



NILE BASIN INITIATIVE
INITIATIVE DU BASSIN DU NIL

BASIN ORGANIZATION PERSPECTIVE:

**Relationship between the Water Convention and
Transboundary Basin Governance Arrangements:
The Nile Basin Cooperative Framework Agreement
(CFA)**

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OUTLINE

- **Background information of NBI**
- **Governance Structure**
- **Evolution of Nile Cooperation**
- **Basin Challenges, Opportunities + Achievements**
- **Relationship: NBCFA + Water Conventions**
- **Conclusion**



The Nile Basin

- Longest River, 6695km
- Basin Area: 3.2 million sq.km, *10% of Africa;*
- *Basin covers 11 Basin countries*
- Population of over 550 million; 272 mill. in the basin
- Low runoff coefficient for most regions (approx. 0.2)
- Endowed with rich natural and environmental assets
- Rich historical heritage



THE NILE BASIN INITIATIVE

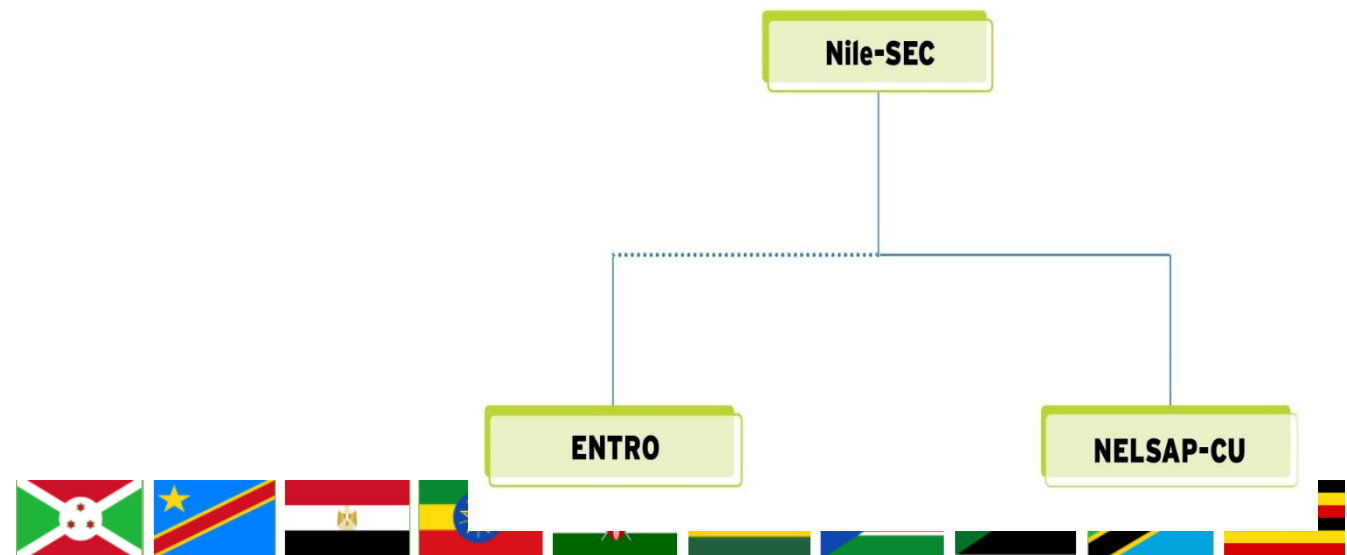
- An intergovernmental partnership of ten Nile Basin countries:
- **The only basin-wide institution mandated to facilitate the cooperative development and management of the shared Nile resources on behalf of the 10 Member States.**

Shared Vision Objective:

‘To achieve sustainable socio-economic development through the equitable utilization of, and benefit from, the common Nile Basin water resources’

Core functions:

- Facilitating basin cooperation
- Water resources management
- Water resources development



EVOLUTION OF NILE COOPERATION

Pre – 1999

- **Formal cooperation:** Hydromet Survey of the Equatorial Lakes (1967-1992) - formed in response to regional flood and drought disasters. All countries were members except, Ethiopia and DRC which had observer status
- **Undugu group** (1983-1992) had broader objectives of achieving a regional economic cooperation in the areas of environment, infrastructure, trade and culture
- **TECCONILE** (1983-1997), to promote cooperation and development in the basin. TECCONILE developed the Nile River Basin Action Plan (NRBAP) which led to Policy Guidelines of the NBI - that are considered the foundation of the modern Nile cooperative arrangements

