

Approved for tabling
SACA
30/11/16



REPUBLIC OF KENYA



*Paper laid by
Chairperson
Wednesday 30/11/16
Afternoon
Sitting
AA*



NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FOURTH SESSION

SELECT COMMITTEES ON REGIONAL INTEGRATION

REPORT ON THE CONSIDERATION OF THE RATIFICATION OF THE NILE BASIN
COOPERATIVE FRAMEWORK AGREEMENT

DIRECTORATE OF COMMITTEE SERVICES,
CLERKS CHAMBERS,
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER, 2016



TABLE OF CONTENTS

ABBREVIATIONS.....	- 3 -
CHAIRPERSON'S FOREWORD	- 4 -
EXECUTIVE SUMMARY	- 5 -
1. MANDATE OF THE COMMITTEE	- 6 -
1.1 COMMITTEE MEMBERSHIP	- 7 -
1.2 COMMITTEE SECRETARIAT	- 8 -
1.3 RECOMMENDATION.....	- 9 -
2 BACKGROUND INFORMATION.....	- 10 -
2.1 Historical Perspective of the Nile.....	- 10 -
2.2 Historical Treaties and Agreements	- 10 -
2.3 Objective of the Agreement	- 11 -
2.4 Constitutional Implications	- 11 -
2.5 Signing, Ratification and implementation of the Agreement.....	- 11 -
2.6 Financial Implications	- 12 -
2.7 Summary of the Provisions of the Agreement	- 13 -
3. COMMITTEE OBSERVATIONS.....	- 20 -
4. RECOMMENDATION.....	- 21 -

ABBREVIATIONS

CFA	-	Cooperative Framework Agreement
UNDP	-	United Nations Development Programme
CIDA	-	Canadian International Development Agency
NBI	-	Nile Basin Initiative
SVP	-	Shared Vision Programme
SAP	-	Subsidiary Action Programme
ENSAP	-	Eastern Nile Subsidiary Action Programme
NRBC	-	Nile River Basin Commission
NBTF	-	Nile Basin Trust Fund

CHAIRPERSON'S FOREWORD

Through a memorandum to the Speaker of the National Assembly dated 3rd May 2016, and Pursuant to Section 8 of the Treaty Making and Ratification Act, the Cabinet Secretary for the Ministry of Foreign Affairs and International Trade requested the National Assembly to expedite ratification of the Nile Basin Cooperatives Framework Agreement and give direction for the Ministry to deposit the instruments of Ratification with the African Union Commission. She further requested the National Assembly to direct the National Treasury to avail funds for Kenya's annual subscription to NBI.

Upon receipt of the Communication, the Speaker referred the matter to the Select Committee on Regional Integration for consideration pursuant to Standing Order 216 and 212 respectively.

In processing the Protocol, the Committee was briefed by the Legal Department on the contents of the Protocol before compiling this report.

The Committee appreciates the assistance provided by the Office of the Speaker and the Clerk of the National Assembly that enabled it to discharge its functions during the approval hearings.

Finally, I wish to express my appreciation to the Honourable Members of the Committees who dedicated their time to participate in the preparation of this Report.

It is therefore my pleasant duty and privilege, on behalf of the Select Committee on Regional Integration to table its Report in the House on the consideration of the Nile Basin Cooperatives Framework Agreement.

Hon. Florence Kajuju, MP

EXECUTIVE SUMMARY

This report contains the Committee's findings during the consideration of the Agreement. The Cabinet Secretary for the Ministry of Foreign Affairs and International Trade through her memorandum dated 3rd May, 2016 requested the National Assembly to approve the ratification of the Agreement.

On compliance of the ratification process with the Treaty Making and Ratification Act, the Committee noted that due process had been followed. The Committee further noted that the Agreement does not anticipate any amendments to the Constitution of Kenya.

The Committee noted that:

- i. The CFA does not specifically repudiate the 1959 Nile Waters Agreement and other agreements taking into consideration the above agreement contains provisions in direct conflict with one another e.g on the use of the Nile waters the CFA advocates for equitable sharing while the 1959 treaty provides for only Egypt and Sudan with the right to use the waters. This is implied through Article 32 (2) which uses an unaggressive language by requiring its members to "undertake to ensure" that any prior agreements "are consistent with those of the Nile River Basin Commission, and with the principles and rules set out in, or adopted under, the framework ;
- ii. The agreement does not provide for South Sudan as signatory to the agreement notwithstanding part of the White Nile passes through it.
- iii. Sudan and Egypt have not signed the agreement and have insisted that Article 14 of the CFA include a specific provision, to be added at the end of the article, which would oblige the basin states "not to adversely affect the water security and current uses and rights of any other Nile Basin State" This position will revive the disputes related to the Nile treaties, namely giving Sudan and Egypt exclusive rights to the Nile waters.
- iv. The term "significant harm" is left undefined by the CFA, which creates uncertainty in determining how significant a harm must be, and in what manner it must be harmful, to limit equitable and reasonable utilization of the Nile. Article 40 limits National Assembly to pass this agreement without any reservations.

1. MANDATE OF THE COMMITTEE

The Select Committee on Regional Integration is established under Standing Order No. 212 and is mandated to:-

- a. Enhance the role and involvement of the House in intensification and development of the integration process in the East African Community and the greater African region;
- b. Examine the records of all the relevant debates and resolutions of the meetings of the East African Legislative Assembly;
- c. Examine the Bills introduced in the East African Legislative Assembly and Acts of the East African Community;
- d. Examine the records of all the relevant debates and resolutions of the meetings of the Pan African Parliament, the African, Caribbean and Pacific-European Union Joint Parliamentary Assembly and other regional integration bodies;
- e. Inquire into and examine any other matter relating to regional integration generally requiring action by the House

1.1 COMMITTEE MEMBERSHIP

Chairperson	The Hon. Florence Kajuju, MP
Vice Chairperson	The Hon. Christopher Nakuleu, MP
Members	The Hon. David OumaOchieng, MP
	The Hon. BadyTwalibBady, MP
	The Hon. Robert Mbui, MP
	The Hon. Anyanga Andrew Toboso, MP
	The Hon. Florence MwikaliMutua, MP
	The Hon. Ogendo Rose Nyamunga, MP
	The Hon. AloisLentoimaga, MP
	The Hon. Anthony Kimaru, MP
	The Hon. David Kariithi, MP
	The Hon. WanjikuMuhia, MP
	The Hon. Ali Wario, MP
	The Hon. Eric Keter, MP
	The Hon. Mary Seneta, MP
	The Hon. Gideon Konchella, MP
	The Hon. Dido Ali Rasso, MP
	The Hon. Ann Nyokabi, MP
	The Hon. Emmanuel Wangwe, MP
	The Hon. Peter Shehe, MP
	The Hon. Alex Mwiru, MP
	The Hon. Mark Lomunokol, MP
	The Hon. Sarah Korere, MP
	The Hon. Iringo Cyprian Kubai, MP
	The Hon. Timothy Bosire, MP
	The Hon. Joseph Kahangara, MP
	The Hon. Andrew Mwadime, MP
	The Hon. Alfred Agoi, MP
	The Hon. Willy Baraka Mtengo, MP

1.2 COMMITTEE SECRETARIAT

First Clerk Assistant	Evans Oanda
Third Clerk Assistant	Nicodemus Maluki
Third Clerk Assistant	Fredrick Otieno
Legal Counsel II	Brigita Mati
Research Officer III	SharonRotino

1.3 RECOMMENDATION

The Committee recommends that:

1. The House approves the ratification of the Nile Basin Cooperative Framework Agreement by the Republic of Kenya
2. Direct the Cabinet Secretary for Foreign Affairs and International Trade to deposit the Instruments of Ratification with the African Union Commission, and
3. Directs the National Treasury to avail funds for Kenya's annual subscription to NBI

2 BACKGROUND INFORMATION

2.1 Historical Perspective of the Nile

The Nile is the longest river in the world, flowing for more than 6,650 km from its origins in Burundi and Rwanda to the Mediterranean Sea. The river basin area is more than three million km squared and extends over ten countries that share the river (Ethiopia, Sudan, Egypt, Rwanda, Tanzania, Uganda, Burundi, the Democratic Republic of the Congo, Eritrea, and Kenya).

2.2 Historical Treaties and Agreements

- a) **Nile Treaty 1902** was concluded in 1902 in Addis Ababa. This treaty states in Article III that Emperor Menelik II of Ethiopia shall not to construct, or allow to be constructed, any work across the Blue Nile, Lake Tsana, or the Sobat which would arrest the flow of their waters into the Nile, except in agreement with His Britannic Majesty's Government(Egypt) and the Government of the Sudan. This treaty has been a source of dispute between Ethiopia and Egypt, the latter still insisting on its validity;
- b) **Nile Treaty 1929** was concluded by Britain on behalf of its East African colonies of Kenya, Uganda and Tanganyika, as well as Sudan, on the one hand, and Egypt on the other. In Paragraph 4, it states *"Except with the prior consent of the Egyptian Government, no irrigation works shall be undertaken nor electric generators installed along the Nile and its branches nor on the lakes from which they flow if these lakes are situated in Sudan or in countries under British administration which could jeopardize the interests of Egypt either by reducing the quantity of water flowing into Egypt or appreciably changing the date of its flow or causing its level to drop.*" Upon attaining independence from the British, the East African Colonies argued that they were not bound by the treaty and adopted the Nyerere doctrine which stated that; all treaties concluded in the colonial era should be renegotiated within two years after which they would collapse if no agreement was acceded to. Egypt still insists that the 1929 agreement remains valid and binding.
- c) **Nile Treaty 1959** was concluded in Cairo on 8 November 1959 and entered into force on 22 November 1959. The Agreement governs the control of certain projects concerning the Nile, as well as water allocation between Sudan and Egypt in billion cubic meters as 18.5

and 55.5 respectively. This means that the agreement allocated the entire flow of the Nile to the above mentioned two countries. The agreement has also been rejected by the other countries citing the infringement of their rights under international law to a reasonable and equitable share to the Nile waters, given that the entire flow of the Nile originates within their territories.

2.3 Objective of the Agreement

The main objectives of the Agreement are:

- i. To build confidence among member states through various regional programs and projects
- ii. To negotiate the Cooperative Framework Agreement and
- iii. To establish a permanent institution of the Nile Basin. The ratification of the CFA will therefore enable basin states to achieve all these objectives

2.4 Constitutional Implications

As provided by the Constitution, once ratified the CFA will form part of the laws of Kenya. Further the Constitution puts the mandate of the management of the shared water resources under the National Government. The CFA does not anticipate any amendments to Constitution of Kenya 2010.

2.5 Signing, Ratification and implementation of the Agreement

According to Article 43 of the CFA, the Agreement 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. Upon entry into force, the Nile Basin Commission, established under Article 15 thereof, will become operational.

So far, the Agreement has been signed by six Member States, i.e. Kenya, Uganda, Ethiopia, Burundi, Rwanda and Tanzania. Ethiopia, Rwanda and Tanzania have already ratified the Agreement. South Sudan, though it did not participate in the negotiation of the Agreement, has indicated its willingness to accede to the Agreement in future.

Kenya's ratification of the Agreement will be an important signal of her commitment to issues of regional interest, such as trans-boundary natural resources, which is crucial to the economic, political and social development of the region.

Egypt and Sudan have not signed the agreement because they are opposed to Article 14(b) of the Agreement which they claim takes away their historical rights and uses of the Nile waters. The article (14b) states, *inter alia*,

'Nile Basin States therefore agree, in a spirit of cooperation; ***not to significantly affect the water security of any other Nile Basin State***'.

Both Egypt and Sudan however would like the article to read as follows;

'Nile Basin States therefore agree, in a spirit of cooperation; ***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 May 22,2009 agreed that Article 14(b) be annexed to the CFA and will be resolved by the Nile River Basin Commission, within six months of its establishment.

2.6 Financial Implications

The Nile Basin Initiative is funded and supported by the member Countries and through the support of several multilateral and bilateral development partners such as African Development Bank, Global Environment Facility, World Bank, United Nations Development Program (UNDP), Canada, Denmark, Finland, Germany, Italy, Netherlands, Norway, Sweden, United Kingdom, and the United States.

