5

Guiding Questions for Interviewing ENTRO

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation

- 1- In what ways do you think the works of ENTRO influence the acceptance of CFA by downstream states and the attitude of donors towards water-related developmental projects in the Eastern Nile basin?
- 2- How do you evaluate the participation of the Eastern Nile states with regard to joint cooperation in planning, implementing and searching funds to realize the investments projects of ENTRO?
- 3- From among the projects of ENSAP, which projects receive donors' attention and which are not and why?
- 4- What will be the fate of ENTRO if Egypt and Sudan remain non-signatories of the CFA?
- 5- What impact does South Sudan's membership in the NBI have on the activities of ENTRO?
- 6- Has Egypt's involvement in ENTRO's actions lessened after the construction of GERD?
- 7- What will be the prospect of ENTRO when all the three parties disagree on the implementation of water-related projects on the Nile Waters?

8- From among the projects of ENTRO;

- Which projects are completed?
- Which projects are phased out? Why?
- Which projects are in progress?
- Which projects got no funding?

Thank you in Advance

Essa Mohammed

Addis Ababa University

Appendix-6

Guiding Questions for Interviewing NELSAP-CU

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation!

- 1- In what ways do you think the works of NELSAP-CU influence the acceptance of the CFA by downstream states and the attitude of donors' towards-water related developmental projects in the Nile basin?
- 2- How do you evaluate the participation of the member states with regard to joint cooperation in planning, implementing and searching funds to realize the investments projects of NELSAP-CU?
- 3- What will be the fate of NELSAP-CU if Egypt and Sudan remain non-signatories of the CFA?
- 4- Has Egypt's involvement in NELSAP-CU actions lessened after the construction of GERD?
- 5- From among the projects of NELSAP-CU;
 - Which projects are completed?
 - Which projects are phased out? Why?
 - Which projects are in progress?
 - Which projects have got no funding?

Thank you in Advance (Essa Mohammed, Addis Ababa University)

Appendix-7

Guiding Question for Interviewing the Embassy of DRC to Ethiopia

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation!

- 1- Why has DRC refused to sign the CFA? Give answers?
- 2- Do you think DRC will sign the CFA sooner or it won't sign? If they don't sign, why?
- 3- Is there any water related-project that DRC is undertaking and how significant is the water of the Nile to the economy of your country?
- 4- What is your position on the construction of GERD in Ethiopia?
- 5- How do you explain the current economic and political relation of your country with the upper riparian states?
- 6- How do you evaluate the rate of progress of financial support from Egypt, the West, BRICS and donor agencies to your country in the last 15 years?
- 7- Do you sympathize down streams such as Egypt more than upstream states? If yes, why?

Thank you in Advance

Essa Mohammed

Addis Ababa University

Appendix-8

Guiding Questions for Interviewing the Embassy of South Sudan to Ethiopia

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation!

- 1- When will your country sign the CFA?
- 2- To what extent does the recent civil war affect your country's decision in signing the CFA and its active participation in ENTRO?
- 3- What is your country's Nile policy? What is your country's position regarding the 1959 agreement on the Nile and in what way do you expect your country plan to utilize the waters of the Nile at present and in the near future?
- 4- How do you evaluate the role of the Nile Basin States in either trying to resolve or worsening the civil war in South Sudan? What are their interests?
- 5- Why have you signed a military pact with Egypt? Is there any kind of Egyptian support to South Sudan so far? If yes, in which areas and how much is the aggregate of these supports in US dollars?
- 6- Is there any water related project that your country plans to undertake? If yes, in which areas? If no, why?
- 7- What is your position on the construction of GERD in Ethiopia
- 8- How do you evaluate the rate of progress of financial support from the West and BRICS and donor agencies to your country since independence?

Appendix-9

Guiding Questions for Interviewing the Embassy of Sudan to Ethiopia

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation!

- 1- Why has Sudan refused to sign the CFA? Give reasons? Will there be a change of position in the near future? If no, why?
- 2- As opposed to the long tradition of having similar position between Sudan and Egypt with regard to the utilization of river Nile by the other member states, how come your country give support to the GERD?
- 3- Is it not contradictory for your country to support GERD and oppose the CFA?
- 4- How do evaluate the current economic, political and cultural relation of your country with the other members of the basin in general and with Ethiopia, Egypt, Eritrea and South Sudan in particular?
- 5- What impact do you think the independence of South Sudan will have on the water quota your country? Will you give South Sudan half of your quota?
- 6- Is there any water related project that your country is undertaking? If yes, in which areas and by who is it sponsored? If no, why?
- 7- How do you evaluate the rate of progress of financial support from the West, BRICS, Arab Countries and donor agencies to your country in the last 15 years?

Thank you in Advance

Essa Mohammed ... Addis Ababa University

Appendix-10

Guiding Questions for Interviewing the Embassy of Kenya to Ethiopia

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation!