Post – 1999

- To deepen cooperation, member states agreed on a dual cooperation track, i.e., technical track and a political track.
- **Technical Track** (Nile Basin Initiative) with a focus:
 - To provide an interim cooperation platform, promote dialogue
 - To advance transboundary investments
 - To support efficient, sustainable management and optimal utilization of the Nile water resources
- **Political track** – for establishment of a permanent legal and institutional setup for Nile cooperation:
 - Started in 1997 (**actual negotiation started in 2003**)
 - Riparian states negotiated on the Cooperative Framework Agreement (CFA) till 2009
 - 6 countries signed the CFA; 4 ratified



Basin Challenges and Opportunities

Challenges

- Compared to the population and demands, the Nile Basin is a **water-scarce region**.
- The Basin also hosts some of the **poorest nations in the world**.
- **Inadequate availability, unsustainable use and poor management** of water resources
- Populations and economies are **growing** fast, urbanisation is **increasing**
- Growing demands and pressures result in **declining per capita water availability**.
- Increasing **environmental degradation, habitat destruction** and **unsustainable** use of water-related ecosystems;
- This is further complicated by the potential impacts of **climate change**

Opportunities

- A huge and still untapped **potential** for hydropower generation and power trade, food production, navigation and intra-basin trade in agriculture.
- **Young, dynamic and fast growing populations** offer opportunities for labour, and commodity markets
- Vast, and still pristine, environmental resources that can offer ecosystem services
- **And entrenched culture of cooperation to address challenges through the Nile Basin Initiative but also other global and regional agencies.**
- Opportunities for **regional integration** through navigation, tourism development, agricultural trade, power integration, etc.

Why TWC is Critical in the Nile Basin?

- To address the mentioned challenges, countries are embarking on large-scale developments for water utilization
- Currently, decisions on the development, management and use of water resources are essentially taken within the riparian-states as per the respective national systems of water governance in place
- However, the implications of such developments tend to be transboundary in nature, i.e., environmental degradation, pollution, decline in downstream flows, which are exacerbated by climate change impacts
- The Basin requires approaches that take a basin wide or regional perspective, effective ways of coordination and decision making among the member states to effectively address the challenges.



ACHIEVEMENTS OF COOPERATION THROUGH NBI

- Provides *platform to bring all member states on the table* to discuss common issues and agree/ implement joint responses – the ‘**One River-One People-One Vision**’ approach
- Through NBI, member states have laid ***technical, scientific knowledge, managerial and institutional foundations*** supporting closer cooperation upon establishment of the commission – **Knowledge Hub (CoE)**
- NBI has over the years invested heavily in ***human resource development*** of water resources professionals and related stakeholders (**over 30,000 as of 2022**) + **10,000 Knowledge materials**
- Nile Basin outreach programs have resulted in more ***mutual recognition, appreciation and acknowledgment of cooperation*** as a key driver of sustainable management of the transboundary water resources
- Through forums ***like Nile Day and NBDF***, regional and international stakeholders of the Nile, including governments, scientific groups, civil society, academic and research institutions, and development partners interact with each other and the NBI - **Promotion of broader “Benefit Sharing” as opposed to narrower “Water Sharing”**