The Development Partners' contributions were channeled through the Nile Basin Trust Fund (NBTF), which was established in 2003, at the request of the Nile-COM and administered by the World Bank. The NBTF wound up in 2012, and the CFA provides for the establishment of a Trust Fund.

Currently, Kenya's annual subscription to NBI stands at USD 224,074. This is in addition to the continuous in-kind support it provides to NBI. It is projected that the country will contribute

slightly more than the current annual subscription once the Nile Basin Commission is established.

2.7 Summary of the Provisions of the Agreement

Preamble		Affirms the importance of having an integrated management, sustainable development and harmonious utilization of the water resources of the Nile Water Basin and conservation and protection for the benefit of present and future generations.
Article 1	Scope of the present framework	The framework applies- <ul style="list-style-type: none">(a) to the use, development, protection, conservation and management of the Nile River Basin and its resources; and(b) establishment an institutional mechanism for cooperation among the Nile Basin States.
Article 2	Use of terms	Provides for various terms as used in the framework.
Article 3	General principles	Provides for the protection, use, conservation and development of the Nile river basin and river system in accordance with the following principles- <ul style="list-style-type: none">(a) Cooperation;(b) Sustainable development;(c) Subsidiarity;(d) Equitable and reasonable utilization;(e) Prevention of the causing of significant harm;(f) The right of Nile Basin States to use water within their territories;(g) Protection and conservation;(h) Information concerning planned measures;

- (i) Community of interest;
- (j) Exchange of data and information;
- (k) Environmental impact assessment and audits;
- (l) Peaceful resolution of disputes;
- (m) Water as a finite and vulnerable resource;
- (n) Water has social and economic value; and
- (o) Water security.

Article 4	Equitable and reasonable utilization	Provides for the utilization of the Nile water in an equitable and reasonable manner where partner states are to take relevant circumstances such as geographic, hydrographic factors of a natural nature among others.
Article 5	Obligation not to cause significant harm	Obligates Nile basin states to utilize the water resources taking all appropriate measures to prevent the causing of significant harm
Article 6	Protection and conservation of the Nile river basin and its ecosystem	Nile basin states are to undertake all appropriate measures to jointly protect conserve and rehabilitate the Nile River Basin and its ecosystems.
Article 7	Regular exchange of data and Information	The Nile basin states are required to, on a regular basis, exchange relevant data and information on existing measures and on the condition of water resources of the Basin.
Article 8	Planned measures	The Nile basin states are to adhere to the rules and procedures established by the Commission for exchange of information.
Article 9	Environmental impact assessment	Provides for environmental impact assessment and audits where a member state plans projects that may have

	and audits	significant adverse effects on the environment. The commission is tasked with adopting criteria for carrying out the audits taking into consideration national legislation.
Article 10	Subsidiarity in the development and protection of the Nile River Basin.	Provides for the planning and implementation of a project pursuant to the principles of subsidiarity.
Article 11	Prevention and mitigation of harmful conditions	Nile Basin states are obligated to take all appropriate measures to prevent conditions related to the Nile River System that may be harmful to other Nile Basin States such as floods, siltation, erosion etc
Article 12	Emergency Situations	Provides for how Nile Basin States shall conduct themselves with regard to emergencies and the development of contingency plans for responding to those emergencies
Article 13	Protection of the Nile River Basin and related installations in time of armed conflict	Provides for the application of the principles and rules of international law in case of installations in time of armed conflict.
*Article 14	Water Security	Provides for the co-operation management and development of the waters in order to facilitate the achievement of water security and other benefits
Article 15	Establishment	Establishes the River Basin Commission
Article 16	Purpose and objective	Provides for the purpose and objective of the commission to be, among others, facilitate the implementation of the principles, rights and obligations
Article 17	Organs	Provides for the Commission that is composed 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	Entebbe, Uganda
Article 19	Legal Status	Provides for the Commission to be a body corporate and its officials to enjoy such privileges and immunities as are necessary for the performance of their functions under the framework.
Article 20	Structure and procedures	The Conference of Heads of State and Government shall be composed of Heads of State and Government of Nile Basin States.
Article 21	Functions	The Conference shall be the supreme policy making organ
Article 22	Structure	The Council of Ministers(the Council) is to be composed of the Ministers responsible for water services or any other minister depending on the agenda of the Commission
Article 23	Procedures	The Council is to establish its own rules and procedures and any decision of the Council shall be by consensus.
Article 24	Functions	Provides the functions of the Council to serve as a forum for discussion of matters within the scope of functions and the framework. See Article 24
Article 25	Structure and procedures of the Technical Advisory	The TAC shall be composed of two members of the Nile Basin State who shall be senior officials and other delegates as and when required

Committee

Article 26	Functions	The main functions of the TAC Committee is to prepare programs, rules, procedures for consideration by the Council, advise the Council on technical matters relating to the Nile River System and basin
Article 27-30	Structures and procedures of sectoral advisory committees its functions and the Secretariat	Provides for the establishment of Sectoral advisory Committees to deal with specific sectoral matters as assigned by the Council Article 29 establishes the office of the Secretariat and it shall serve as secretariat for meeting of all organs of the commission, responsible for administration and finances of the Commission among others
Article 31	Succession	The commission shall succeed to all rights and obligations and assets of the Nile Basin Initiative
Article 32	Sub-basin organisations and arrangements	These organisations shall continue to exist so long as they ensure the purposes, functions and activities are consistent with those of the Commission.
Article 33	National Nile Focal Point Institutions	The states shall establish such institutions to serve as national focal points for the Commission with regard to matters within the competence of the Commission
Article 34	Settlement of Disputes	Disputes shall be resolved amicably through Arbitration, mediation or conciliation by the Commission in accordance to procedures adopted by the Council or the International Court of Justice. Where such means are not adequate, a party may request to impartial fact finding in accordance with the Fact finding Commission

Article 35	Supplementary instruments	Provides that any protocol to the framework shall not be inconsistent
Article 36	Amendments	Amendments may be proposed by any state party and adopted at the State meeting of the State Parties in question 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 a last resort the amendment may be adopted by a two-thirds majority vote of the State Parties to the instrument in question present and voting at the meeting.
Article 37	Adoption and amendment of annexes	Annexes to this Framework or to any protocol shall form an integral part of the Framework or of such protocol
Article 38	Relationship between this Framework and Its Protocols	A 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	After two years from the date on which this Framework has entered into force a state party may withdraw by giving written notification
Article 41	Signature	Present Framework shall be open for signature by all States in whose territory part of the Nile River Basin is situated
Article 42	Ratification or Accession	The instruments of ratification or accession shall be deposited with the African Union
Article 43	Entry into Force	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 English and French texts of the framework shall be deposited with the African Union
Article 45	Functions of the Depositary	The depositary shall inform the states of the deposit of instruments of ratification and the date of entry into force.

3. COMMITTEE OBSERVATIONS

Having considered the Protocol, the Committee made the following observations:-

- (a) The CFA does not specifically repudiate the 1959 Nile Waters Agreement and other agreements taking into consideration the above agreement contains provisions in direct conflict with one another e.g on the use of the Nile waters the CFA advocates for equitable sharing while the 1959 treaty provides for only Egypt and Sudan with the right to use the waters. This is implied through Article 32 (2) which uses an unaggressive language by requiring its members to “undertake to ensure” that any prior agreements “are consistent with those of the Nile River Basin Commission, and with the principles and rules set out in, or adopted under, the framework ;
- (b) The agreement does not provide for South Sudan as signatory to the agreement notwithstanding part of the White Nile passes through it.
- (c) Sudan and Egypt have not signed the agreement and have insisted that Article 14 of the CFA include a specific provision, to be added at the end of the article, which would oblige the basin states “not to adversely affect the water security and current uses and rights of any other Nile Basin State” This position will revive the disputes related to the Nile treaties, namely giving Sudan and Egypt exclusive rights to the Nile waters.
- (d) The term “significant harm” is left undefined by the CFA, which creates uncertainty in determining how significant a harm must be, and in what manner it must be harmful, to limit equitable and reasonable utilization of the Nile.
- (e) Article 40 limits National Assembly to pass this agreement without any reservations.

4. RECOMMENDATION

The Committee recommends that:

1. The House approves the ratification of the Nile Basin Cooperative Framework Agreement by the Republic of Kenya
2. Direct the Cabinet Secretary for Foreign Affairs and International Trade to deposit the Instruments of Ratification with the African Union Commission, and
3. Directs the National Treasury to avail funds for Kenya's annual subscription to NBI

Signed  Date 30th Nov. 2016

(HON. FLORENCE KAJUJU, MP)

CHAIRPERSON, SELECT COMMITTEE ON REGIONAL INTEGRATION

MIN.NO. CRI/119/2016 PRELIMINARIES

The Chairperson called the meeting to order at 12:30pm and said a word of prayer.

MIN.NO.CRI/120/2016: CONSIDERATION AND ADOPTION OF THE REPORTS ON EAC PROTOCOLS AND AGREEMENT ON NILE BASIN COOPERATIVE FRAMEWORK

Having gone through the reports, the Committee adopted the reports as follows:

a) The Report on the Ratification of EAC Protocol on Privileges and Immunities

Having considered the report, the Committee unanimously adopted the report after being proposed by Hon. Anyanga Andrew Toboso, MP and Seconded by Hon. Willy Baraka Mtengo, MP

b) The Report on the ratification of the EAC Protocol to operationalize the extended Jurisdiction of East African Court of Justice

The Committee considered and unanimously adopted the report after being proposed by Hon. Robert Mbui, MP and seconded by Hon. Mary Seneta, MP

c) The Report on the ratification of the Agreement on the Nile Basin Cooperative Framework

The Committee considered and unanimously adopted the report after being proposed by Hon. Gideon Konchela, MP and Seconded by Hon. Alois Lentoimaga, MP

MIN.NO.CRI/121/2016: ANY OTHER BUSINESS

Under this agenda, the Chairperson informed the Committee that the State Department for East African Community has planned for a joint retreat with EALA Kenya Chapter in Mombasa between 1st and 4th December, 2016. The secretariat was asked to circulate the information to Members for confirmations.

MIN.NO.CRI/122/2016: ADJOURNMENT

The meeting was adjourned at half past one o'clock.

SIGNED..........DATE 29th NOV. 2016......

CHAIRPERSON

MINUTES OF THE 31ST SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON THURSDAY 24TH NOVEMBER, 2016 IN COMMITTEE ROOM, 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:00 NOON

Present:

- | | | |
|----------------------------------|---|-------------------------|
| 1. Hon. Florence Kajuju, MP | - | Chairperson |
| 2. Hon. Christopher Nakuleu, MP | - | Vice-Chairperson |
| 3. Hon. Robert Mbui, MP | | |
| 4. Hon. Dido Ali Rasso, MP | | |
| 5. Hon. Andrew Toboso, MP | | |
| 6. Hon. Wanjiku Muhia, MP | | |
| 7. Hon. David Karithi, MP | | |
| 8. Hon. Andrew Mwadime, MP | | |
| 9. Hon. Mark Lomunokol, MP | | |
| 10. Hon. Gideon Konchella, MP | | |
| 11. Hon. Mary Seneta, MP | | |
| 12. Hon. Alois Lentoimaga, MP | | |
| 13. Hon. Sarah Korere, MP | | |
| 14. Hon. Alfred Agoi, MP | | |
| 15. Hon. Willy Baraka Mtengo, MP | | |

Absent With Apology

1. Hon. Timothy Bosire, MP
2. Hon. Ogendo Rose Nyamunga, MP
3. Hon. Badi Twalib Badi, MP
4. Hon. Emmanuel Wangwe, MP
5. Hon. Annah Nyokabi, MP
6. Hon. David Ouma Ochieng', MP
7. Hon. Ali Wario, MP
8. Hon. Joseph Kahangara, MP
9. Hon. Anthony Kimaru, MP
10. Hon. Alex Mwiru, MP
11. Hon. Peter Shehe, MP
12. Hon. Eric Keter, MP
13. Hon. Zuleikha Juma Hassan, MP

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

- | | | |
|------------------------|---|-----------------------|
| 1. Mr. Fredrick Otieno | - | Third Clerk Assistant |
| 2. Ms. Sharon Rotino | - | Research Officer |