- 1- How do you explain the current economic and political relation of your country with the upper riparian states in general and with Ethiopia in particular?
- 2- Why is Kenya not ratifying the CFA?
- 3- What is your position on the construction of GERD in Ethiopia?
- 4- Is there any water related project that your country is undertaking along the tributaries of Nile River? If yes, in which areas and who covers the cost? If no, why?
- 5- How do you assess the overall relation of your country with Egypt? Is there any kind of Egyptian support to Kenya so far? If yes, in which areas and how much is the aggregate of these supports in US dollars?
- 6- How do you evaluate the rate of progress of financial support from the West, BRICS and donor agencies to your country in the last 15 years?

Thank you in Advance

Essa Mohammed

Addis Ababa University

Appendix-11

Guiding Questions for Interviewing the Embassy of Tanzania to Ethiopia

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation!

- 1- How do you explain the current economic and political relation of your country with the upper riparian states in general and with Ethiopia in particular?
- 2- Why is Tanzania not ratifying the CFA?
- 3- What is your position on the construction of GERD in Ethiopia?
- 4- Is there any water related project that your country is undertaking in the basin of the Nile River? If yes, in which areas and who covers the cost? If no, why?
- 5- How do you assess the overall relation of your country with Egypt? Is there any kind of Egyptian support to Tanzania so far? If yes, in which areas and how much is the aggregate of these supports in US dollars?
- 6- How do you evaluate the rate of progress of financial support from the West, BRICS and donor agencies to your country in the last 15 years?

Thank you in Advance

Essa Mohammed

Addis Ababa University

Appendix-12

Guiding Questions for Interviewing the Embassy of Burundi to Ethiopia

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation

- 1- How do you explain the current economic and political relation of your country with the upper riparian states in general and with Ethiopia in particular?
- 2- Why is Burundi not ratifying the CFA?
- 3- What is your position on the construction of GERD in Ethiopia?
- 4- Is there any water related project that your country is undertaking in the basin of the Nile River? If yes, in which areas and who covers the cost? If no, why?
- 5- How do you assess the overall relation of your country with Egypt? Is there any kind of Egyptian support to Burundi so far? If yes, in which areas and how much is the aggregate of these supports in US dollars?
- 6- How do you evaluate the rate of progress of financial support from the West, BRICS and donor agencies to your country in the last 15 years?

Thank you in Advance

Essa Mohammed

Addis Ababa University

Appendix-13

Guiding Questions for Interviewing the Embassy of Uganda to Ethiopia

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation

1. How do you explain the current economic and political relation of your country with the upper riparian states in general and with Ethiopia in particular?
2. Why is Uganda not ratifying the CFA?
3. Why is your position on the construction of GERD in Ethiopia?
4. Is there any water related project that your country is undertaking in the basin of the Nile River? If yes, in which areas and who covers the cost? If no, why?
5. How do you assess the overall relation of your country with Egypt? Is there any kind of Egyptian support to Uganda so far? If yes, in which areas and how much is the aggregate of these supports in US dollars?
6. How do you evaluate the rate of progress of financial support from the West, BRICS and donor agencies to your country in the last 15 years?

Thank you in Advance

Essa Mohammed

Addis Ababa University

Appendix-14

Guiding Questions for Interviewing the Embassy of Rwanda to Ethiopia

My name is Essa Mohamed. I am a postgraduate student at the Addis Ababa University Center for African Studies, currently conducting my MA research on the ongoing attempt to ratify the Nile Cooperation Framework Agreement (CFA). The title of my theses is: *An Appraisal of the Nile Basin Cooperative Framework Agreement*. The objective of the research is to appraise the Cooperative Framework Agreement from its inception till the present and the near future in light of the challenges and opportunities it faces. In order to enrich my knowledge on this research theme, I am collecting relevant information regarding the agreements on the Nile River. Therefore, your genuine information is highly appreciated and valuable for the success of the study. Finally, I would like to assure you the confidentiality of your comments you make will be treated with respect and strict confidentiality and will be used only for research purposes.

Thank you for your time and cooperation

- 1- How do you evaluate the current economic and political relation of your country with the upper riparian states in general and with Ethiopia in particular?
- 2- Is there any water related project that your country is undertaking in the basin of the Nile River? If yes, in which areas and who covers the cost? If no, why?
- 3- How do you assess the overall relation of your country with Egypt? Is there any kind of Egyptian support to Rwanda so far? If yes, in which areas and how much is the aggregate of these supports in US dollars?
- 4- How do you evaluate the rate of progress of financial support from the West, BRICS and donor agencies to your country in the last 15 years?
- 5- What is your position on the construction of GERD in Ethiopia?

Thank you in Advance

Essa Mohammed

Addis Ababa University

Appendix 15

AGREEMENT ON THE NILE RIVER BASIN COOPERATIVE FRAMEWORK

Preamble

The States of the Nile River Basin,

Affirming the importance of the Nile River to the economic and social well-being of the peoples of the States of the Nile River Basin;

Motivated by the desire to strengthen their cooperation in relation to the Nile

River, a great and vital natural resource which binds them together, and in relation to the sustainable development of the Nile River Basin;

Recognizing that the Nile River, its natural resources and environment are assets of immense value to all the riparian countries;

Convinced that a framework agreement governing their relations with regard to the Nile River Basin will promote integrated management, sustainable development, and harmonious utilization of the water resources of the Basin, as well as their conservation and protection for the benefit of present and future generations;

Convinced also that it is in their mutual interest to establish an organization to assist them in the management and sustainable development of the Nile River Basin for the benefit of all;

Mindful of the global initiatives for promoting cooperation on integrated management and sustainable development of water resources;

Have agreed as follows:

Article 1: Scope of the Present Framework

The present Framework applies to the use, development, protection, conservation and management of the Nile River Basin and its resources and establishes an institutional mechanism for cooperation among the Nile Basin States.