Achievements - Investments

JOINT INVESTMENT: FOR TRANSFORMING LIVES AND SUSTAINING THE ENVIRONMENT

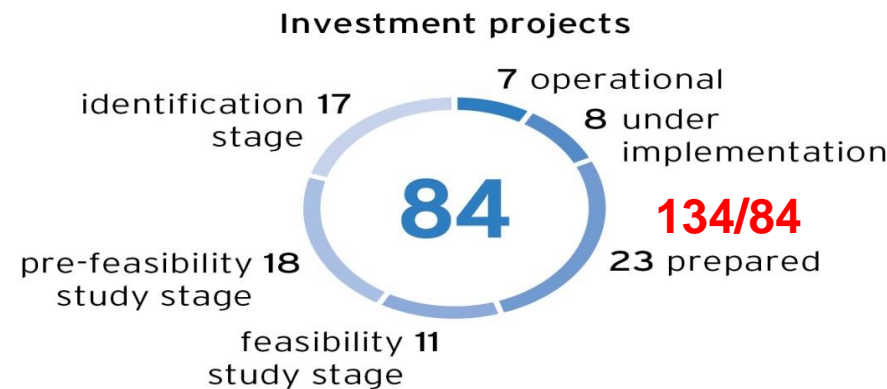
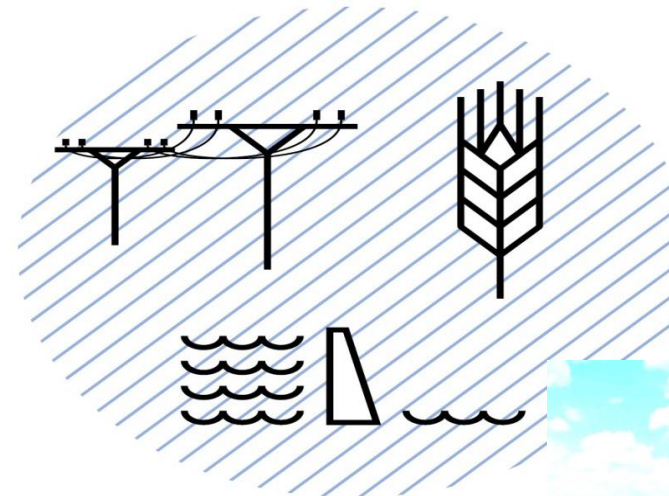
Joint investment projects that, like the Nile itself, span across national borders, play an integral part in achieving not only water security, but also food and energy security, eradicating poverty in the Nile Basin.

6.5 B US\$

Accumulated investment volume of all finalised projects

3

Centres enable NBI to leverage its unique potentials



NEED FOR COORDINATION

- The NBI, other RECS and RBOs, as well as the Nile Basin countries themselves, **have long been aware of the challenges and have been engaged in trying to address them**
- However, there is a **need for a coordinated and well-directed approach to maximise the effectiveness of the effort, to minimise duplication and maximise complementarity.**
- Despite some progress there is still a major gap – **a plan that clearly defines the foundations of the required well-directed approach, and what it has to achieve**



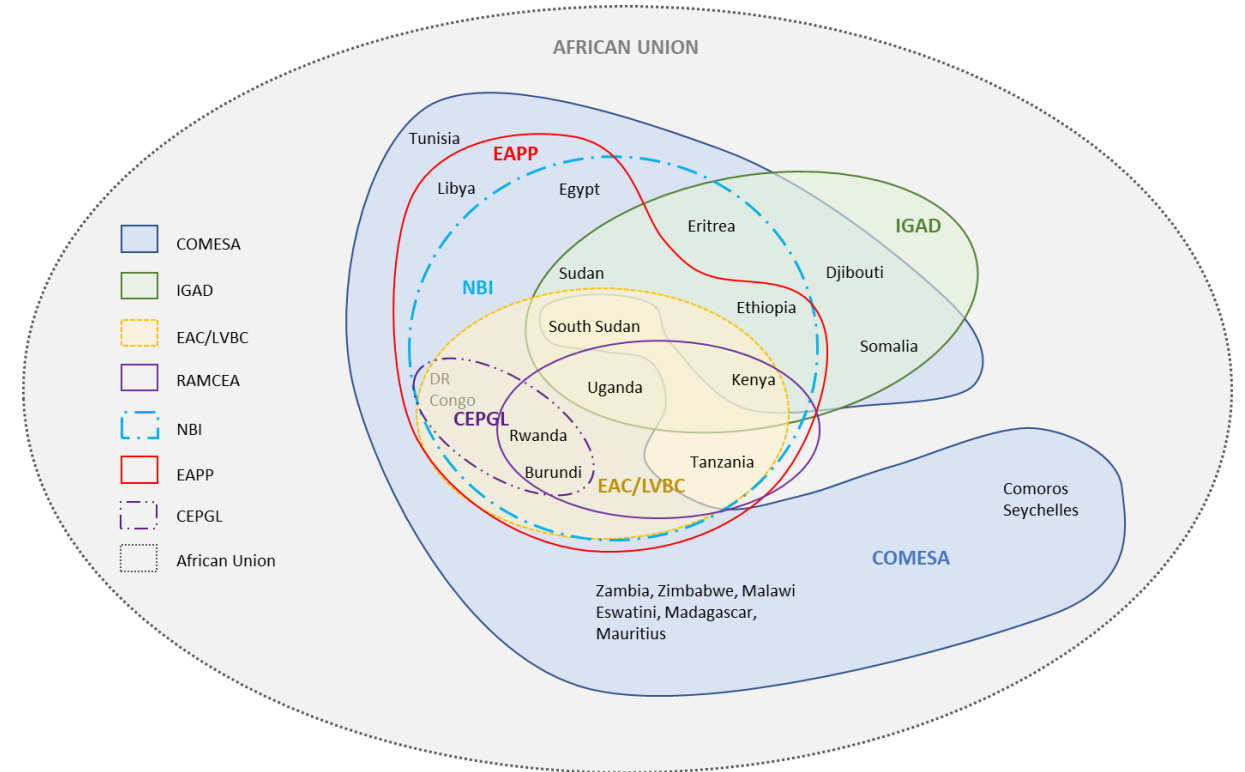
WHAT SUCCESS FOR NBI LOOK LIKE?