MINUTES OF THE 26TH SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON THURSDAY 4TH AUGUST, 2016 IN MEDIA CENTRE, PARLIAMENT BUILDINGS AT 12:00 NOON

Present:

- | | | |
|----------------------------------|---|--------------------|
| 1. Hon. Florence Kajuju, MP | - | Chairperson |
| 2. Hon. Dido Ali Rasso, MP | | |
| 3. Hon. Timothy Bosire, MP | | |
| 4. Hon. Kubai Iringo, MP | | |
| 5. Hon. Emmanuel Wangwe, MP | | |
| 6. Hon. Andrew Toboso, MP | | |
| 7. Hon. Alois Lentoimaga, MP | | |
| 8. Hon. David Karithi, MP | | |
| 9. Hon. Badi Twalib Badi, MP | | |
| 10. Hon. Andrew Mwadime, MP | | |
| 11. Hon. Willy Baraka Mtengo, MP | | |

Absent With Apology

- | | | |
|----------------------------------|---|-------------------------|
| 1. Hon. Christopher Nakuleu, MP | - | Vice-Chairperson |
| 2. Hon. Ogendo Rose Nyamunga, MP | | |
| 3. Hon. Ali Wario, MP | | |
| 4. Hon. Annah Nyokabi, MP | | |
| 5. Hon. Wanjiku Muhia, MP | | |
| 6. Hon. Robert Mbui, MP | | |
| 7. Hon. Mary Seneta, MP | | |
| 8. Hon. Eric Keter, MP | | |
| 9. Hon. Gideon Konchella, MP | | |
| 10. Hon. David Ouma Ochieng', MP | | |
| 11. Hon. Joseph Kahangara, MP | | |
| 12. Hon. Anthony Kimaru, MP | | |
| 13. Hon. Alex Mwiru, MP | | |
| 14. Hon. Florence Mutua, MP | | |
| 15. Hon. Peter Shehe, MP | | |
| 16. Hon. Mark Lomunokol, MP | | |
| 17. Hon. Sarah Korere, MP | | |
| 18. Hon. Alfred Agoi, MP | | |

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

- | | | |
|-------------------------|---|-----------------------|
| 1. Mr. Fredrick Otieno | - | Third Clerk Assistant |
| 2. Mr. Nicodemus Maluki | - | Third Clerk Assistant |
| 3. Ms. Brigita Mati | - | Legal Counsel |

MIN.NO. CRI/101/2016 PRELIMINARIES

Pursuant to Standing Order 188, Hon. Emmanuel Wangwe, MP was nominated to chair the meeting. The Ag. Chairperson then called the meeting to order at 12:30 pm and followed by a word of prayer from Hon. Badi Twalib, MP.

MIN.NO.CRI/102/2016: CONSIDERATION OF THE NILE BASIN COOPERATIVE FRAMEWORK AGREEMENT

The Committee was briefed by the Legal Counsel on the Agreement as follows:

Introduction

The Nile is the longest river in the world, flowing for more than 6,650 km from its origins in Burundi and Rwanda to the Mediterranean Sea. The river basin area is more than three million km squared and extends over ten countries that share the river (Ethiopia, Sudan, Egypt, Rwanda, Tanzania, Uganda, Burundi, the Democratic Republic of the Congo, Eritrea, and Kenya).

Historical Treaties and Agreements

A number of treaties on the Nile River affect use of the river—

- (a) **Nile Treaty 1902** was concluded in 1902 in Addis Ababa. This treaty states in Article III that Emperor Menelik II of Ethiopia shall not to construct, or allow to be constructed, any work across the Blue Nile, Lake Tsana, or the Sobat which would arrest the flow of their waters into the Nile, except in agreement with His Britannic Majesty's Government (Egypt) and the Government of the Sudan. This treaty has been a source of dispute between Ethiopia and Egypt, the latter still insisting on its validity;
- (b) **Nile Treaty 1929** was concluded by Britain on behalf of its East African colonies of Kenya, Uganda and Tanganyika, as well as Sudan, on the one hand, and Egypt on the other. In Paragraph 4, it states "*Except with the prior consent of the Egyptian Government, no irrigation works shall be undertaken nor electric generators installed along the Nile and its branches nor on the lakes from which they flow if these lakes are situated in Sudan or in countries under British administration which could jeopardize the interests of Egypt either by reducing the quantity of water flowing into Egypt or appreciably changing the date of its flow or causing its level to drop.*" Upon attaining independence from the British, the East African Colonies argued that they were not bound by the treaty and adopted the Nyerere doctrine which stated that; all treaties concluded in the colonial era should be renegotiated within two years after which they would collapse if no agreement was acceded to. Egypt still insists that the 1929 agreement remains valid and binding.
- (c) **Nile Treaty 1959** was concluded in Cairo on 8 November 1959 and entered into force on 22 November 1959. The Agreement governs the control of certain projects concerning the Nile, as well as water allocation between Sudan and Egypt in billion cubic meters as 18.5 and 55.5 respectively. This means that the agreement allocated the entire flow of the Nile to the above mentioned two countries. The agreement has also been rejected by the other countries citing the

infringement of their rights under international law to a reasonable and equitable share to the Nile waters, given that the entire flow of the Nile originates within their territories.

There was need for co-operation between the riparian states on the sustainable use and management of the river which resulted in the establishment of the Nile Basin Initiative to, among other objectives, negotiate the co-operative framework Agreement which the provisions of the Agreement are as follows-

Preamble		Affirms the importance of having an integrated management, sustainable development and harmonious utilization of the water resources of the Nile Water Basin and conservation and protection for the benefit of present and future generations.
Article 1	Scope of the present framework	The framework applies- (a) to the use, development, protection, conservation and management of the Nile River Basin and its resources; and (b) establishment an institutional mechanism for cooperation among the Nile Basin States.
Article 2	Use of terms	Provides for various terms as used in the framework.
Article 3	General principles	Provides for the protection, use, conservation and development of the Nile river basin and river system in accordance with the following principles- (a) Cooperation; (b) Sustainable development; (c) Subsidiarity; (d) Equitable and reasonable utilization; (e) Prevention of the causing of significant harm; (f) The right of Nile Basin States to use water within their territories; (g) Protection and conservation; (h) Information concerning planned measures; (i) Community of interest; (j) Exchange of data and information; (k) Environmental impact assessment and audits; (l) Peaceful resolution of disputes; (m) Water as a finite and vulnerable resource; (n) Water has social and economic value; and (o) Water security.
Article 4	Equitable and reasonable	Provides for the utilization of the Nile water in an equitable and reasonable manner where partner states are to take relevant circumstances such as geographic, hydrographic

	utilization	factors of a natural nature among others.
Article 5	Obligation not to cause significant harm	Obligates Nile basin states to utilize the water resources taking all appropriate measures to prevent the causing of significant harm
Article 6	Protection and conservation of the Nile river basin and its ecosystem	Nile basin states are to undertake all appropriate measures to jointly protect conserve and rehabilitate the Nile River Basin and its ecosystems.
Article 7	Regular exchange of data and Information	The Nile basin states are required to, on a regular basis, exchange relevant data and information on existing measures and on the condition of water resources of the Basin.
Article 8	Planned measures	The Nile basin states are to adhere to the rules and procedures established by the Commission for exchange of information.
Article 9	Environmental impact assessment and audits	Provides for environmental impact assessment and audits where a member state plans projects that may have significant adverse effects on the environment. The commission is tasked with adopting criteria for carrying out the audits taking into consideration national legislation.
Article 10	Subsidiarity in the development and protection of the Nile River Basin.	Provides for the planning and implementation of a project pursuant to the principles of subsidiarity.
Article 11	Prevention and mitigation of harmful conditions	Nile Basin states are obligated to take all appropriate measures to prevent conditions related to the Nile River System that may be harmful to other Nile Basin States such as floods, siltation, erosion etc
Article 12	Emergency Situations	Provides for how Nile Basin States shall conduct themselves with regard to emergencies and the development of contingency plans for responding to those emergencies
Article 13	Protection of the Nile River Basin and related installations in time of armed conflict	Provides for the application of the principles and rules of international law in case of installations in time of armed conflict.

*Article 14	Water Security	Provides for the co-operation management and development of the waters in order to facilitate the achievement of water security and other benefits
Article 15	Establishment	Establishes the River Basin Commission
Article 16	Purpose and objective	Provides for the purpose and objective of the commission to be, among others, facilitate the implementation of the principles, rights and obligations
Article 17	Organs	Provides for the Commission that is composed of: <ul style="list-style-type: none"> (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	Entebbe, Uganda
Article 19	Legal Status	Provides for the Commission to be a body corporate and its officials to enjoy such privileges and immunities as are necessary for the performance of their functions under the framework.
Article 20	Structure and procedures	The Conference of Heads of State and Government shall be composed of Heads of State and Government of Nile Basin States.
Article 21	Functions	The Conference shall be the supreme policy making organ
Article 22	Structure	The Council of Ministers(the Council) is to be composed of the Ministers responsible for water services or any other minister depending on the agenda of the Commission
Article 23	Procedures	The Council is to establish its own rules and procedures and any decision of the Council shall be by consensus.
Article 24	Functions	Provides the functions of the Council to serve as a forum for discussion of matters within the scope of functions and the framework. See Article 24
Article 25	Structure and procedures of the Technical	The TAC shall be composed of two members of the Nile Basin State who shall be senior officials and other delegates as and when required

Advisory
Committee

Article 26	Functions	The main functions of the TAC Committee is to prepare programs, rules, procedures for consideration by the Council, advise the Council on technical matters relating to the Nile River System and basin
Article 27-30	Structures and procedures of sectoral advisory committees its functions and the Secretariat	<p>Provides for the establishment of Sectoral advisory Committees to deal with specific sectoral matters as assigned by the Council</p> <p>Article 29 establishes the office of the Secretariat and it shall serve as secretariat for meeting of all organs of the commission, responsible for administration and finances of the Commission among others</p>
Article 31	Succession	The commission shall succeed to all rights and obligations and assets of the Nile Basin Initiative
Article 32	Sub-basin organisations and arrangements	These organisations shall continue to exist so long as they ensure the purposes, functions and activities are consistent with those of the Commission.
Article 33	National Nile Focal Point Institutions	The states shall establish such institutions to serve as national focal points for the Commission with regard to matters within the competence of the Commission
Article 34	Settlement of Disputes	<p>Disputes shall be resolved amicably through</p> <p>Arbitration, mediation or conciliation by the Commission in accordance to procedures adopted by the Council or the International Court of Justice.</p> <p>Where such means are not adequate, a party may request to impartial fact finding in accordance with the Fact finding Commission</p>
Article 35	Supplementary instruments	Provides that any protocol to the framework shall not be inconsistent
Article 36	Amendments	<p>Amendments may be proposed by any state party and adopted at the State meeting of the State Parties in question</p> <p>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 a last resort the amendment may be adopted by a two-thirds majority vote of the State Parties to the instrument in</p>

question present and voting at the meeting.

Article 37	Adoption and amendment of annexes	Annexes to this Framework or to any protocol shall form an integral part of the Framework or of such protocol
Article 38	Relationship between this Framework and Its Protocols	A 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	After two years from the date on which this Framework has entered into force a state party may withdraw by giving written notification
Article 41	Signature	Present Framework shall be open for signature by all States in whose territory part of the Nile River Basin is situated
Article 42	Ratification or Accession	The instruments of ratification or accession shall be deposited with the African Union
Article 43	Entry into Force	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, Depository	The English and French texts of the framework shall be deposited with the African Union
Article 45	Functions of the Depository	The depository shall inform the states of the deposit of instruments of ratification and the date of entry into force.

MIN.NO.CRI/103/2016: MEMBERS CONCERNS/OBSERVATIONS

Having considered the presentation, the following observations were made by Members:

- (a) The Cooperative Framework Agreement does not specifically repudiate the 1959 Nile Waters Agreement and other agreements taking into consideration, the above agreement contains provisions in direct conflict with one another e.g on the use of the Nile waters the Agreement advocates for equitable sharing while the 1959 treaty provides for only Egypt and Sudan with the right to use the waters. This is implied through Article 32 (2) which uses an unaggressive language by requiring its members to “undertake to ensure” that any prior agreements “are consistent with those of the Nile River Basin Commission, and with the principles and rules set out in, or adopted under, the framework;
- (b) The agreement does not provide for South Sudan as signatory to the agreement notwithstanding part of the White Nile passes through it.