Article 2: Use of Terms

For the purposes of the present Cooperative Framework Agreement:

(a) “Nile River Basin” means the geographical area determined by the watershed limits of the Nile River system of waters; this term is used where there is reference to environmental protection, conservation or development;

- (b) “Nile River system” means the Nile River and the surface waters and Groundwater’s which are related to the Nile River; this term is used where there is reference to utilization of water;
- (c) “Framework” means the present Cooperative Framework Agreement;
- (d) “State of the Nile River Basin”, “Nile Basin State” or “Basin state” means a State party to the present Framework in whose territory part of the Nile River Basin is situated;
- (e) “The Commission” means the Nile River Basin Commission established under Part III of the present Framework;
- (f) “Water security” means the right of all Nile Basin States to reliable access to and use of the Nile River system for health, agriculture, livelihoods, production and environment.

PART I. GENERAL PRINCIPLES

Article 3: General Principles

The Nile River Basin and the Nile River System shall be protected, used, conserved and developed in accordance with the following general principles;

1. Cooperation

The principle of cooperation between States of the Nile River Basin on the basis of sovereign equality, territorial integrity, mutual benefit and good faith in order to attain optimal utilization and adequate protection and conservation of the Nile River Basin and to promote joint efforts to achieve social and economic development.

2. Sustainable development

The principle of sustainable development of the Nile River Basin.

3. Subsidiarity

The principle of subsidiarity, whereby development and protection of the Nile River Basin water resources is planned and implemented at the lowest appropriate level.

4. Equitable and reasonable utilization

The principle of equitable and reasonable utilization of the waters of the Nile River System.

5. Prevention of the causing of significant harm

The principle of preventing the causing of significant harm to other States of the Nile River Basin.

6. The right of Nile Basin States to use water within their territories

The principle that each Nile Basin State has the right to use, within its territory, the waters of the Nile River System in a manner that is consistent with the other basic principles referred to herein.

7. Protection and conservation

The principle that Nile Basin States take all appropriate measures, individually and, where appropriate, jointly, for the protection and conservation of the Nile River Basin and its ecosystems.

8. Information concerning planned measures

The principle that the Nile Basin States exchange information on planned measures through the Nile River Basin Commission.

9. Community of interest

The principle of the community of interest of the Nile Basin States in the Nile River System.

10. Exchange of data and information

The principle of the regular and reciprocal exchange among States of the Nile River Basin of readily available and relevant data and information on existing measures and on the condition of water resources of the Basin, where possible in a form that facilitates its utilization by the States to which it is communicated.

11. Environmental impact assessment and audits

The principle of environmental impact assessment and audits.

12. Peaceful resolution of disputes

The principle of the peaceful resolution of disputes.

13. Water as a finite and vulnerable resource

The principle that fresh water is a finite and vulnerable resource, essential to sustain life, development and the environment, and must be managed in an integrated and holistic manner, linking social and economic development with protection and conservation of natural ecosystems.

14. Water has social and economic value

The principle that water is a natural resource having social and economic value, whose utilization should give priority to its most economic use, taking into account the satisfaction of basic human needs and the safeguarding of ecosystems.

15. Water security

The principle of water security for all Nile Basin States.

PART II. RIGHTS AND OBLIGATIONS

Article 4: Equitable and reasonable utilization

1. Nile Basin States shall in their respective territories utilize the water resources of the Nile River System in an equitable and reasonable manner. In particular, those water resources shall be used

and developed by Nile Basin States with a view to attaining optimal and sustainable utilization thereof and benefits there from, taking into account the interests of the Basin States concerned, consistent with adequate protection of those water resources. Each Basin State is entitled to an equitable and reasonable share in the beneficial uses of the water resources of the Nile River System.

2. In ensuring that their utilization of Nile River System water resources is equitable and reasonable, Nile Basin States shall take into account all relevant factors and circumstances, including but not limited to the following:

- (a) Geographic, hydrographic, hydrological, climatic, ecological and other factors of a natural character;
- (b) The social and economic needs of the Basin States concerned;
- (c) The population dependent on the water resources in each Basin State;
- (d) The effects of the use or uses of the water resources in one Basin State on other Basin States;
- (e) Existing and potential uses of the water resources;
- (f) Conservation, protection, development and economy of use of the water resources and the costs of measures taken to that effect;
- (g) The availability of alternatives, of comparable value, to a particular planned or existing use;
- (h) The contribution of each Basin State to the waters of the Nile River system;
- (i) The extent and proportion of the drainage area in the territory of each Basin State.