- The past **23** years of NBI history: The NBI has built an incredible capacity to solve water problems, to identify opportunity for investment in management and development initiatives, and provides an institutional home for the discourse around cooperation across the entire basin.
- It cannot be the sole responsibility for the NBI to ensure each country is a willing and active participant nor can it be the sole responsibility of the NBI to ensure that countries follow through on the investment opportunities identified and/or prepared. - **“You can lead a horse to water but you can’t make it drink.”**



COOPERATION WITH REGIONAL PARTNERS

- The NBI shared Vision and programs are in alignment with the **African continental** and **global water** related instruments (AWV 2025, Agenda 2063, Sharm el Sheikh HOS Commitments 2008, – **SDGs 2030, 1997 UNWC and 1992 Water Convention, 2010 UN Resolution No. RES/64/264 on Human Right for Water and Sanitation**)
- NBI is a member and current president of ANBO – **Network of 18 R/LBOs**
- NBI works very closely with other regional partners and stakeholders in executing its mandate (e.g. LVBC/EAC, IGAD, NBD, COMESA, EAPP, **GWP- EA**, RAMCEA, AMCOW, AUC and **UNECE Secretariat** etc.



GLOBAL WATER CONVENTIONS1

- 1997 UNWC – **Global Framework Agreement (in force 2014)**
- 1992 Water Convention - open for global accession **in 2016**
- **The UN Watercourses Convention and the UNECE Water Convention are *not* mutually exclusive BUT, in many ways supplement each other and have transformed treaty law for international waters**
- Each has a crucial role to play to improving freshwater governance and supporting inter-State cooperation. (e.g. Nile Basin Countries)
- Both, set global framework principles for transboundary water cooperation



FREQUENTLY ASKED QUESTIONS

- Population growth necessitate Regulation and management of transboundary water resources more than ever hence the need for a coherent international legal regime:
 - **Qns:** i) Are the two CONVENTIONS on the same subject that are open to all States in the world really necessary?
 - ii) Could the coexistence of two such CONVENTIONS give rise to confusion, or worse, conflicting obligations?
 - iii) Would it make any sense at all for one country to ratify/accede to both of them?



RESPONSES

- In any event the corner stone principle of the Conventions is the duty of states to utilize their watercourses in an equitable and reasonable manner. This is a rule of customary international law binding on states:
=> Both Conventions enshrine the principle of **Equitable and Reasonable Use**
- But the 1997 Watercourses Convention may be said to contain more detail on its content and implementation
- Both Conventions provide for the protection of aquatic ecosystems and the prevention of water pollution, **but the 1992 Water Convention is far more comprehensive in this regard**



RESPONSES....2

- One of the great strengths of the 1992 Convention is that it is a living document by establishment of a Secretariat (**Art. 19**) and providing for regular meetings of the parties (**Art. 17**)
- The Secretariat provides strong support for sessions of the Meeting of the Parties, at which countries are to keep under continuous review of the implementation of Water Convention
- As a codification Convention, the 1997 UNWC contains no such provisions, though it does provide for the possibility of the establishment of joint management mechanisms by the parties (**Art. 24**).