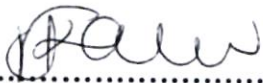
- (c) Members were concerned with Sudan and Egypt having not signed the agreement and insisting that Article 14 of the Cooperative Framework Agreement include a specific provision, to be added at the end of the article, which would oblige the basin
- (d) The National Assembly is limited to pass the agreement without any reservation as stipulated in Article 40 of the Agreement.

The Committee noted the importance of the agreement if it will help to reverse the Treaties that were signed before independence and are not fair to other Countries. However, the Committee recommended that the agreement be relooked at in depth and elaborately.

The Committee resolved to invite the relevant ministry and institutions to apprise it on the Protocols and the Agreement before it tables its report in the House.

MIN.NO.CRI/104/2016: ANY OTHER BUSINESS

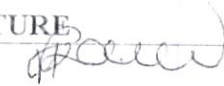


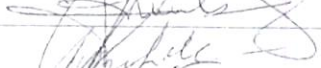
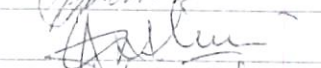

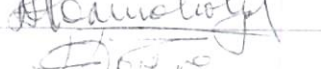
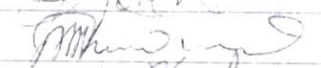



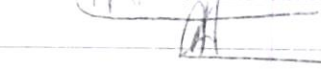



There being no other business, the Meeting was adjourned at fifty minutes past one o'clock.

SIGNED..........DATE18/8/2016.....

CHAIRPERSON

**SELECT COMMITTEE ON REGIONAL INTEGRATION
MEMBERS ATTENDANCE REGISTER**

DATE 24/10/2016 TIME 12:00 NOON
 AGENDA CONSIDERATION AND ADOPTION OF THE REPORTS ON EAC PROTOCOLS AND AGREEMENT ON NILE BASIN COOPERATIVE FRAMEWORK.

	NAME	TITLE	SIGNATURE
1	Hon Florence KAJUJU	CHAIRPERSON	
2	Hon CHRIS NAKUEN	VICE-CHAIR	
3	Hon Wajitu Muriu	MP	
4	Hon. Robert Mbuvi	member	
5	Hon Gideon Kionochi	member	
6	Hon. Andrew Mwangi	member	
7	Hon. Willy Nteyo	Member	
8	Hon Meme Lemuel	Member	
9	Hon Sarah Kere	member	
10	Hon David Kanti	member	
11	Hon. Alfred Mugo	member	
12	Hon Dick RASS	Member	
13	Hon. Anyang' Nyong'o	"	
14	Hon. Mary Sireta	"	
15	Hon Alois M. Lantomas	"	
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			

(Memo No-----)

REPUBLIC OF KENYA



MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL
TRADE

MEMORANDUM TO THE SPEAKER OF THE NATIONAL
ASSEMBLY ON THE RATIFICATION OF THE NILE BASIN CO-
OPERATIVE FRAMEWORK AGREEMENT

Submitted by the Cabinet Secretary for Foreign Affairs and
International Trade

May, 2016

1. OBJECTIVE OF THE MEMORANDUM

The objective of this Memorandum is to seek the approval of the National Assembly for the ratification of the Nile Basin Cooperative Framework Agreement (CFA), by the Republic of Kenya.

2. BACKGROUND

The Nile Cooperative Framework Agreement is a culmination of several decades of cooperation between the riparian states, initially based around scientific information sharing. Nile Basin States have cooperated in areas such as: the Hydrometeorological Survey of the Catchment of Lakes Victoria, Kyoga and Albert (HYDROMET) (1967-1992), funded by the United Nations Development Programme (UNDP); the Technical Cooperation Committee for the Promotion of the Development and Environmental Protection of the Nile Basin (TECCONILE), which was founded in 1993, and a series of ten "Nile 2000" conferences which were funded by the Canadian International Development Agency (CIDA).

To consolidate these initiatives and provide a vehicle towards a permanent institution, the Ministers in charge of Water affairs in the Nile Basin Countries established the Nile Basin Initiative (NBI) in Dar-es-Salaam, Tanzania on 22 February, 1999. NBI is an intergovernmental initiative, as well as a transitional institutional mechanism, which brings together all riparian countries (Tanzania, Uganda, Burundi, Democratic Republic of Congo, Egypt, Ethiopia, Eritrea, Kenya, Rwanda, Sudan and now South Sudan). NBI provides an agreed basin-wide framework to fight poverty and promote economic development in the region. It's vision is:

'to develop River Nile in a cooperative manner, share and promote socioeconomic benefits, reduce poverty and promote regional peace and security.'

NBI has two complementary programs:

- i. The Shared Vision Program (SVP), whose primary purpose is to create an enabling environment for cooperation, management and development in the Nile basin, and
- ii. Subsidiary Action Programs (SAPs) for translating the shared vision into action. There are two basin SAPs: the Eastern Nile Subsidiary Action Program (ENSAP) which includes Egypt, Ethiopia and Sudan; and the Nile Equatorial Lakes Region Subsidiary Action Program which includes Burundi, D.R. Congo, Kenya, Rwanda, Tanzania, and Uganda.

The objectives of NBI are:

- i. to build confidence among member states through various regional programs and projects;
- ii. to negotiate the Cooperative Framework Agreement; and
- iii. to establish a permanent institution of the Nile Basin. The ratification of the CFA will therefore enable the basin States to achieve all these objectives.

3. ANALYSIS OF THE PROBLEM

The genesis of the scramble for Nile water resources can be traced back to the 1929 colonial treaty between Britain and Egypt. This agreement gave Egypt veto powers over the use of the Nile River water resources. It also allowed Egypt to build whatever projects it liked, along the Nile without seeking the consent of other countries which rely on the river.

The legality of this treaty has since been challenged by the affected countries. For instance, upon attaining independence, Kenya declared

that it was not bound by the treaty. Sudan rejected the agreement too on the same ground. Subsequently, Egypt and Sudan signed a bilateral agreement in 1959 on the sharing of the Nile Waters between them. This Agreement did not bind the other Nile Basin States such as Kenya.

The Nile Basin CFA therefore brings together all Riparian States to address equitable sharing of the Nile resources. It also seeks to set up a Nile River Basin Commission, which will act as a forum for conflict resolution, clearing house for new projects and institution for cooperation.

The CFA as a general agreement outlines general principles of cooperation on water resources management, with respect to protection, utilization, conservation and development of the Nile River system. Its cornerstone is the principle of equitable and reasonable utilization.

Upon entry into force, the CFA will supersede all the bilateral agreements which relate to the Nile and have impeded cooperation. The CFA also obliges member states not to cause significant harm, ensures protection and conservation of the Nile River Basin and its ecosystems among other provisions.

Besides the absence of a comprehensive legal framework, the Nile River Basin has been confronted by other problems such as, conflicts over resource use, poverty, environmental degradation and climate change. The CFA therefore addresses the sustainable management and development of the Nile Water Resources and sharing of benefits, in order to counter these challenges. The sustainable management of the Nile Basin requires a permanent institution and as such, the CFA establishes the Nile River Basin Commission (NRBC).

The CFA was open for signature to all Nile Basin States, from 14th May 2010 to 13th May 2011 (see Article 41). Kenya signed the CFA on 19th May 2010.

For the Framework to enter into force, six of the ten Member States should sign and ratify the CFA.

4. WAY FORWARD

According to Article 43 of the CFA, the Agreement 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.

Upon entry into force, the Nile Basin Commission, established under Article 15 thereof, will become operational.

So far, the Agreement has been signed by six Member States, i.e. Kenya, Uganda, Ethiopia, Burundi, Rwanda and Tanzania. Ethiopia, Rwanda and Tanzania have already ratified the Agreement. South Sudan, though it did not participate in the negotiation of the Agreement, has indicated its willingness to accede to the Agreement in future.

Kenya's ratification of the Agreement will be an important signal of her commitment to issues of regional interest, such as trans-boundary natural resources, which is crucial to the economic, political and social development of the region.

Egypt and Sudan have not signed the Agreement because they are opposed to Article 14(b) of the Agreement which they claim takes away their historical rights and uses of the Nile waters. The article (14b) states, inter alia,

'Nile Basin States therefore agree, in a spirit of cooperation: ... not to significantly affect the water security of any other Nile Basin State'.

Both Egypt and Sudan however would like the article to read as follows:

'Nile Basin States therefore agree, in a spirit of cooperation: ... 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 May 22, 2009 agreed that Article 14(b) be annexed to the CFA and will be resolved by the Nile River Basin Commission, within six months of its establishment.

5. FINANCIAL IMPLICATION

The Nile Basin Initiative is funded and supported by the member Countries and through the support of several multilateral and bilateral development partners such as African Development Bank, Global Environment Facility, World Bank, United Nations Development Program (UNDP), Canada, Denmark, Finland, Germany, Italy, Netherlands, Norway, Sweden, United Kingdom, and the United States.

The Development Partners' contributions were channeled through the Nile Basin Trust Fund (NBTF), which was established in 2003, at the request of the Nile-COM, and administered by the World Bank. The NBTF wound up in 2012, and the CFA provides for the establishment of a Trust Fund.

Currently, Kenya's annual subscription to NBI stands at USD 224,074. This is in addition to the continuous in-kind support it provides to NBI. It is projected that the country will contribute slightly more than the current annual subscription once the Nile Basin Commission is established.

As provided by Constitution, once ratified the CFA will form part of the laws of Kenya. Further the Constitution puts the mandate of the management of the shared water resources under the National Government. The CFA does not anticipate any amendments to Constitution of Kenya 2010.

Workshops were held to Sensitize the public and Members of National Assembly from the Nile Basin region of Kenya. The Framework received overwhelming support from Members of National Assembly at the time and the general public.

The Cabinet approved the ratification of the Nile Basin Cooperative Framework Agreement (CFA) vide a cabinet directive Ref. No. OP/CAB.58/4A, dated 11th September 2014 (copy attached for ease of reference).

6. RECOMMENDATIONS

The National Assembly is therefore requested to:

- i. Take note of the contents of this Memorandum;
- ii. Approve the ratification of the Nile Basin Cooperative Framework Agreement by the Republic of Kenya.
- iii. Direct the Cabinet Secretary for Foreign Affairs and International Trade to deposit the Instrument of Ratification with the African Union Commission.
- iv. Direct the National Treasury to avail funds for Kenya's annual subscription to NBI.

Signed

.....

Date.....

Amb. Amina Mohammed, EGH, CBS, CAV
Cabinet Secretary
Ministry of Foreign Affairs & International Trade

ANNEXES

- 1. AGREEMENT ON THE NILE RIVER BASIN COOPERATIVE FRAMEWORK (CFA)**

- 2. CABINET APPROVAL OF THE RATIFICATION OF THE NILE BASIN COOPERATIVE FRAMEWORK AGREEMENT**



THE PRESIDENCY
OFFICE OF THE SECRETARY TO THE CABINET

Telegraphic Address
Telephone: Nairobi 2227411
When replying please quote

Ref. No. OP/CAB.58/4A
date

11th September, 2014

Prof. Githu Muigai, EGH
Attorney-General
Office of the Attorney-General and Department of Justice
NAIROBI.

Dr. Richard Lesirian Lesiyampe
Principal Secretary – Environment and Natural Resources
Ministry of Environment, Water and Natural Resources
NAIROBI.

Mr. James Teko Lopoyetum
Principal Secretary – Water
Ministry of Environment, Water and Natural Resources
NAIROBI.

Dr. (Eng.) Karanja Kibicho, CBS
Principal Secretary
Ministry of Foreign Affairs and International Trade
NAIROBI.

Dr. Kamau Thugge, EBS
Principal Secretary
The National Treasury
NAIROBI.

