



EAST AFRICA REGION BASIN ORGANIZATION PERSPECTIVE:

Relevance of the Water Convention and Transboundary Water Management in South Sudan.

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OUTLINE

- **Background information of EAC Region**
- **EAC Water Legal Frameworks**
- **Structure of LVBC**
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- **Conclusion**

The EAC REGION

- Members are 8: **Burundi, DRC, Kenya, Rwanda, Somalia, South Sudan, Tanzania and Uganda**
- Population is over 300.4 million in the region
- Endowed with rich natural and environmental assets
- Rich historical heritage
- The transboundary water bodies: Lake Victoria, Lake Tanganyika, Lake Nyasa/Niassa/Malawi, Major rivers: Kagera, Mara, Nile and Sio Malaba Malakisi.



EAST AFRICAN COMMUNITY



EAC - TWM LEGAL FRAMEWORKS

- The Treaty for the Establishment of East Africa Community, 2000
 - **Chp. 19: Article 111:** Co-operation in Environment and Natural Resources Management: environmental issues and natural resources – **WATER given priority (Art. 109 & 110 Irrigation and Water Catchment Management, and Food Security)**
- **Establishment of LVBC:** The establishment of the Commission is provided for under **Chapter 19, Article 114 (2)(b)(vi)** of the Treaty. The Commission was established through the **Protocol for Sustainable Development of the Lake Victoria Basin 2003**.
- **South Sudan acceded to the Treaty in 2016**

EAC- TWM LEGAL FRAMEWORKS.....2

- Art. 130 (4) - stipulate that....“The Partner States shall accord special importance to co-operation with the Africa Union, **United Nations Organization and its agencies**, and other international organizations, bilateral and multi-lateral development partners interested in the objectives of the Community”
- The Convention on the Sustainable Management of Lake Tanganyika (**DRC, Burundi, Tanzania** and Zambia)
- The Cooperative Framework Agreement (CFA) - 10 countries (**Burundi, DRC**, Egypt, Ethiopia, **Kenya, Rwanda, South Sudan**, Sudan, **Tanzania and Uganda**)

Challenges

- Poor developed infrastructure
- Impacts of climate change – floods and droughts
- Populations and economies are growing fast, urbanisation is increasing
- Growing demands and pressures result in declining per capita water availability.
- Increasing environmental degradation including wetlands, habitat destruction and unsustainable use of water-related ecosystems;
- Declining of water quality