RESPONSES3

- The 1992 Water Convention serves as a mechanism to strengthen international cooperation and **national measures** for the ecologically sound management and protection of transboundary surface waters and groundwaters.
- It provides an **intergovernmental platform** for the day-to-day development and advancement of transboundary cooperation. The Convention is open to all United Nations Member States since **2016** for accession according to Vienna Convention on the Law of Treaties, 1969 => **Art. 2(b) and Art. 15(a)**
- **Tanzania and other Member states of Nile Basin are Party to the Vienna Convention**



RESPONSES....4

- Overall, there is general compatibility between the two Conventions, whereby many of the key principles and provisions mirror each other.
- Specific articles in each of these two Conventions, respectively, provide for more detailed rules, and therefore offer important elements with which to enhance and complement each other
- Where there is no apparent complementarity between provisions in the two Conventions, there is however no conflict between them
- **The 1992 Water Convention provisions are generally more detailed or prescriptive than those of the UN Watercourses Convention** - eg. regarding water quality standards as well as setting out more precise guidelines and advanced standards of conduct for the prevention of transboundary impacts.



RESPONSES....5

- Alternatively, one can derive more guidance from the 1997 Watercourses Convention on the factors **relevant to equitable and reasonable utilization.**
- Conversely, regarding procedural rules, special emphasis has been placed on the mandatory character of institutional cooperation under the 1992 Water Convention, which is only encouraged under **Article 8 (General obligation to cooperate)** of the 1997 Watercourses Convention.
- Thus, in many instances, one Convention's specificity actually extrapolates upon the other's generality



NILE BASIN COOPERATIVE AGREEMENT (CFA) AND TWO WATER CONVENTIONS

- **Main Articles of CFA in consistence with Water Conventions**
- **CFA** - Art. 3 - General principles
 - Art. 4 - Equitable and reasonable utilization (substantive rule)
 - Art. 5 - Obligation not to cause significant harm
 - Art.7 - Regular exchange of Data and information
- **1992 Water Convention**
 - Art. 2 – General Provisions
 - Art. 6 - Exchange of information
 - Art. 13(3) Exchange of information between riparian parties



..... CFA AND TWO WATER CONVENTIONS

- **1997 Watercourses Convention**

- **Art. 5(1) Equitable and reasonable utilization and participation**

- **Art. 6 - Factors relevant to equitable and reasonable utilization**

- **Art. 7 - Obligation not to cause significant harm**

- **Art. 9 - Regular exchange of data and information**

- **Art. 10(1) - Relationship between different kinds of uses**

- **Art. 20(2) - Protection and preservation of ecosystems**



Art. 13(3) – Water Convention and Art. 7(2) of CFA

- **Art. 13(3)** “..If a Riparian Party is requested by another Riparian Party to provide data or information that is not available, the former shall endeavour to comply with the request but may condition its compliance upon the payment, by the requesting Party, of reasonable charges for collecting and, where appropriate, processing such data or information..”
- **Art. 7(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...”