Dear *Judi*

**RE: CABINET MEMORANDUM ON THE NILE BASIN COOPERATIVE
FRAMEWORK AGREEMENT**

I refer to the **Seventh Cabinet Meeting 2014**, held on **11th September, 2014** during which Cabinet Memorandum **CAB(14)93**, jointly submitted by the Cabinet Secretary for Environment, Water and Natural Resources, the Cabinet Secretary for Foreign Affairs and International Trade, the Cabinet Secretary for National Treasury and the Attorney General was presented and discussed.

*PS - water
Fiji + others
CS 11/9/14*

I wish to inform you that Cabinet **considered** the contents of the Memorandum and:

- (i) **Approved** the process leading to the Ratification of the Nile Basin Cooperative Framework Agreement.
- (ii) **Directed** the Cabinet Secretary for National Treasury to avail funds for the Annual country Subscription.
- (iii) **Directed** the Cabinet Secretary for Foreign Affairs and International Trade and the Attorney General to draft the Ratification Instrument and have it deposited with the African Union Commission.
- (iv) **Directed** the Cabinet Secretary for Environment, Water and Natural Resources, the Cabinet Secretary for Foreign Affairs and International Trade, the Cabinet Secretary for National Treasury and the Attorney General to take appropriate action.

Please proceed and initiate action along the lines of the Cabinet decision.

Yours

Francis T. Kimemia
FRANCIS T. KIMEMIA, EGH, CBS
SECRETARY TO THE CABINET

Copy to:

Prof. Judi Wangalwa Wakhungu
Cabinet Secretary
Ministry of Environment, Water and Mineral Resources
NAIROBI.

Amb. Amina Mohammed, CBS, CAV
Cabinet Secretary
Ministry of Foreign Affairs and International Trade
NAIROBI.

Mr. Henry K. Rotich
Cabinet Secretary,
The National Treasury
NAIROBI.

Agreement on the Nile River Basin Cooperative Framework



BURUNDI



D. R. CONGO



EGYPT



ETHIOPIA



ERITREA



KENYA



RWANDA



SUDAN



TANZANIA



UGANDA



Agreement on the
Nile River Basin Cooperative
Framework

Accord-cadre
Sur la Coopération dans le
Bassin du Fleuve Nil

**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:

Accord-cadre sur la coopération dans le Bassin du Fleuve Nil

Préambule

Les Etats du Bassin du Fleuve Nil,

Affirmant l'importance du Nil pour le bien-être économique et social des peuples des Etats du Bassin du Fleuve Nil;

Soucieux de renforcer leur coopération ayant trait au Fleuve Nil dans la gestion du Nil, ressource naturelle essentielle et vitale, et ce pour le développement durable du Bassin du Fleuve Nil;

Reconnaissant que le Fleuve Nil, ses ressources naturelles et son environnement sont des biens d'une valeur immense pour tous les pays riverains;

Convaincus qu'un accord-cadre régissant leurs relations en ce qui concerne le Bassin du Fleuve Nil favorisera une gestion intégrée, un développement durable et une utilisation harmonieuse des ressources en eau du Bassin, ainsi que leur conservation et leur protection au profit des générations présentes et futures;

Convaincus également qu'il est de leur intérêt commun d'établir une organisation pour les assister dans la gestion et le développement durable du Bassin du Fleuve Nil au profit de tous;

Conscients des initiatives mondiales pour la promotion de la coopération en matière de gestion intégrée et de développement durable des ressources d'eau;

Sont convenues de ce qui suit:

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 groundwaters 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.

Article 1

Champ d'application du présent Accord

Le présent Accord s'applique à l'utilisation, au développement, à la protection, à la conservation et à la gestion du Bassin du Fleuve Nil ainsi que de ses ressources et établit un mécanisme institutionnel pour la coopération des Etats du Bassin du Fleuve Nil.

Article 2

Définitions

Aux fins du présent Accord sur le Cadre de Coopération :

- (a) le Bassin du Fleuve Nil s'entend du secteur géographique déterminé par les lignes de partage du système des eaux du Fleuve Nil; ce terme est utilisé où est fait référence à la protection, à la conservation et au développement de l'environnement.
- (b) le système du Fleuve Nil s'entend du Nil, des eaux de surface et des eaux souterraines qui lui sont liées; ce terme est utilisé où est fait référence à l'utilisation de l'eau.
- (c) le Cadre s'entend du présent Accord-cadre sur la Coopération.
- (d) le Etat du Bassin du Fleuve Nil s'entend du Etat du Bassin du Fleuve Nil ou le Etat du Bassin s'entend d'un Etat partie au présent Accord sur le territoire duquel est située une portion du Bassin du Fleuve Nil;
- (e) la Commission désigne la Commission du Bassin du Fleuve Nil créée par les dispositions de la partie III du présent Accord.
- (f) la Sécurité de l'eau désigne le droit qu'ont tous les Etats du Bassin du Fleuve Nil à l'accès et à l'utilisation fiables du système du Fleuve Nil pour la santé, l'agriculture, les moyens d'existence, la production et l'environnement.

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.

PARTIE I. PRINCIPES GÉNÉRAUX

Article 3

Principes Généraux

Le bassin du Fleuve Nil et le système du Fleuve Nil doivent être protégés, utilisés, conservés et développés selon les principes généraux suivants:

1. Coopération

Le principe de coopération entre les Etats du Bassin du Fleuve Nil sur la base de l'égalité souveraine, de l'intégrité territoriale, du bénéfice mutuel et de la bonne foi, afin d'atteindre une utilisation optimale, une protection adéquate et la conservation du Bassin du Fleuve Nil et de promouvoir des efforts communs afin de réaliser le développement économique et social des Etats du Bassin du Fleuve Nil.

2. Développement durable

Le principe du développement durable du Bassin du Fleuve Nil.

3. Subsidiarité

Le principe de subsidiarité, en vertu duquel le développement et la protection des ressources en eau du Bassin du Fleuve Nil sont planifiés et mis en œuvre à l'échelon le plus bas possible.

4. Utilisation équitable et raisonnable

Le principe de l'utilisation équitable et raisonnable des eaux du système du fleuve Nil.

5. Prévention de la survenance de dommages significatifs

Le principe de prévention de la survenance de tout dommage significatif au préjudice des autres Etats du Bassin du Fleuve Nil.

6. Le Droit des Etats du Bassin du Fleuve Nil d'utiliser l'eau sur leur territoire

Le principe selon lequel chaque Etat du Bassin du Fleuve Nil a le droit d'utiliser, sur son territoire, les eaux du Bassin du Fleuve Nil d'une manière compatible avec les principes de base énoncés par le présent accord.

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.

7. Protection et conservation

Le principe selon lequel les Etats du Bassin du Fleuve Nil prennent toutes les mesures appropriées, individuellement et, le cas échéant, conjointement, pour la protection et la conservation du Bassin du Fleuve Nil et de ses écosystèmes.

8. Informations relatives aux mesures planifiées

Le principe selon lequel tous les Etats du Bassin du Fleuve Nil échangent de l'information sur les mesures planifiées par l'intermédiaire de la Commission du Bassin du Fleuve Nil.

9. Communauté d'intérêt

Le principe de la communauté d'intérêt des Etats du Bassin du Fleuve Nil dans le système du fleuve Nil.

10. Échange de données et d'informations

Le principe de l'échange régulier et réciproque entre les Etats du Bassin du Fleuve Nil de toute donnée et information aisément accessible et pertinente sur des mesures existantes et sur la situation des ressources en eau du Bassin, si possible sous une forme qui facilite son utilisation par les Etats auxquels elle est destinée.

11. Evaluation d'impact environnemental et audits

Le principe d'évaluation de l'impact sur l'environnement et des audits

12. Règlement pacifique des différends

Le principe du règlement pacifique des différends.

13. L'eau comme ressource limitée et vulnérable

Le principe selon lequel l'eau douce est une ressource limitée et vulnérable, essentielle pour maintenir la vie, le développement et l'environnement ; qu'elle doit être gérée d'une manière intégrée et holistique, liant le développement économique et social à la protection et à la conservation des écosystèmes naturels.

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.

14. L'eau a une valeur économique et sociale

Le principe selon lequel l'eau est une ressource naturelle ayant une valeur sociale et économique, qui doit être utilisée en priorité de la manière la plus économique, en tenant compte de la satisfaction des besoins de base de la population et de la sauvegarde des écosystèmes.

15. Sécurité de l'eau

Le principe de sécurité de l'eau pour tous les Etats du Bassin du Fleuve Nil.

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 therefrom, 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.

PARTIE II. DROITS ET OBLIGATIONS

Article 4

Utilisation équitable et raisonnable

1. Les Etats du Bassin du Fleuve Nil utilisent les ressources en eau du système du Fleuve Nil d'une manière équitable et raisonnable sur leurs territoires respectifs. En particulier, ces ressources en eau sont utilisées et développées par les Etats du Bassin du Fleuve Nil de manière à parvenir à une utilisation optimale et durable de ces eaux et à en retirer tous les bénéfices, tout en tenant compte des intérêts des Etats du Bassin concernés et en garantissant une protection adéquate de ces ressources en eau. Chaque Etat du Bassin a droit à une part équitable et raisonnable des utilisations utiles des ressources en eau du système du Fleuve Nil.
2. Pour s'assurer du caractère équitable et raisonnable de leur utilisation des ressources en eau du système du Fleuve Nil, les Etats du Bassin du Fleuve Nil tiennent compte de tous les facteurs et circonstances pertinents, notamment:
 - (a) des facteurs d'ordre géographique, hydrographique, hydrologique, climatique, écologique et autres facteurs de caractère naturel ;
 - (a) des besoins sociaux et économiques des Etats du Bassin concernés ;
 - (a) de la population dépendante des ressources en eau dans chaque Etat du Bassin ;
 - (d) des effets de l'utilisation ou des utilisations des ressources en eau dans un Etat, dans les autres Etats du Bassin ;
 - (e) des utilisations éventuelles et existantes des ressources en eau ;
 - (f) de la conservation, la protection, l'économie, et du développement de l'utilisation des ressources en eau et des coûts des mesures prises à cet effet ;
 - (g) de l'existence d'alternatives, de valeur comparable à une utilisation particulière prévue ou existante ;
 - (h) de la contribution de chaque Etat du Bassin aux eaux du système du Fleuve Nil ;
 - (i) de l'ampleur et de la proportion du secteur de drainage sur le territoire de chaque Etat du Bassin.

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.

3. Pour l'application des paragraphes 1 et 2 ci-dessus, les Etats du Bassin du Fleuve Nil concernés procéderont, en cas de besoin, à des consultations dans un esprit de coopération.
4. L'importance à donner à chaque facteur doit être déterminée en fonction de son importance par rapport à celle des autres facteurs pertinents. Pour définir une utilisation raisonnable et équitable, tous les facteurs pertinents doivent être considérés conjointement et une conclusion doit être tirée sur la base de l'ensemble de ces facteurs.
5. Les Etats du Bassin du Fleuve Nil doivent pour leurs territoires respectifs et conformément à leurs lois et règlements nationaux, évaluer le statut de leurs utilisations à la lumière de tout changement substantiel dans les circonstances et les facteurs pertinents.
6. Les Etats du Bassin du Fleuve Nil se conforment aux règlements et aux procédures établis par la Commission du Bassin du Fleuve Nil pour la mise en œuvre d'une utilisation équitable et raisonnable.

Article 5

Obligation de ne pas causer de dommages significatifs

1. Lorsqu'ils utilisent les ressources en eau du système du Fleuve Nil sur leurs territoires, les Etats du Bassin du Fleuve Nil prennent toutes les mesures appropriées afin de ne pas causer de dommages significatifs à d'autres Etats du Bassin.
2. Néanmoins, lorsqu'un dommage significatif est causé à un autre Etat du Bassin du Fleuve Nil, l'Etat dont l'utilisation a causé ce dommage prennent, en l'absence d'accord concernant cette utilisation, toutes les mesures appropriées, dans le respect des dispositions de l'article 4 ci-dessus, en consultation avec l'Etat affecté, pour éliminer ou atténuer ce dommage et, le cas échéant, discuter de la question de l'indemnisation.

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.

