

Issue Brief

A Political Storm Over the Nile

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Established in 1992, the Africa Program examines the capacity of Africa's regional and subregional organizations to prevent and respond to existing and emerging security challenges on the continent. Its primary objective is to deepen knowledge about Africa's crises, draw international attention to them, and contribute to the enhancement of institutional capacities in peace and security. In this regard, the program works closely with the African Union, regional economic communities, the United Nations, the European Union and other partners and states to explore policy options for capacity building in sustainable peace, stability, and development.

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Introduction

The Nile River basin is a vast area covering ten states, of which five are among the poorest in the world. Home to more than 350 million people, it is a troubled region that has been ravaged by armed conflicts, state failure, genocide, severe drought, and aid dependency. But it is also an area with great potential and geopolitical significance. In the past, the Nile River, with its origin in East and Central Africa, has been at the center of international affairs, most critically during the Suez Canal Crisis in 1956. Currently, the Nile is among the postreferendum issues being negotiated by parties to the *Comprehensive Peace Agreement* in Sudan: the National Congress Party (NCP) and the Sudan People's Liberation Movement (SPLM).

The contemporary challenge facing the Nile basin countries is that of how to establish a legal framework for the utilization of its waters that is acceptable to all. Negotiations for a *Cooperative Framework Agreement* (CFA) started in 1997 and have not yet been concluded. The CFA seeks to establish a permanent Nile River Basin Commission through which member countries would act together to manage and develop the resources of the river. The countries constituting the Nile Basin Initiative (NBI) are Burundi, Democratic Republic of the Congo (DRC), Egypt, Ethiopia, Kenya, Rwanda, Sudan, Tanzania, and Uganda.¹ There has been noticeable tension among the NBI countries due to disagreements over what constitutes the equitable utilization of water.

Potential conflicts over the waters of the Nile River stem from the increased need for water for irrigation, as well as from the rise in the hydropower needs of the riparian countries. This issue brief provides a sketch of the major issues under discussion and summarizes the current state of the negotiations over the *Cooperative Framework Agreement*.

Origin and Use of the Waters of the Nile

The Nile River, with an estimated length of over 6,800 km, is the longest river in the world. It flows from south to north over 35 degrees of latitude and has a basin of about 3.1 million sq km, about 10.3 percent of the African continent. The total population sharing the Nile's water is increasing at an annual rate of about 3 percent and is estimated to exceed a count of 400 million by the year 2025 and approach 1 billion by 2050.²

¹ Eritrea also lies within the river basin, but it is not an official member of the Nile Basin Initiative. However, it does hold observer status.

² Okbazghi Yohannes, "Hydropolitics in the Nile Basin: In Search of Theory Beyond Realism and Neo-liberalism," *Journal of Eastern African Studies* 3, no. 1 (2009): 74-93.

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Map courtesy of the World Bank and the Nile Basin Initiative.

The Nile has two major tributaries, the White Nile and the Blue Nile. The latter is the source of most of the Nile's water, but the former is the longer of the two. The White Nile rises in the Great Lakes region of Central Africa, with its most distant source in southern Rwanda. It flows north from there through part of Tanzania into Lake Victoria, and on to Uganda and Southern Sudan. Meanwhile, the Blue Nile starts at Lake Tana in Ethiopia and flows into Sudan from the southeast. The two rivers meet near the Sudanese capital of Khartoum.

There are two major interests concerning the regulation of the waters of the Nile basin: contribution and use. Seven NBI countries contribute to the waters of the Nile:

1. **Uganda** makes the largest relative contribution, with more than 98 percent of its total land area in the basin. It is in the equatorial lakes region and therefore contributes to the flow to Lake Victoria and other lakes, while the outflow from the lakes also passes through Uganda before flowing into Sudan.
2. **Kenya** has a number of rivers, such as the Mara and Nzoia, that form part of the inflow to Lake Victoria.
3. **Burundi** lies in the extreme southwestern part of the basin where it contributes to the flow of Lake Victoria. It lies on the divide between the Congo and Nile basins, with about half the national land area in each.
4. **Rwanda** lies nearby and contributes flow to Lake Victoria. About 80 percent of its land area is in the Nile basin; the remainder feeds the Congo. There are many rivers in Rwanda that form sources for the Nile. The River Kagera forms the border with Tanzania. The River Ruzizi constitutes the border with the Democratic Republic of the Congo. The divide between the drainage systems of the Congo and Nile rivers extends through western Rwanda, where the land slopes in the direction of Lake Kivu.
5. **Tanzania** contributes inflow to Lake Victoria through Nile tributaries, most significantly, the Kagera River.
6. **The Democratic Republic of the Congo** lies on the southwestern fringes of the Nile River