3. In the application of paragraphs 1 and 2 above, the Nile Basin States concerned shall, when the need arises, enter into consultations in a spirit of cooperation.

4. The weight to be given to each factor is to be determined by its importance in comparison with that of other relevant factors. In determining what is a reasonable and equitable use, all relevant factors are to be considered together and a conclusion reached on the basis of the whole.

5. Nile Basin States shall, in their respective territories, according to their national laws and regulations, keep the status of their water utilization under review in light of substantial changes in relevant factors and circumstances.

6. Nile Basin States shall observe the rules and procedures established by the Nile River Basin Commission for the effective implementation of equitable and reasonable utilization.

Article 5: Obligation not to cause significant harm

1. Nile Basin States shall, in utilizing Nile River System water resources in their territories, take all appropriate measures to prevent the causing of significant harm to other Basin States.

2. Where significant harm nevertheless is caused to another Nile Basin State, the State, whose use causes such harm shall, in the absence of agreement to such use, take all appropriate measures, having due regard to the provisions of Article 4 above, in consultation with the affected State, to eliminate or mitigate such harm and, where appropriate, to discuss the question of compensation.

Article 6: Protection and conservation of the Nile River Basin and its ecosystems

1. Nile Basin States shall take all appropriate measures, individually and, where appropriate, jointly, to protect, conserve and, where necessary, rehabilitate the Nile River Basin and its ecosystems, in particular, by:

(a) protecting and improving water quality within the Nile River Basin;

(b) preventing the introduction of species, alien or new, into the Nile River system which may have effects detrimental to the ecosystems of the Nile River Basin;

(c) protecting and conserving biological diversity within the Nile River Basin;

(d) protecting and conserving wetlands within the Nile River Basin; and

(e) restoring and rehabilitating the degraded natural resource base.

2. Nile Basin States shall, through the Nile River Basin Commission, take steps to harmonize their policies in relation to the provisions of this article.

Article 7: Regular exchange of data and information

1. In pursuance of their cooperation concerning the use, development and protection of the Nile River Basin and its water resources, Nile Basin States shall on a regular basis exchange readily available and relevant data and information on existing measures and on the condition of water resources of the Basin, where possible in a form that facilitates its utilization by the States to which it is communicated.

2. If a Nile Basin State is requested by another Basin State to provide data or information that is not readily available, it shall employ its best efforts to comply with the request but may condition its compliance upon payment by the requesting State of the reasonable costs of collecting and, where appropriate, processing such data or information.

3. In the implementation of their obligations under Paragraph 1 and 2, Nile Basin States agree to observe procedures to be developed by the Nile River Basin Commission.

Article 8: Planned measures

1. Nile Basin States agree to exchange information through the Nile River Basin Commission.

2. Nile Basin States shall observe the rules and procedures established by the Nile River Basin Commission for exchanging information concerning planned measures.

Article 9: Environmental impact assessment and audits

1. For planned measures that may have significant adverse environmental impacts, Nile Basin States shall, at an early stage, undertake a comprehensive assessment of those impacts with regard to their own territories and the territories of other Nile Basin States.
2. The criteria and procedures for determining whether an activity is likely to have significant adverse environmental impacts shall be developed by the Nile River Basin Commission.
3. Where circumstances so warrant, according to criteria to be developed by the Nile River Basin Commission, a Nile Basin State that has implemented measures of the kind referred to in paragraph 1 shall conduct an audit of the environmental impacts of those measures. That State shall enter into consultations relating to the audit with Nile Basin States affected by the measures on their request.
4. The Commission, taking into account national legislation of the Nile Basin States, shall adopt criteria for carrying out audits of measures existing at the date of the entry into force of this Framework.
5. Nile Basin States shall carry out audits of measures existing at the date of the entry into force of this Framework in accordance with national legislation and under criteria adopted under this Framework.

Article 10: Subsidiarity in the development and protection of the Nile River Basin

In planning and implementing a project pursuant to the principle of subsidiarity set forth in Article 3(3), Nile Basin States shall:

- (a) allow all those within a State who will or may be affected by the project in that State to participate in an appropriate way in the planning and implementation process;
- (b) make every effort to ensure that the project and any related agreement is consistent with the basin-wide framework.

Article 11: Prevention and mitigation of harmful conditions

Nile Basin States shall, individually and, where appropriate, jointly through cost-sharing by the Nile Basin State or States that may be affected, make every effort to take all appropriate measures to prevent or mitigate conditions related to the Nile River System that may be harmful to other Nile Basin States, whether resulting from human conduct or natural causes, such as flood

conditions, invasive water weeds, water-borne diseases, siltation, erosion, drought or desertification. In implementing this provision, Nile Basin States shall take into account guidelines to be developed by the Nile River Basin Commission.

Article 12: Emergency Situations

1. For the purposes of this provision, “emergency” means a situation that causes, or poses an imminent threat of causing, serious harm to Nile Basin States or other States and that results suddenly from natural causes, such as floods, landslides or earthquakes, or from human conduct, such as industrial accidents.

2. A Nile Basin State shall, without delay and by the most expeditious means available, notify other potentially affected States and competent international organizations of any emergency originating in its territory.