Article 6

Protection et conservation du Bassin du Fleuve Nil et de ses écosystèmes

1. Les Etats du Bassin du Fleuve Nil prennent toutes les mesures appropriées, individuellement et, le cas échéant, conjointement, pour protéger, conserver et, en cas de besoin, réhabiliter le système le Bassin du Fleuve Nil et ses écosystèmes, à travers notamment:
 - (a) la protection et l'amélioration de la qualité de l'eau dans le Bassin du Fleuve Nil ;
 - (b) la prévention de l'introduction d'espèces étrangères ou nouvelles, dans le système du Fleuve Nil susceptibles d'avoir des effets dommageables sur les écosystèmes du système du Bassin du Fleuve Nil ;
 - (c) la protection et la conservation de la diversité biologique dans le Bassin du Fleuve Nil ;
 - (d) la protection et la conservation des zones humides dans le Bassin du Fleuve Nil ; et
 - (e) la reconstitution et la réhabilitation des ressources naturelles de base dégradées.
2. Les Etats du Bassin du Fleuve Nil procèdent, par le biais de la Commission du Bassin du Fleuve Nil, à l'harmonisation de leurs politiques relatives aux dispositions du présent article.

Article 7

Echange régulier de donnée et d'information

1. Dans le cadre de leur coopération relative à l'utilisation, au développement et à la protection du Bassin du Fleuve Nil et de ses ressources en eau, les Etats du Bassin du Fleuve Nil échangent régulièrement des données et informations aisément accessibles et pertinentes sur des mesures existantes et sur la situation des ressources en eau du Bassin, si possible sous une forme qui facilite son utilisation par les Etats auxquels elle est destinée.
2. Si un Etat du Bassin du Fleuve Nil est sollicité par un autre Etat du Bassin afin de fournir à celui-ci des données ou des informations qui ne sont pas aisément disponibles, il usera de tous les moyens possibles pour satisfaire à la demande mais peut conditionner son accord au règlement par l'Etat ayant sollicité l'information des coûts raisonnablement nécessaires à la collecte et, le cas échéant, au traitement de ces données.

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.

3. Dans l'exécution des obligations qui leur incombent aux termes des paragraphes 1 et 2 ci-dessus, les Etats du Bassin du Fleuve Nil acceptent de se conformer aux procédures qui seront développées par la Commission du Bassin du Fleuve Nil.

Article 8

Les mesures planifiées

1. Les Etats du Bassin du Fleuve Nil s'accordent pour échanger de l'information par l'intermédiaire de la Commission du Bassin du Fleuve Nil.
2. Les Etats du Bassin du Fleuve Nil se conforment aux règles et aux procédures établies par la Commission du Bassin du Fleuve Nil pour l'échange d'information relative aux mesures planifiées.

Article 9

Evaluation d'impact environnemental et audits

1. Les Etats du Bassin du Fleuve Nil, procèdent, préalablement à toute mesure susceptible d'avoir des conséquences dommageables significatives sur l'environnement, à une évaluation complète de ses conséquences pour leurs propres territoires et pour les territoires des autres Etats du Bassin du Fleuve Nil.
2. Les critères et les procédures pour déterminer si une activité est susceptible d'avoir des conséquences dommageables significatives sur l'environnement seront développés par la Commission du Bassin du Fleuve Nil.
3. Lorsque les circonstances l'exigent, selon des critères qui seront développés par la Commission du Bassin du Fleuve Nil, tout Etat du Bassin du Fleuve Nil ayant mis en fluvre des mesures du type de celles évoquées au paragraphe 1 procède à un audit des impacts de ces mesures sur l'environnement. Cet Etat procède également à des consultations relatives à cet audit avec les Etats du Bassin du Fleuve Nil affectés par les mesures, si ceux-ci lui en font la demande.
4. La Commission adoptera des critères pour la mise en fluvre d'audits des mesures existantes à la date de l'entrée en vigueur du présent Accord, en tenant compte de la législation nationale des Etats du Bassin du Fleuve Nil.

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.

5. Les Etats du Bassin du Fleuve Nil procèdent à des audits des mesures existantes à la date de l'entrée en vigueur du présent Accord conformément à leur législation nationale et aux critères adoptés dans le cadre de cet Accord.

Article 10

Subsidiarité dans le développement et la protection du Bassin du Fleuve Nil

Pour la planification et la mise en fluvre d'un projet conformément au principe de subsidiarité énoncé à l'article 3(3), les Etats du Bassin du Fleuve Nil:

- (a) permettent à toutes les personnes sous la juridiction d'un Etat qui seront, ou sont susceptibles d'être, affectés par un projet dans cet Etat, de participer d'une manière appropriée au processus de planification et d'exécution;
- (b) mettent tout en fluvre pour s'assurer que le projet et tout accord qui y est relatif sont conformes au présent Accord.

Article 11

Prévention et réduction des situations dommageables

Les Etats du Bassin du Fleuve Nil, individuellement et, conjointement en mutualisant les coûts entre les Etats du Bassin susceptibles d'être affectés, mettent tout en fluvre pour prendre toutes les mesures aptes à prévenir ou à atténuer les situations liées au système du Fleuve Nil susceptibles d'être dommageables pour d'autres Etats du Bassin du Fleuve Nil, que ces situations résultent d'activités humaines ou de causes naturelles, telles que des situations d'inondation, de présence des herbes envahissantes, de maladies d'origine hydriques, d'envasement, d'érosion, de sécheresse ou de désertification. En mettant en fluvre cette disposition, les Etats du Bassin du Fleuve Nil, tiennent compte des directives qui seront développées par la Commission du Bassin du Fleuve Nil.

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 12

Situations d'urgence

1. Dans le cadre de cet article, « l'urgence » s'entend d'une situation qui cause, ou menace de causer de manière imminente un dommage sérieux aux Etats du Bassin du Fleuve Nil ou à d'autres Etats et qui résulte brusquement de causes naturelles, telles que des inondations, des éboulements ou des tremblements de terre, ou bien d'activités humaines, telles que des accidents industriels.
2. Tout Etat du Bassin du Fleuve Nil, prévient sans délai et par les moyens les plus rapides disponibles, les autres Etats potentiellement affectés et les organisations internationales compétentes de toute urgence prenant sa source sur son territoire.
3. Tout Etat du Bassin du Fleuve Nil sur le territoire duquel une urgence apparaît prend immédiatement toutes les mesures pratiques que les circonstances exigent afin de prévenir, d'atténuer et d'éliminer les effets dommageables de l'urgence, en coopération avec les Etats susceptibles d'être affectés et, le cas échéant, les organisations internationales compétentes.
4. Si nécessaire, les Etats du Bassin du Fleuve Nil développent conjointement des plans de secours afin de répondre aux urgences de manière coordonnée, le cas échéant, avec d'autres Etats potentiellement affectés et les organisations internationales compétentes.

Article 13

Protection du Bassin du Fleuve Nil et de ses infrastructures en période de conflit armé.

Le système du Fleuve Nil et les infrastructures, installations et autres ouvrages connexes, ainsi que les installations contenant des forces dangereuses dans le Bassin du Fleuve Nil sont protégés par les principes et les règles du droit international applicable en cas de conflit armé international et non-international, en particulier par les règles du droit international humanitaire, et ne doivent pas être utilisés en violation de ces principes et règles.

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 attached to this agreement and it will be resolved by the Nile River Basin Commission within six months of its establishment as per decision of the Extra Ordinary Nile-COM Meeting held in May 2009 in Kinshasa, DR Congo.

Article 14

Sécurité de l'eau

Tenant dûment compte des dispositions des articles 4 et 5, les Etats du Bassin du Fleuve Nil reconnaissent l'importance capitale de la sécurité de l'eau pour chacun d'entre eux. Les Etats reconnaissent également que la gestion et l'aménagement coopératifs des eaux du système du Fleuve Nil faciliteront l'obtention de la sécurité de l'eau ainsi que d'autres avantages. Les Etats du Bassin du Fleuve Nil conviennent, dans un esprit de coopération,

- (a) d'œuvrer ensemble afin que tous les états obtiennent et maintiennent la sécurité de l'eau par tous les Etats ;
- (b)* ...

L'Article 14(b) est annexé au présent accord. Il sera résolu par la Commission du Bassin du Fleuve Nil endéans six mois dès sa mise en place conformément à la décision prise lors de la Réunion Extraordinaire du Conseil des Ministres tenue au mois de Mai 2009 à Kinshasa, RD Congo.

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

PARTIE III. STRUCTURE INSTITUTIONNELLE

SECTION A. LA COMMISSION DU BASSIN DU FLEUVE NIL

Article 15

Création

Il est créé entre les Etats du Bassin du Nil une organisation denommee Commission du Bassin du Fleuve Nil par les Etats du Bassin du Fleuve Nil.

Article 16

Objet

Le but et l'objet de la Commission sont :

- (a) de promouvoir et de faciliter la mise en fluvre des principes, droits et obligations prévus par le présent Accord;
- (b) de servir de cadre institutionnel à la coopération des Etats du Bassin du Fleuve Nil pour l'utilisation, le développement, la protection, la conservation et la gestion du Bassin du Fleuve Nil et de ses eaux;
- (c) de faciliter une collaboration étroite des Etats et des peuples du Bassin du Fleuve Nil dans les domaines sociaux, économiques et culturels.

Article 17

Organes

La Commission est composée de :

- (a) la Conférence des chefs d'Etat et de Gouvernement ;
- (b) le Conseil des Ministres ;
- (c) le Comité consultatif technique ;
- (d) les Comités consultatifs sectoriels ;
- (e) le Secrétariat.

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.

Article 18

Siège

Le siège de la commission sera situé à Entebbe en Ouganda.

Article 19

Statut Juridique

1. La Commission est une organisation intergouvernementale et jouit de la personnalité juridique internationale et de la capacité juridique nécessaire pour l'exécution de ses fonctions, en particulier, de la capacité de contracter, de contracter des obligations, de recevoir des donations, d'ester en justice activement et passivement.
2. La Commission et son personnel bénéficient, sur le territoire de chaque Etat du Bassin du Fleuve Nil, des privilèges et des immunités nécessaires pour l'exécution des fonctions qui leur incombent aux termes du présent Accord.
3. Les privilèges et les immunités visés à cet article seront détaillés dans un protocole à cet Accord.

**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”) shall be 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 B. LA CONFÉRENCE DES CHEFS D'ÉTAT OU DE
GOUVERNEMENT**

Article 20

Structure et procédures

1. La conférence des chefs d'État et des gouvernements (y la Conférence Y) sera composée des chefs d'État ou de Gouvernement des États du Bassin du Fleuve Nil.
2. La conférence établit son propre règlement et ses procédures.

Article 21

Fonctions

La conférence est l'organe suprême de décision de la Commission.

SECTION C. THE COUNCIL OF MINISTERS

Article 22

Structure

The Council of Ministers (the “Council”) shall be composed of the Ministers responsible for water affairs of the Nile Basin States and other ministers depending on 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. A regular session shall be chaired by the Nile Basin State in which it is held. A special session 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.

SECTION C. LE CONSEIL DES MINISTRES

Article 22

Structure

Le Conseil des Ministres (le Conseil) sera composé des Ministres des Ressources en Eau de chaque Etat du Bassin du Fleuve Nil et d'autres Ministres en fonction de l'ordre du jour de la Commission.

Article 23

Procédures

1. Sauf exception, le Conseil établit son propre règlement et ses propres procédures.
2. Le Conseil se réunit une fois par an en session régulière et en session spéciale à la demande de tout Etat du Bassin du Fleuve Nil.
3. moins qu'il n'en décide autrement, le Conseil se réunit en session régulière successivement dans chacun des Etats du Bassin du Fleuve Nil selon l'ordre alphabétique, en anglais. Le lieu de chaque session spéciale est identique à celui de la session régulière précédente.
4. Une session régulière sera présidée par l'Etat sur le territoire duquel elle sera tenue. Une session spéciale sera présidée par l'Etat qui a assumé la direction de la session régulière précédente.
5. Les décisions du Conseil sont prises par consensus.
6. Les décisions du Conseil sont contraignantes pour tous les Etats du Bassin du Fleuve Nil.

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.