basin, which occupies less than 2 percent of its national land area. It contributes flow into the equatorial lakes region that lies along the border with Uganda.

7. **Ethiopia** lies in the eastern part of the basin. The flows of the Blue Nile (Abbay), the largest of the basin's tributaries, and of several other important tributaries are generated in Ethiopia. These rivers join the White Nile in Sudan to form the main Nile, and contribute on average, according to some estimates, over 85 percent of the flow arriving at Aswan, Egypt.

The remaining two NBI countries, **Sudan** and **Egypt**, are the major users of Nile resources. Sudan receives the flows of the White Nile from the equatorial lakes region as well as the flows of the Blue Nile and the other major tributaries rising in Ethiopia and in Sudan. These tributaries meet in Sudan, forming the main Nile, and flow north into Egypt. The Nile basin constitutes the largest part of the country's area and a high proportion of its available water resources. Egypt lies at the downstream end of the basin. The country receives hardly any rainfall, and depends on the Nile for almost all its direct water requirements, including agriculture, domestic and industrial supplies, navigation, and tourism.

The Cooperative Framework Agreement

Each of the nine NBI countries has been engaged in negotiating the draft *Cooperative Framework Agreement*, which is composed of fifteen general principles and thirty-nine articles. All the principles and articles have been discussed by the countries and consensus has been reached on all except Article 14 on water security. It states the following:

Having due regard for 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 cooperative management and development of the 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) Not to significantly affect the water security of any other Nile Basin state.³

Of the nine Nile River basin countries, only Egypt and Sudan disagree with this proposal. They propose that Article 14(b) be amended to read as follows: “Not to adversely affect the water security and current uses and rights of any other Nile Basin State.”

The main words of disagreement in the formulations are on the current uses and rights. The 1929 and 1959 agreements sought to divide waters of the Nile between Egypt and the Sudan and also contained a clause whereby Great Britain, the former colonial power, undertook not to construct any irrigation or power works on the Nile or its tributaries or associated lakes if such construction would have the effect of reducing or delaying the water reaching Egypt. Egypt’s argument is that these agreements are binding on all Nile River basin countries under international law.

The seven upstream countries on the other hand are of the view that retaining the formulation on current uses and rights is tantamount to accepting the provisions of the 1929 and 1959 agreements. Of the 84 billion cubic meters of Nile water, Egypt was allocated 55.5 billion cubic meters and Sudan 19.5 billion cubic meters, with 10 billion cubic meters assumed to be lost through evaporation.⁴ The assumption was that the upper Nile countries did not need Nile waters for irrigation as they could depend on rainfall.

The Council of Ministers of Water from all nine Nile Basin Initiative countries at their meeting in May 2009, resolved to remove Article 14(b) from the body of the draft *Cooperative Framework Agreement* and place it in an annex for future negotiation as a way to break the impasse. However, this resolution was ultimately rejected by Egypt and Sudan, who preferred to continue discussions to reach an alternative formulation for Article 14(b).

In a follow-up meeting held in Alexandria, Egypt, in July 2009, a decision was made to review the objections made by Egypt and Sudan at an earlier meeting in May 2009 held in Kinshasa, DRC. Those at the Alexandria meeting agreed to allow an

additional six months for consultations among the Nile River basin countries with the aim of finding ways of accommodating the concerns of Egypt and Sudan.

A Joint Committee was set up and met three times before the Sharm el-Sheikh ministerial meeting in April 2010, but could not break the impasse. Those at Sharm el-Sheikh recommended that the signing of the CFA go ahead.