3. A Nile Basin State within whose territory an emergency originates shall, in cooperation with potentially affected States and, where appropriate, competent international organizations, immediately take all practicable measures necessitated by the circumstances to prevent, mitigate and eliminate harmful effects of the emergency.

4. When necessary, Nile Basin States shall jointly develop contingency plans for responding to emergencies, in cooperation, where appropriate, with other potentially affected States and competent international organizations.

Article 13: Protection of the Nile River Basin and related installations in time of armed conflict

The Nile River System and related installations, facilities and other works, as well as installations containing dangerous forces in the Nile River Basin, shall enjoy the protection accorded by the principles and rules of international law applicable in international and non-international armed conflict, in particular rules of international humanitarian law, and shall not be used in violation of those principles and rules.

Article 14: Water Security

Having due regard to the provisions of Articles 4 and 5, Nile Basin States recognize the vital importance of water security to each of them. The States also recognize that the cooperation management and development of waters of the Nile River System will facilitate achievement of water security and other benefits. Nile Basin States therefore agree, in a spirit of cooperation:

- (a) to work together to ensure that all states achieve and sustain water security;
- (b)* the unresolved Article 14(b) is annexed to be resolved by the Nile River Basin Commission within six months of its establishment.

PART III. INSTITUTIONAL STRUCTURE

SECTION A. THE NILE RIVER BASIN COMMISSION

Article 15: Establishment

The Nile River Basin Commission is hereby established by the Nile River Basin States.

Article 16: Purpose and Objective

The purpose and objective of the Commission is:

- (a) To promote and facilitate the implementation of the principles, rights and obligations provided for in the present Framework;
- (b) To serve as an institutional framework for cooperation among Nile Basin States in the use, development, protection, conservation and management of the Nile River Basin and its waters;
- (c) To facilitate closer cooperation among the States and peoples of the Nile River Basin in the social, economic and cultural fields.

Article 17: Organs

The Commission is comprised of:

- (a) Conference of Heads of State and Government
- (b) Council of Ministers
- (c) Technical Advisory Committee
- (d) Sectoral Advisory Committees
- (e) Secretariat

Article 18: Headquarters

The headquarters of the Commission shall be situated at Entebbe, Uganda.

Article 19: Legal Status

1. The Commission is established as an intergovernmental organization and shall enjoy international legal personality, with such legal capacity as may be necessary for the performance of its functions, in particular, the capacity to enter into agreements, to incur obligations, to receive donations, and to sue and be sued in its own name.

2. The Commission and its officials shall, in the territory of each Nile Basin State, enjoy such privileges and immunities as are necessary for the performance of their functions under this Framework.

3. The privileges and immunities referred to under this article shall be provided for in detail in a Protocol to this Framework.

SECTION B. THE CONFERENCE OF HEADS OF STATE AND GOVERNMENT

Article 20: Structure and Procedures

1. The Conference of Heads of State and Government (“the Conference”) is composed of Heads of State and Government of Nile Basin States.

2. The Conference shall establish its own rules and procedures.

Article 21: Functions

The Conference shall be the supreme policy-making organ of the Commission.

SECTION C. THE COUNCIL OF MINISTERS

Article 22: Structure

The Council of Ministers (the “Council”) shall be composed of the Minister for Water Affairs of each Nile Basin State and other ministers according to the agenda of the Commission.

Article 23: Procedures

1. Except as otherwise provided, the Council shall establish its own rules and procedures.

2. The Council shall convene once a year in regular session and in special session at the request of any Nile Basin State.

3. Unless the Council decides otherwise, the venue of regular sessions shall rotate among the Nile Basin States in alphabetical order, in English. The venue of a special session shall be the same as that of the preceding regular session.

4. Regular sessions shall be chaired by the Nile Basin State in which they are held. Special sessions shall be chaired by the State that chaired the next preceding regular session.

5. Decisions of the Council shall be taken by consensus.

6. Decisions of the Council are binding on all Nile Basin States.

Article 24: Functions

1. The Council is the governing body of the Commission. It may refer matters to the Conference of Heads of State for decision.
2. The Council serves as a forum for discussion of matters within the scope of its functions and the Framework.
3. The Council oversees the effective implementation of the Framework.
4. The Council may establish, and assign responsibilities to any ad hoc committees it considers to be necessary for the proper fulfillment of its functions.
5. The Council adopts, keeps under review and revises as necessary, plans for the coordinated, integrated, and sustainable management and development of the Nile River Basin.
6. The Council approves the annual work programs of the Commission.
7. The Council ensures the financial sustainability of the Commission.
8. The Council approves rules and procedures governing the operations of the Technical Advisory Committee, Sectoral Advisory Committees, and the Secretariat, as well as its work program and financial and staff regulations.
9. The Council appoints the Executive Secretary and other senior staff of the Commission.
10. The Council makes determinations concerning the staffing and organizational structure of the Secretariat.
11. The Council adopts, keeps under review and revises as necessary, rules, procedures, guidelines and criteria for the implementation of the provisions of this Framework.
12. The Council examines and makes decisions regarding the determination of equitable and reasonable use of water in each riparian country taking into consideration the factors provided in Article 4, paragraph 2.
13. At the request of the States concerned the Council addresses questions and differences that may arise between Nile Basin States concerning the interpretation or application of the Framework. It may make recommendations to the States concerned with regard to such questions and differences.
14. The Council promotes the full and effective application of the Framework.
15. The Council decides upon a sliding scale of contributions of Nile Basin States for the financing of the budget of the Commission, and approves the budget of the Commission.
16. Where appropriate, the Council decides upon formulas for cost and benefit sharing by Nile Basin States in respect of particular joint projects within the Nile River Basin.