Article 24

Fonctions

1. Le Conseil est l'organe directeur de la Commission. Il peut renvoyer des questions à la Conférence des chefs d'État pour décision.
2. Le Conseil sert de forum de discussion pour les questions relevant de ses fonctions et du présent Accord.
3. Le Conseil surveille l'exécution efficace de cet Accord.
4. Le Conseil peut établir, et assigner des responsabilités à tous les comités ad hoc qu'il considère nécessaires pour la réalisation de ses fonctions.
5. Le Conseil adopte, revoit et, le cas échéant, met à jour, les plans pour la gestion et le développement coordonnés, intégrés, et durables du Bassin du Fleuve Nil.
6. Le Conseil approuve les programmes de travail annuels de la Commission.
7. Le Conseil assure la durabilité financière de la Commission.
8. Le Conseil approuve le règlement et les procédures régissant le fonctionnement du Comité consultatif technique, des Comités consultatifs sectoriels, et du Secrétariat, ainsi que son programme de travail et les règles relatives à la gestion financière et au personnel de la Commission.
9. Le Conseil nomme le Secrétaire Exécutif et les autres cadres supérieurs de la Commission.
10. Le Conseil suit de près la structure organisationnelle du Secrétariat et son personnel.
11. Le Conseil adopte, revoit et, le cas échéant, met à jour les règlements, procédures, directives et critères pour la mise en œuvre des dispositions de cet Accord.
12. Le Conseil examine et prend des décisions définissant l'utilisation équitable et raisonnable de l'eau dans chaque pays riverain en prenant en compte les facteurs visés à l'article 4, paragraphe 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.

13. A la demande des Etats concernés, le Conseil examine les questions et les différences d'opinion pouvant s'élever parmi les Etats du Bassin du Fleuve Nil au sujet de l'interprétation ou de l'application de cet Accord. Il peut faire des recommandations aux Etats concernés en ce qui concerne ces questions ou différences d'opinion.
14. Le Conseil favorise l'application complète et effective de cet Accord.
15. Le Conseil établit une échelle pondérée des contributions des Etats du Bassin du Fleuve Nil au financement du budget de la Commission, et approuve le budget de la Commission.
16. Le cas échéant, le Conseil établit des formules pour le partage entre les Etats du Bassin du Fleuve Nil, des coûts et des bénéfices liés à des projets communs particuliers dans le Bassin du Fleuve Nil.
17. Le Conseil remplit les autres fonctions qui lui semblent nécessaires à la réalisation des buts de la Commission..

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.

SECTION D. LE COMITÉ CONSULTATIF TECHNIQUE

Article 25

Structure et procédures

1. Le Comité consultatif technique (le CCT) sera composé de deux membres nommés par chaque Etat du Bassin du Fleuve Nil qui sont des hauts fonctionnaires de l'Etat. Les délégués peuvent se faire accompagner d'autres experts aux réunions du CCT, selon les besoins, pour traiter de questions spéciales.
2. Le CCT peut établir des groupes de travail spécialisés pour traiter de sujets relevant de ses compétences.
3. Le CCT se réunit deux fois par an en session régulière, et en session spéciale à la demande du Conseil, exprimée par son président. Sauf décision contraire, les sessions se tiennent au siège de la Commission.
4. Le CCT propose à l'approbation du Conseil ses propres règlements et procédures.

Article 26

Fonctions

1. Le CCT prépare et soumet au Conseil des programmes de coopération pour la gestion et le développement intégrés et durables du Bassin du Fleuve Nil.
2. Sur la base de rapports du secrétariat, le CCT fait des recommandations au Conseil au sujet des programmes de travail annuels et du budget de la Commission.
3. Le CCT propose au Conseil les règlements, procédures, directives et critères prévus dans le présent Accord.
4. Le CCT fait des recommandations au Conseil sur la mise en œuvre des dispositions de cet Accord.

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.

5. Le CCT fait des recommandations au Conseil sur les décisions définissant l'utilisation équitable et raisonnable de l'eau dans chaque pays riverain, en prenant en compte les facteurs visés à l'article 4, paragraphe 2.
6. Le CCT conseille le Conseil sur les sujets techniques relatifs à l'utilisation, au développement, à la protection, à la conservation et à la gestion du Bassin du Fleuve Nil et du système du Fleuve Nil, notamment la protection contre la sécheresse et les inondations.
7. Le CCT fait des propositions au Conseil pour la nomination du Secrétaire Exécutif et du personnel technique du secrétariat ; il supervise le secrétariat.
8. Le CCT fait des recommandations au Conseil au sujet des règlements et procédures régissant le fonctionnement du secrétariat, ainsi que de son programme de travail.
9. A la demande du Conseil, le CCT fait des recommandations à celui-ci au sujet de la modification de l'Accord ou de l'élaboration de protocoles annexes.
10. Le CCT remplit les autres fonctions qui lui sont, le cas échéant, confiées par le Conseil.

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 E. COMITÉS CONSULTATIFS SECTORIELS

Article 27

Structure et procédures

1. Des Comités consultatifs sectoriels (CCS) peuvent être créés par le Conseil afin de traiter de sujets sectoriels spécifiques relevant de la compétence de la Commission.
2. Sauf décision contraire du Conseil, un CCS est composé d'un membre nommé par chaque Etat du Bassin du Fleuve Nil, expert dans le domaine d'activité du CCS concerné.
3. Les règlements et procédures applicables au CCT sont applicables, *mutatis mutandis*, aux CCS.
4. Le Conseil peut mettre en place un CCS chargé d'établir la liaison entre les organisations couvrant une partie seulement du Bassin du Fleuve Nil et la Commission.

Article 28

Fonctions

Les CCS remplissent les fonctions qui leur sont assignées par le Conseil.

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 in 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.

SECTION F. LE SECRÉTARIAT

Article 29

Structure

1. Le secrétariat est dirigé par un Secrétaire Exécutif nommé par le Conseil pour trois ans.
2. Le Secrétaire Exécutif rend des comptes au Conseil, à travers le CCT.
3. Le Secrétaire Exécutif et le personnel du Secrétariat Bénéficient des privilèges et immunités nécessaires à l'exercice de leurs fonctions dans les Etats du Bassin du Fleuve Nil.
4. Le Conseil décide du personnel et de la structure du secrétariat selon le principe d'une distribution géographique équitable et sur recommandation du CCT.
5. Le bureau du secrétariat est situé au siège de la Commission.

Article 30

Fonctions

1. Le Secrétaire Exécutif représente la Commission dans les matières indiquées dans les règlements et procédures régissant son fonctionnement et en particulier dans les relations de celle-ci avec les institutions internationales et bilatérales [SIC] d'assistance et avec toutes les institutions ou arrangements couvrant une partie seulement du Bassin du Fleuve Nil.
2. Le secrétariat assure le secrétariat des réunions de tous les organes de la Commission.
3. Le Secrétaire Exécutif est responsable de l'administration et des finances de la 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 submit 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 coordinate the monitoring of information relating to the Nile Basin, including information concerning water resources, the environment and socio-economic matters, review and synthesize the information with a view to integrating it into basin-wide databases and establishing standards, and develop 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.

4. Le Secrétaire Exécutif prépare et soumet au CCT des rapports relatifs aux programmes de travail annuels de la Commission ; il tient compte pour cela des informations qui lui sont fournies par les institutions de référence pour le Nil au sein de chaque Etat.
5. Le Secrétaire Exécutif établit le budget prévisionnel de la Commission et le soumet au CCT.
6. Le Secrétaire Exécutif est responsable de la mise en œuvre d'études et d'autres activités proposées par le CCT et autorisées par le Conseil. Le Secrétaire Exécutif peut, avec l'accord du CCT, engager des consultants afin de l'assister dans ces tâches.
7. Le secrétariat assiste le CCT dans la préparation d'un plan pour la gestion et le développement coordonnés, intégrés, et durables du Bassin du Fleuve Nil.
8. Le secrétariat assiste tous les organes de la Commission, à leur demande, dans l'exercice de leurs fonctions.
9. Le secrétariat rassemble les données et les informations disponibles et coordonne la surveillance de toute information relative au Bassin du Fleuve Nil, notamment les informations relatives aux ressources en eau, à l'environnement et aux problèmes socio-économiques ; il passe en revue et synthétise ces informations dans l'optique de leur intégration dans des bases de données couvrant l'ensemble du Bassin et de la création de normes ; il développe des mécanismes permettant l'échange régulier d'informations dans les domaines pertinents
10. Le secrétariat reçoit les rapports d'organisations couvrant une partie seulement du Bassin et les transmet au CCT.
11. Le secrétariat remplit toutes les autres fonctions qui lui sont assignées par le CCT.

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.

SECTION G.

SUCCESSION DE LA COMMISSION DU BASSIN DU FLEUVE NIL À L'INITIATIVE DU BASSIN DU NIL

Article 31

Succession

A l'entrée en vigueur du présent Accord, la Commission succédera à l'Initiative du Bassin du Nil (IBN) pour tous les droits, obligations et patrimoine.

PARTIE IV. INSTITUTIONS SUBSIDIAIRES

Article 32

Organisations et accords des sous-bassins

1. Les Etats du Bassin du Fleuve Nil reconnaissent l'utilité des organisations et des institutions couvrant les sous-bassins du Nil.
2. Les parties au cadre qui sont également membres d'organisations, ou parties à des accords, couvrant une partie seulement du Bassin s'assurent que les buts, les fonctions et les activités de ces organisations et accords sont conformes à ceux de la Commission du Bassin du Fleuve Nil et avec les principes et les règlements élaborés ou adoptés dans le cadre du présent Accord.
3. Les parties à cet Accord qui sont également membres d'organisations, ou parties à des accords, couvrant une partie seulement du Bassin s'assurent également que ces organisations ou accords fonctionnent en collaboration étroite avec la Commission du Bassin du Fleuve Nil.
4. La Commission du Bassin du Fleuve Nil maintiendra un contact régulier et coopérera étroitement, avec toute organisation ou institution liée à un accord couvrant une partie du Bassin.

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.

Article 33

Institutions nationales point focal du le Nil

1. Chaque Etat du Bassin du Fleuve Nil crée ou désigne une institution nationale point focal du Nil et en informe la Commission.
2. Les institutions nationales point focal du Nil ont pour fonction de servir de points de référence nationaux pour la Commission pour les problèmes relevant de la compétence de celle-ci.

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.

PARTIE V. DISPOSITIONS DIVERSES

Article 34

Règlement des différends

1. En cas de différend entre deux Etats ou plus du Bassin du Fleuve Nil concernant l'interprétation ou l'application du présent Accord, les Etats concernés règlent leur différend par des moyens pacifiques et conformément aux dispositions suivantes, sauf convention contraire :
 - (a) Si les Etats concernés ne parviennent pas à conclure un accord par la voie de négociations initiées par l'un d'eux, ils peuvent solliciter conjointement les bons offices, la médiation ou la conciliation de la Commission du Bassin du Fleuve Nil ou d'un autre tiers ; ils peuvent, alternativement, convenir de soumettre le différend à l'arbitrage, conformément aux procédures adoptées par le Conseil, ou à la Cour internationale de Justice.
 - (b) Si à l'écoulement d'un délai de six mois à compter de la demande de négociations visée au paragraphe 2, les Etats concernés ne sont pas parvenus à résoudre leur différend par le biais de négociations ou de tout autre moyen visé au paragraphe 2, le différend est soumis, à la demande de la parties la plus diligente, à une procédure impartiale d'établissement des faits, conformément à l'annexe au présent Accord, sauf accord contraire des Etats concernés.

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 of Nile Basin States.

Article 35

Conventions complémentaires

1. Les Etats du Bassin du Fleuve Nil peuvent conclure des conventions bilatérales ou multilatérales complétant le présent Accord relativement à certaines parties du Bassin du Fleuve Nil ou du système du Fleuve Nil, tels que des sous-bassins et des affluents, ou relativement à des projets spécifiques ou à des programmes en rapport avec le Bassin du Fleuve Nil, le système du Fleuve Nil, une portion de ce Bassin ou une portion de ce système.
2. Les conventions complémentaires visées au paragraphe 1 mettent en fluvre les principes posés par le présent Accord dans les domaines concernés.
3. Les Etats du Bassin du Nil s'engagent à ne pas conclure d'accord ou de convention incompatible avec les dispositions du présent Accord..
4. Des conventions complémentaires peuvent être adoptées par consensus par les Etats du Bassin du Fleuve Nil sous la forme de protocoles au présent Accord.