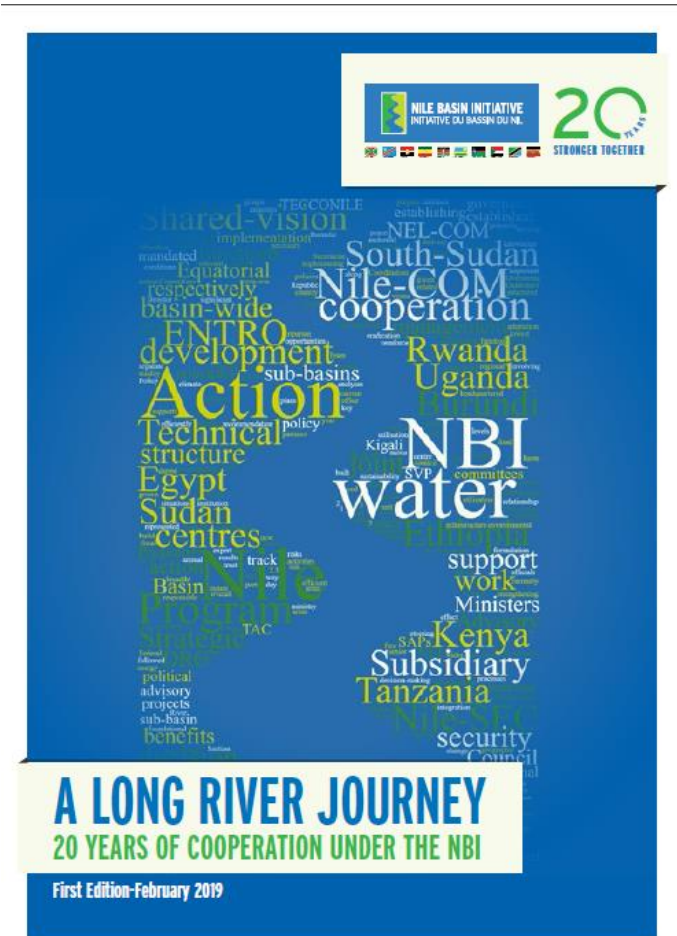
.....and Art. 9(2) of 1997 UNWC

Art.9(2).....” If a watercourse State is requested by another watercourse 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”