17. The Council performs such other functions in the effectuation of the purposes of the Commission as it may decide.

SECTION D. THE TECHNICAL ADVISORY COMMITTEE

Article 25: Structure and Procedures

1. The Technical Advisory Committee (the “TAC”) shall be composed of two members from each Nile Basin State who shall be senior officials. Delegates may bring other experts to meetings of the TAC as necessary to deal with special questions.
2. The TAC may establish specialized Working Groups to deal with matters within its competence.
3. The TAC shall convene twice a year in regular session, and in special session if and as the Council, through its Chair, so requests. Unless otherwise decided, the venue for sessions shall be the headquarters of the Commission.
4. The TAC shall propose, for the approval of the Council, its own rules and procedures.

Article 26: Functions

1. The TAC shall prepare for the consideration of the Council cooperative programs for the integrated and sustainable management and development of the Nile River Basin.
2. On the basis of reports from the Secretariat, the TAC shall make recommendations to the Council concerning annual work programs and budget of the Commission.
3. The TAC shall propose to the Council rules, procedures, guidelines and criteria provided for in this Framework.
4. The TAC shall make recommendations to the Council on the implementation of the provisions of this Framework.
5. The TAC shall make recommendations to the Council on decisions regarding the determination of equitable and reasonable use of water in each riparian country taking into consideration the factors provided in Article 4, paragraph 2.
6. The TAC shall advise the Council on technical matters relating to the use, development, protection, conservation and management of the Nile River Basin and the Nile River System, including protection from drought and floods.
7. The TAC shall make proposals to the Council concerning appointment of the Executive Secretary and senior technical staff of the Secretariat, and supervises the Secretariat.
8. The TAC shall make recommendations to the Council concerning rules and procedures governing the operations of the Secretariat, as well as its work program.

9. When directed to do so by the Council, the TAC shall make recommendations to the Council concerning the modification of the Framework or the elaboration of protocols.

10. The TAC shall perform such other functions as may from time to time be assigned to it by the Council.

SECTION E. SECTORAL ADVISORY COMMITTEES

Article 27: Structure and Procedures

1. Sectoral Advisory Committees (“SACs”) may be established by the Council to deal with specific sectoral matters within the competence of the Commission.

2. Unless the Council decides otherwise, a SAC shall be composed of one member from each Nile Basin State who is an expert in the field of activity of the SAC in question.

3. SACs shall be governed by the rules and procedures applicable to the TAC, *mutatis mutandis*.

4. The Council may establish a SAC charged with establishing linkage between sub-basin organizations and the Commission.

Article 28: Functions

SACs shall discharge the tasks assigned to them by the Council.

SECTION F. THE SECRETARIAT

Article 29: Structure

1. The Secretariat shall be headed by an Executive Secretary who shall be appointed for a three year term by the Council.

2. The Executive Secretary shall be accountable to the Council through the TAC.

3. The Executive Secretary and the officials of the Secretariat shall enjoy in Nile Basin States the privileges and immunities necessary for the performance of their functions.

4. The staff and structure of the Secretariat shall be determined by the Council on the recommendation of the TAC, taking into account the principle of geographic distribution.

5. The office of the Secretariat shall be situated at the Headquarters of the Commission.

Article 30: Functions

1. The Executive Secretary shall represent the Commission as to matters specified in the rules and procedures governing its operations and in particular in its relations with international and bilateral assistance institutions and with any Nile sub-basin institutions or arrangements.

2. The Secretariat shall serve as the secretariat for meetings of all organs of the Commission.

3. The Executive Secretary shall be responsible for the administration and finances of the Commission.

4. The Executive Secretary shall prepare, taking into account any information provided by National Nile Focal Point Institutions, and shall submit reports to the TAC concerning the annual work programs of the Commission.
5. The Executive Secretary shall prepare a proposed budget of the Commission and submits it to the TAC.
6. The Executive Secretary shall be responsible for the carrying out of studies and the performance of other activities proposed by the TAC and authorized by the Council. The Executive Secretary may engage consultants with the approval of the TAC to assist in the performance of these functions.
7. The Secretariat shall assist the TAC with the preparation of a plan for the coordinated, integrated, and sustainable management and development of the Nile River Basin.
8. The Secretariat shall provide other assistance to all organs of the Commission, on their request, concerning matters related to the discharge of their functions.
9. The Secretariat shall compile available data and information and coordinates monitoring of information relating to the Nile Basin, including information concerning water resources, the environment and socio-economic matters, reviews and synthesizes the information with a view to integrating it into basin-wide databases and establishing standards, and develops mechanisms for the regular exchange of information where needed.
10. The Secretariat shall receive reports from sub-basin organizations and transmits the reports to TAC for its consideration.
11. The Secretariat shall perform any other functions assigned to it by the TAC.