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 has been 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 shall constitute 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:

PARTIE VI. CLAUSES FINALES

Article 36

Amendement du cadre ou des protocoles

1. Toute partie au présent Accord peut y proposer des amendements. Les Amendements aux protocoles peuvent être proposés par toute partie au protocole concerné.
2. Les amendements au présent Accord sont adoptés lors d'une réunion des parties. Les amendements à un protocole qui y est annexé sont adoptés lors d'une réunion des parties au protocole concerné.
3. Les articles 1, 2, 3, 4, 5, 8, 9, 14, 23, 24, 34, 35, 36 et 37 du présent Cadre ne peuvent être amendés que par consensus. Quant aux propositions d'amendements à l'Accord ou à un protocole, les parties mettent tout en œuvre pour parvenir à un consensus. En cas d'échec, la proposition d'amendement peut être adoptée, en dernier recours, par une majorité des deux tiers des parties à l'instrument concerné présentes et votantes, puis soumises par l'autorité dépositaire à toutes les parties pour ratification, acceptation ou approbation.

Article 37

Adoption et amendement des annexes

1. Les annexes au présent Accord ou à tout protocole qui lui est annexé font partie intégrante dudit accord ou dudit protocole. Sauf précision contraire, toute référence au présent Accord ou à ses protocoles annexes constituera dans le même temps une référence à toutes leurs annexes. Ces annexes concernent exclusivement des problèmes d'ordre procédural, scientifique, technique ou administratif.

- (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.

2. Sauf disposition contraire d'un protocole pour ce qui concerne ses propres annexes, la proposition, l'adoption et l'entrée en vigueur de nouvelles annexes au présent Accord ou aux protocoles respectent la procédure suivante :
 - (a) les annexes au présent Accord ou à tout protocole sont proposées et adoptées conformément à la procédure prévue à l'article 36. En particulier, toute annexe relative à l'un des articles cités au paragraphe 3 de l'article 36, laquelle ne peut être amendée que par consensus, doit être adoptée par consensus.
 - (b) Toute partie signifie à l'autorité dépositaire son éventuel refus de la proposition d'annexe à l'Accord ou à un protocole, par écrit et dans un délai d'un an à compter de la notification de l'adoption de l'annexe par l'autorité dépositaire. L'autorité dépositaire transmet sans délai l'information de cette déclaration de refus à toutes les parties. Une partie peut à tout moment retirer sa déclaration de refus et les annexes rentrent alors immédiatement en vigueur conformément au sous-paragraphe (c) ci-dessous ;
 - (c) A l'expiration d'un délai d'un an à compter de la notification par l'autorité dépositaire de l'adoption de l'annexe, l'annexe entre en vigueur pour toutes les parties au présent Accord ou au protocole concerné, sous réserve que ces parties n'aient pas émis la déclaration de refus visée au sous-paragraphe (b) ci-dessus.
3. La proposition, l'adoption et l'entrée en vigueur des amendements aux annexes au présent Accord ou à un protocole sont soumises à la même procédure que la proposition, l'adoption et l'entrée en vigueur des annexes elles-mêmes.
4. Si une annexe supplémentaire ou un amendement à une annexe est lié(e) à un amendement au présent Accord ou à un protocole spécifique, il (elle) n'entre pas en vigueur avant l'entrée en vigueur de l'amendement concerné.

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 thereunder.
5. The provisions of this article shall apply to withdrawal from protocols to the Framework.

Article 38

Relation entre le présent Accord et ses protocoles annexés

1. Un Etat ne peut devenir partie à un protocole annexe au présent Accord que s'il est, ou devient à la même occasion, partie au présent Accord.
2. Les décisions prises dans le cadre d'un protocole annexe au présent Accord sont prises par les parties à ce protocole exclusivement. Tout Etat du Bassin du Fleuve Nil n'ayant pas ratifié le protocole concerné peut participer en tant qu'observateur à toute réunion des parties à ce protocole.

Article 39

Réserves

Aucune réserve ne peut être faite au présent Accord.

Article 40

Retrait

1. Les parties au présent Accord peuvent s'en retirer à tout moment, par avis écrit adressé à l'autorité dépositaire, après l'écoulement d'un délai de deux ans à compter de l'entrée en vigueur de cet Accord à leur égard.
2. Le retrait est effectif à l'expiration d'un délai d'un an à compter de la réception par l'autorité dépositaire, ou à une date ultérieure indiquée dans la notification du retrait, jusqu'à quoi l'Etat concerné continue à être tenu par le présent Accord.
3. Le retrait d'une partie du présent Accord entraîne retrait de tous les protocoles annexés et annexes à celui-ci.
4. Toute partie doit, avant de se retirer, liquider l'ensemble des obligations qui lui incombent aux termes de cet Accord.
5. Les dispositions de cet article s'appliquent au retrait des protocoles annexés au présent Accord.

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 41

Signature

Le présent Accord est ouvert à la signature de tous les Etats sur le territoire desquels est située une partie du Bassin du Fleuve Nil, du 14 mai 2010 au 13 mai 2011 à Entebbe, Ouganda.

Article 42

Ratification ou adhésion

Tous les Etats sur le territoire desquels est situé une partie du Bassin du Fleuve Nil peuvent ratifier le présent Accord ou y adhérer. Les instruments de ratification ou d'accession sont déposés auprès de l'Union Africaine.

Article 43

Entrée en vigueur

Le présent Accord entre en vigueur le soixantième jour suivant la date du dépôt du sixième instrument de ratification ou d'accession auprès de l'Union Africaine.

Article 44

Textes authentiques, autorité dépositaire

L'original du présent accord, dont les textes anglais et français font également foi, est déposé auprès de l'Union Africaine, qui en fait parvenir des copies certifiées conformes aux Parties contractantes.

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.

Article 45

Fonctions de l'autorité dépositaire


L'autorité dépositaire, en particulier, informe les parties :

- (a) du dépôt des instruments de ratification ou d'accession, ou de toute autre information, de déclarations ou d'autres instruments prévus dans le présent Accord ;
- (b) de la date de l'entrée en vigueur du présent Accord.

AGREEMENT ON THE NILE RIVER BASIN COOPERATIVE FRAMEWORK

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed the present Framework.


Done at ENTEBBE, UGANDA.



Name: NIBIRANTUJE Jean-Marie
Title: MINISTER OF WELUP
Date: 28/02/2011
Republic of Burundi

Name: _____
Title: _____
Date: _____
Democratic Republic of Congo

Name: _____
Title: _____
Date: _____
Arab Republic of Egypt


Name: _____
Title: _____
Date: _____
The State of Eritrea



Name: ASFAW Dingam D
Title: MINISTER, MOWR
Date: 14-05-10
Federal, Democratic Republic of Ethiopia


Name: CHARITY K. NGILU
Title: MINISTER OF WATER & IRRIGATION
Date: 19 MAY 2010
Republic of Kenya

Name: Justin Kanyama
Title: Minister of Environment and Lands
Date: 14.05.2010
Republic of Rwanda

Name: _____
Title: _____
Date: _____
The Republic of Sudan


Name: Mark James MWANDUJA
Title: MINISTER of WATER and Irrigation
Date: 14 May 2010
The United Republic of Tanzania


Name: ISAAC Isanga MUSUMBA
Title: Minister of (state) Foreign Affairs
Date: 14th may 2010
Republic of Uganda

ACCORD-CADRE SUR LA COOPÉRATION DANS LE BASSIN DU FLEUVE NIL

EN FOI DE QUOI : les plénipotentiaires soussignés, à ce dûment autorisés, ont signé le présent Accord.

Fait à Entebbe, Ouganda.

[Signature]
Nom: NIBIRANTWE Jean-Marie
Fonction: MINISTRE DE L'ÉLEVAGE
Date: 28/02/2011
République du Burundi

Nom: _____
Fonction: _____
Date: _____
République Arabe d'Égypte

[Signature]
Nom: ASFAW DINGAMO
Fonction: MINISTRE, MOWR
Date: 14-05-10
République fédérale démocratique d'Éthiopie

[Signature]
Nom: _____
Fonction: Minister of Agriculture
Date: 14-05-2010
République du Rwanda

[Signature]
Nom: MARK JAMES KIWANUKA
Fonction: MINISTER OF WATER AND IRRIGATION
Date: 14 May 2010
République Unie de Tanzanie

Nom: _____
Fonction: _____
Date: _____
République Démocratique du Congo

Nom: _____
Fonction: _____
Date: _____
Etat d'Erythrée

[Signature]
Nom: CHARITY K. NGILU
Fonction: MINISTER OF WATER & IRRIGATION
Date: 19 May, 2010
République du Kenya

Nom: _____
Fonction: _____
Date: _____
République du Soudan

[Signature]
Nom: Isaac Isanga Musumba
Fonction: Minister (State) Foreign Affs
Date: 14th May 2010
République de l'Ouganda

Annex 1

[Article 14b]: 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.

Annexe 1

[Article 14b]: La Commission d'établissement des faits

1. Une Commission d'établissement des faits est créée. Elle est, composée d'un membre nommé par chaque Etat concerné et d'un membre n'ayant la nationalité d'aucun Etat concerné, ce dernier étant choisi par les membres nommés pour siéger en qualité de Président de la commission.
2. Si les membres nommés par les Etats ne parviennent pas à s'entendre sur la nomination d'un Président dans les trois mois suivant la requête de constitution de la Commission, tout Etat intéressé peut inviter le président de la Commission de l'Union Africaine (UA) à nommer un Président qui n'aura la nationalité d'aucune des parties au différend, ni d'aucun des Etats du Bassin du Fleuve Nil concernés. Si l'un des Etats ne nomme pas le membre qu'il doit désigner dans les trois mois de la requête initiale visée au paragraphe 2 de l'article 33 ci-dessus, tout Etat intéressé peut inviter le président de la Commission de l'UA à nommer trois personnes qui n'auront la nationalité d'aucune des parties au différend, ni d'aucun des Etats du Bassin du Fleuve Nil concernés.
3. La Commission fixe sa propre procédure.
4. Les Etats concernés ont l'obligation de fournir à la Commission les informations qu'elle exige et de lui permettre, à sa demande, d'avoir accès à leur territoire respectif et d'inspecter toute installation, usine, équipement, construction ou élément naturel pertinent dans le cadre de son enquête.
5. La Commission adopte à la majorité des voix un rapport qu'elle soumet aux Etats concernés et qui contient ses conclusions, les motifs de ses conclusions ainsi que les recommandations qu'elle juge appropriées pour permettre la résolution équitable du différend. Les Etats concernés étudient de bonne foi le rapport de la Commission.
6. Les dépenses de la Commission sont équitablement réparties entre les Etats concernés.

[Article 14b]: Attachment

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 States*”.

All countries [Burundi, DR Congo, Ethiopia, Kenya, Rwanda, Tanzania and Uganda] agreed to this proposal except Egypt and Sudan. To this effect, Egypt proposed that Article 14(b) should be replaced by the following wording:

“*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.

[Article 14b]: Annexe

Aucun consensus n'ayant été trouvé à la fin des négociations sur l'Article 14(b) qui stipule : „*de ne pas affecter considérablement la sécurité de l'eau de tout autre Etat du Bassin du Fleuve Nil.*”

Tous les pays [Burundi, RD Congo, Ethiopie, Kenya, Ouganda, Rwanda, Tanzanie] ont accepté cette proposition sauf l'Égypte et le Soudan.

A cet effet, l'Égypte a proposé que l'Article 14(b) soit reformulé comme suit : „*de ne pas affecter défavorablement la sécurité de l'eau ainsi que sur les usages et droits actuels de tout autre Etat du Bassin du Fleuve Nil.*”

La réunion extraordinaire du Conseil des Ministres du Nil tenue le 22 mai 2009 à Kinshasa, République Démocratique du Congo, a décidé que l'Article 14(b) soit annexé et résolu par la Commission du Bassin du Nil endéans six mois dès son installation.