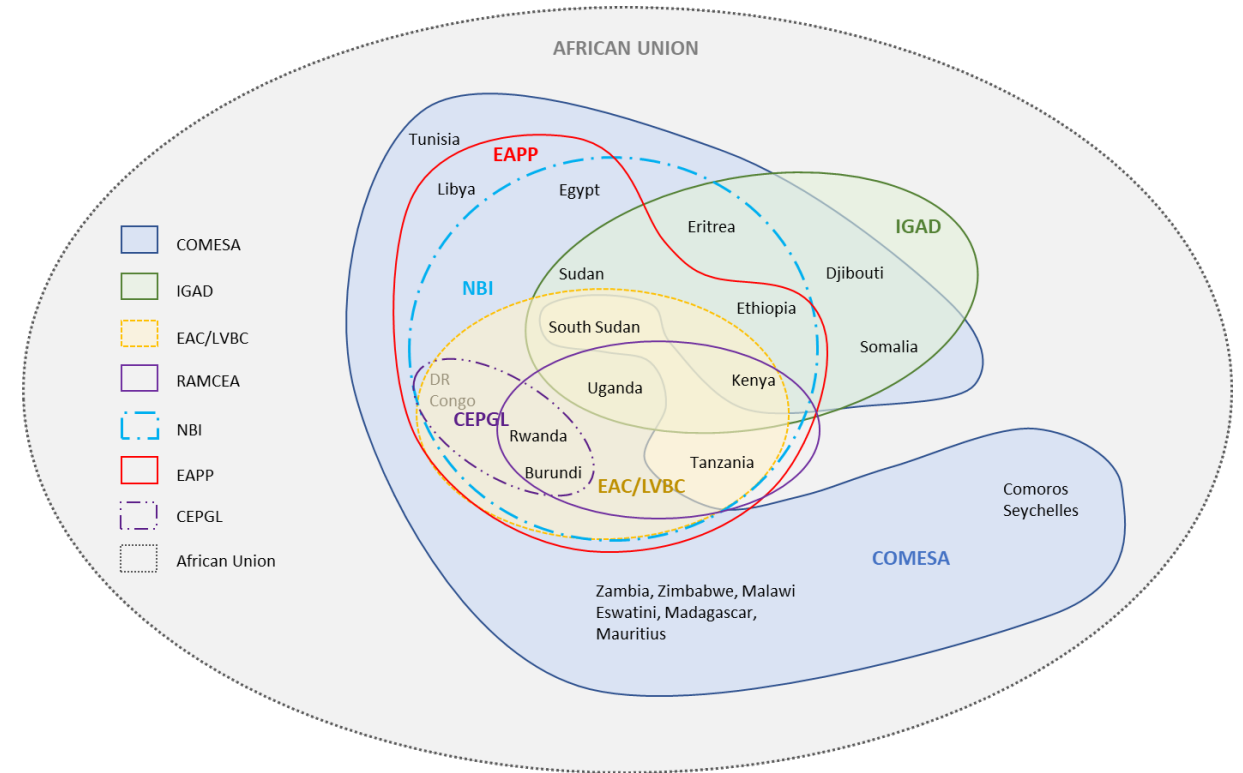
South Sudan is not an exception

NEED FOR COORDINATION

- The EAC, other RECS and R/LBOs, 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 minimize duplication and maximize 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**
- **Example: Coordination with partners at regional and global levels.**

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 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.
- Formal cooperation arrangements (e.g. MoUs have been signed with many of the



GLOBAL WATER CONVENTIONS

- **The UN 1997 Watercourses Convention and the UN 1992 Water Convention are *not* mutually exclusive and 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 like South Sudan 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 UN 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 UN 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 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 2013 for accession according to Vienna Convention on the Law of Treaties, 1969 => **Art. 2(b) and Art. 15(a)**

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 UN Water Convention provisions are generally more detailed or prescriptive than those of the 1997 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 UN 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 **UN1992 Water Convention**, which is only encouraged under **Article 8 (General obligation to cooperate)** of the UN 1997 Watercourses Convention.
- Thus, in many instances, one Convention's specificity actually extrapolates upon the other's generality

What does South Sudan achieve by becoming a party to the Water Convention?



Source: UNECE

CONCLUSION...1

- **130 countries** have participated in activities of 1992 Water Convention
- **10 countries** (Cameroon, Chad, Guinea Bissau, Ghana, Nigeria, Namibia, Senegal, Togo, The Gambia, Cote D'Ivoire) from Africa joined it, while **20 more** are in the process of accession
- *The water instruments in EAC region and the Nile CFA are in consistence with the global framework principles*
- *The EAC and NBI member states including South Sudan are encouraged to exercise their sovereign rights to accede to the Conventions – South Sudan, Tanzania and Uganda have started the process...Congratulations!!*

CONCLUSION...2

- United Nations Secretary-General Ban Ki-moon urged nations in 2012: *“...the globalization of the [UN Water] Convention should also go hand-in-hand with the expected entry into force of the United Nations Watercourses Convention. The two instruments are based on the same principles. They complement each other and **should** be implemented in a coherent manner...”*
- *1992 UN Water Convention and 1997 UN Watercourses Convention are compatible and the differences between them help clarify general provisions = **overall complementarity and both are mutually reinforcing***
- TWC stands as the cornerstone of our countries water security

**NBI: One River,
One People,
One Vision**

**LVBC: One People,
One Destiny**

NBD: One Nile, One Family



Members Only

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