SECTION G.

SUCCESSION OF THE NILE RIVER BASIN COMMISSION TO THE NILE BASIN INITIATIVE

Article 31: Succession

Upon the entry into force of this Framework the Commission shall succeed to all rights, obligations and assets of the Nile Basin Initiative (NBI).

PART IV. SUBSIDIARY INSTITUTIONS

Article 32: Sub-Basin organizations and arrangements

1. Nile Basin States shall recognize the utility of sub-basin organizations and arrangements.
2. The parties to the Framework that are also members of sub-basin organizations or arrangements shall undertake to ensure that the purposes, functions and activities of such organizations and

arrangements are consistent with those of the Nile River Basin Commission and with the principles and rules set out in, or adopted under, the Framework.

3. The parties to the Framework that are also members of sub-basin organizations or arrangements further undertake to ensure that such organizations or arrangements work in close cooperation with the Nile River Basin Commission.

4. The Nile River Basin Commission shall maintain regular contact, and shall cooperate closely, with any sub-basin organization or arrangement.

Article 33: National Nile Focal Point Institutions

1. Each Nile Basin State shall establish or designate a National Nile Focal Point Institution and notify the Commission thereof.

2. The function of National Nile Focal Point Institutions shall serve as national focal points for the Commission with regard to matters within the competence of the Commission.

PART V. MISCELLANEOUS PROVISIONS

Article 34: Settlement of disputes

1. In the event of a dispute between two or more Nile Basin States concerning the interpretation or application of the present Framework, the States concerned shall, in the absence of an applicable agreement between them, seek a settlement of the dispute by peaceful means in accordance with the following provisions:

(a) If the States concerned cannot reach agreement by negotiation requested by one of them, they may jointly seek good offices, or request mediation or conciliation by, the Nile River Basin Commission or other third party, or agree to submit the dispute to arbitration, in accordance with procedures to be adopted by the Council, or to the International Court of Justice.

(b) If after six months from the time of the request for negotiations referred to in paragraph 2, the States concerned have not been able to settle their dispute through negotiation or any other means referred to in paragraph 2, the dispute shall be submitted, at the request of any of the parties to the dispute, to impartial fact-finding in accordance with the Annex on the fact-finding Commission, unless the States concerned otherwise agree.

Article 35: Supplementary instruments

1. Nile Basin States may adopt bilateral or multilateral instruments that supplement the present Framework, concerning portions of the Nile River Basin or the Nile River system, such as sub-basins and tributaries, or concerning individual projects or programs relating to the Nile River Basin or the Nile River system, or portions thereof.

2. The supplementary instruments referred to in paragraph 1 shall apply the principles of the present Framework to the subject matter of those instruments.
3. Any other instruments or arrangements entered into by the Nile Basin States shall not be inconsistent with the provisions of the present Framework.
4. Supplementary instruments may be adopted as Protocols to the present Framework by consensus by Nile Basin States.

PART VI. FINAL CLAUSES

Article 36: Amendment of the Framework or Protocols

1. Amendments to this Framework may be proposed by any State Party. Amendments to any protocol may be proposed by any State to that protocol.
2. Amendments to this Framework shall be adopted at a meeting of the State Parties. Amendments to any protocol shall be adopted at a meeting of the State Parties to the Protocol in question.
3. Articles 1, 2, 3, 4, 5, 8, 9, 14, 23, 24, 34, 35, 36 and 37 of the present Framework may be amended only by consensus. As to proposed amendments to other articles or to any protocol, the Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a two-thirds majority vote of the State Parties to the instrument in question present and voting at the meeting, and shall be submitted by the Depositary to all State Parties for ratification, acceptance or approval.

Article 37: Adoption and Amendment of Annexes

1. The annexes to this Framework or to any protocol shall form an integral part of the Framework or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Framework or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to procedural, scientific, technical and administrative matters agreed upon by the parties.
2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Framework or of annexes to any protocol:
 - (a) Annexes to this Framework or to any protocol shall be proposed and adopted according to the procedure laid down in Article 36. In particular, any annex relating to one of the articles listed in paragraph 3 of Article 36, which may be amended only by consensus, must be adopted by consensus;

(b) Any Party that is unable to approve an additional annex to this Framework or an annex to any protocol to which it is Party shall so notify the Depositary, in writing, within one year from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such declaration of objection received. A Party may at any time withdraw a previous declaration of objection and the annexes shall thereupon enter into force for that Party subject to subparagraph (c) below;

(c) On the expiry of one year from the date of the communication of the adoption by the Depositary, the annex shall enter into force for all Parties to this Framework or to any protocol concerned which have not submitted a notification in accordance with the provisions of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Framework or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Framework or annexes to any protocol.

4. If an additional annex or an amendment to an annex is related to an amendment to this Framework or to any protocol, the additional annex or amendment shall not enter into force until such time as the amendment to the Framework or to the protocol concerned enters into force.