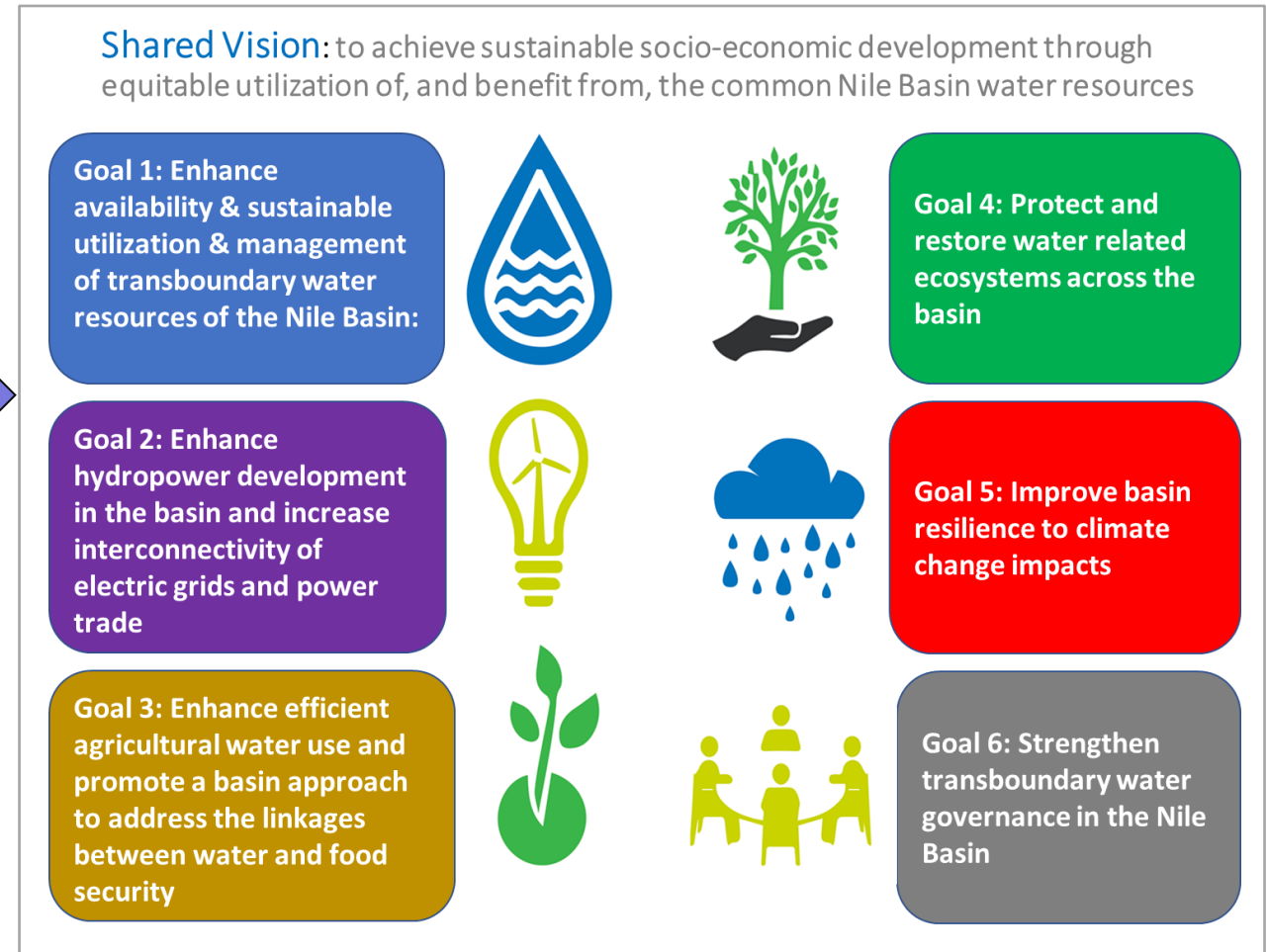
NILE COOPERATION – LESSONS LEARNT

- Transboundary water cooperation is a long gruelling process- aimed at ***achieving consensus in the face of differences and dispute***
- ***Benefits of Nile cooperation*** (national and regional) outweigh those of non-cooperation – as documented in many NBI reports.
- Confidence building is critical to transboundary cooperation - it results from a combination of ***open dialogue, evidence/ research based technical information, joint assessments, stakeholder engagement, and enhanced capacity (DAS, EUMETCast System)***
- “***Benefit Sharing***” is an important tool for elaborating the benefits of cooperation – it can result in a broader and inclusive dialogue among riparian states. Coordination between all regional players is critical for achieving the benefits, through optimising synergies and avoiding duplication of effort



FUTURE OUTLOOK

- The CFA - 6 countries (Burundi, Ethiopia, Kenya, Rwanda, Tanzania, Uganda) signed the CFA; 4 have ratified (Ethiopia, Rwanda, Tanzania, Uganda) out of the 6 required for it to come into force
- NBI is implementing its 10 year Strategy (2017-2027) which aims at achieving 6 goals
- Together with member states and regional partners, have developed a **River Basin Management Plan (BMP)** and a **River Basin Investment Program (BIP)** that identify critical interventions required to achieve agreed basin development targets – was presented to Nile-COM and approved on **19th August, 2022**



CONCLUSION

- United Nations Secretary-General Antonio Guterres urged nations in 2018: “.... *The global opening of the Water Convention, the accession of the first countries from outside the UNECE region -- namely Chad and Senegal -- and the momentum in support of the Convention are promising developments. Along with the Convention on the Law of the Non-Navigational Uses of International Watercourses, the world has the ability to strengthen the rule of law in transboundary cooperation worldwide. I call on Member States to join both Conventions and to strive for their full implementation*”
- **1997 UNWC focus more on allocation and 1992 Water Convention on environmental protection.- complementarity. Both Conventions reflect the customary international law rule for the entitlement and allocation of an international watercourse: reasonable and equitable utilization**
- All countries sharing transboundary waters are encouraged to accede to the Conventions



CONCLUSION...2

- **130 countries** have participated in activities of 1992 Water Convention
- The 1992 Water Convention provides a unique global legal and intergovernmental framework for cooperation
- **Six(6) countries (Chad, Senegal, Ghana, Guinea Bissau, Togo and Cameroon)** from Africa joined it, while **20 more** are in the process of accession
- ***CFA is in consistence with the global framework principles***
- *NBI member states are encouraged to exercise their sovereign rights to accede to the Conventions – Tanzania and Uganda have started the process...Congratulations!!*



**One River,
One People,
One Vision**

**Together we
Shall achieve!**

**Cooperation is
not an option
but it is a
necessity**





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Thank you for your attention