Article 38: Relationship between this Framework and Its Protocols

1. A State may not become a party to a protocol to this Framework unless it is, or becomes at the same time, a party to this Framework.

2. Decisions under any protocol shall be taken only by the Parties to the protocol concerned. Any Nile Basin State that has not ratified a protocol may participate as an observer in any meeting of the parties to that protocol.

Article 39: Reservations

No reservations may be made to this Framework.

Article 40: Withdrawal

1. At any time after two years from the date on which this Framework has entered into force for a State Party, that State Party may withdraw from the Framework by giving written notification to the Depositary.

2. Any such withdrawal shall take place upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal, during which period the notifying State shall continue to be bound by the Framework.

3. Any State Party which withdraws from this Framework shall be considered as also having withdrawn from any protocol and annex to which it is party.
4. Any State Party which withdraws from this Framework shall, before withdrawing, settle its outstanding obligations there under.
5. The provisions of this article shall apply to withdrawal from protocols to the Framework.

Article 41: Signature

The present Framework shall be open for signature by all States in whose territory part of the Nile River Basin is situated, from 14th May 2010 to 13th May 2011 at Entebbe, Uganda.

Article 42: Ratification or Accession

The present Framework is subject to ratification or accession by all States in whose territory part of the Nile River Basin is situated. The instruments of ratification or accession shall be deposited with the African Union.

Article 43: Entry into Force

The present Framework shall enter into force on the sixtieth day following the date of the deposit of the sixth instrument of ratification or accession with the African Union.

Article 44: Authentic Texts, Depositary

The original of the present Framework, of which the English and French texts are equally authentic, shall be deposited with the African Union, which shall send certified true copies thereof to the State Parties.

Article 45: Functions of the Depositary

The Depositary shall, in particular, inform the State Parties:

- (a) Of the deposit of instruments of ratification or accession, or of any other information, declarations or other instruments provided for in the present Framework.
- (b) Of the date of the entry into force of the present Framework.

Fact-Finding Commission

1. A Fact-finding Commission shall be established, composed of one member nominated by each State concerned and in addition a member not having the nationality of any of the States concerned chosen by the nominated members who shall serve as Chairman.

2. If the members nominated by the States are unable to agree on a Chairman within three months of the request for the establishment of the Commission, any State concerned may request the Chairperson of the Commission of the African Union (AU) to appoint the Chairman who shall not have the nationality of any of the parties to the dispute or of any of the Nile Basin States concerned. If one of the States fails to nominate a member within three months of the initial request pursuant to paragraph 2 of Article 33 above, any other State concerned may request the Chairperson of the AU Commission to appoint three persons who shall not have the nationality of any of the parties to the dispute or of any of the Nile Basin States concerned.
3. The Commission shall determine its own procedure.
4. The States concerned have the obligation to provide the Commission with such information as it may require and, on request, to permit the Commission to have access to their respective territory and to inspect any facilities, plant, equipment, construction or natural feature relevant for the purpose of its inquiry.
5. The Commission shall adopt its report by a majority vote and shall submit that report to the States concerned setting forth its findings and the reasons therefore and such recommendations as it deems appropriate for an equitable solution of the dispute, which the States concerned shall consider in good faith.
6. The expenses of the Commission shall be borne equally by the States concerned.

Annex on Article 14(b) to be resolved by the Nile River Basin Commission

Within six months of its establishment

At the end of the negotiations, no consensus was reached on Article 14(b) which reads as follows: *not to significantly affect the water security of any other Nile Basin State*, all countries agreed to this proposal except Egypt and Sudan.

Egypt proposed that Article 14(b) should be replaced by the following wording:

(b) not to adversely affect the water security and current uses and rights of any other Nile Basin State.

The Extraordinary Meeting of the Nile Council of Ministers held in Kinshasa, the Democratic Republic of Congo, on 22 May 2009 resolved that the issue on the Article 14(b) be annexed and resolved by the Nile River Basin Commission within six months of its establishment.

List of Informants

1. Dereje Zeleke, Dr, Addis Ababa University. Interviewed on 15 March 2015 from 3:30-4:30 PM at his office.
2. Fekahmed Negash, Eastern Nile Technical Regional Office (ENTRO). Executive Director. Interviewed on 5 March, 2015 from 2:30-3:30 PM at his ENTRO office
3. Husni Mustaffa, Diplomat at the Embassy of Sudan to Ethiopia. Interviewed on 12 May, 2015 from 3-4:30 PM at the Embassy of the Republic of the Sudan Chancery at his office.
4. Zerubabel Getachew, Expert and Designated officer for Nile River and the GERD at Ministry of the Federal Democratic Republic of Ethiopia. Interviewed on 17 April, 2015 from 2-3:30 pm at his office.

Declaration

I, undersigned, declare that this thesis is my original work and has not been presented for a degree in any other university and that all sources of materials used for the thesis have been duly acknowledged.

Essa Mohammed Ahmed

June, 2015

This thesis is submitted for examination with my approval as an advisor of the candidate.

Tesfaye Tafesse (Dr.)

June, 2015