Again, Egypt and Sudan objected and evoked NBI rules of procedure, which require that all decisions be reached by consensus, declaring that any action to be taken without consensus could not be carried out under the NBI framework. The other seven states responded by stating that no single country had veto power over the negotiations, and four of them (Uganda, Ethiopia, Rwanda, and Tanzania) proceeded to sign the *Cooperative Framework Agreement* on May 14, 2010, with Kenya following suit on May 19th. Burundi and the DRC have yet to sign. If the impasse persists up to May 2011, the current donor-supported programs being carried out under the Nile Basin Initiative will fold.

On January 25, 2011, the Nile basin countries will meet in Nairobi, Kenya, at the ministerial level to explore ways of unblocking the negotiations on the *Cooperative Framework Agreement*.

Egypt and Sudan have proposed that a Nile River Basin Commission be established by a “Presidential Declaration” before signature of the CFA, in order to allow the negotiations to continue. However, the other Nile basin countries rejected this proposal on the grounds that it would be devoid of any legal basis.

Conclusion

The signing of an all-inclusive *Cooperative Framework Agreement* would be significant; it would provide a basis for the establishment of a permanent structure, which would be more predictable compared to the current transitional arrangement under the Nile Basin Initiative. It would further enable donors to continue and perhaps increase funding to the Nile basin through

³ Draft Agreement on the Nile River Basin Cooperative Framework, Entebbe, Uganda, May 14, 2010.

⁴ Exchange of Notes Between His Majesty’s Government in the United Kingdom and the Egyptian Government in Regard to the Use of the River Nile for Irrigation Purposes, May 7 1929, United Kingdom Foreign Policy Documents No. 4, 1978.

a commission that would be able to enter into agreements with donors directly, unlike the present situation where the Nile Basin Initiative uses third parties to access donor funds.

Article 42 of the draft *Cooperative Framework Agreement* provides for its coming into force upon ratification by at least six members. Only five states have so far signed the draft; Burundi and the DRC, which are yet to sign, thus hold the key to making the agreement operational.

Struggle over the Nile's waters has had global

political consequences in the past and could fan the flames of existing conflicts in the Horn of Africa, threaten the peace agreement in Sudan, and endanger the fragile peace in the Great Lakes region. But whether the river is the source of further conflict or greater cooperation in the future, the manner in which its resources are managed will carry profound impacts throughout the region and beyond. Negotiations over the coming months should prove crucial to the final outcome and warrant close observation by all concerned.

Timeline⁵

1920	Nile Projects Commission formed, offering allocation scheme for Nile basin countries.
1920	Century Storage Scheme put forward, emphasizing upstream, relatively small-scale projects. Plan is criticized by Egypt.
1925	New water commission is named.
1929	Commission study leads to <i>Nile Water Agreement</i> between Egypt and Sudan.
1952	Aswan High Dam proposed by Egypt. Promise of additional water necessitates new agreement.
1954	First round of negotiations between Egypt and Sudan. Negotiations end inconclusively.
1956	July: Egypt nationalizes Suez Canal
1956	October: nationalization of the Suez Canal provokes invasion of Egypt by France, Israel, and the UK.
1956	November: Suez Crisis brought to an end following pressure applied by the United States and Soviet Union through the United Nations.
1959	<i>Agreement for the Full Utilization of the Nile Waters (Nile Waters Treaty)</i> signed between Egypt and Sudan.
1967-1992	Launch of Hydromet regional project for collection and sharing of hydro meteorological data, supported by United Nations Development Programme (UNDP).
1993	Formation of TECCONILE (Technical Cooperation Committee for the Promotion of the Development and Environmental Protection of the Nile Basin) to address development agenda for the Nile basin.
1993	First of ten Nile 2002 Conferences for dialogue and discussions between countries of the Nile and international community, supported by CIDA (Canadian International Development Agency).
1995	Nile River basin action plan created within TECCONILE framework, supported by CIDA.
1997	Nile countries create official forum for legal and institutional dialogue with UNDP support.
1997	Formation of Nile-COM, a council of the Ministers of Water from each of the riparian nations of the Nile basin.

⁵ Timeline adapted from Aaron T. Wolf and Joshua T. Newton, "Case Study of Transboundary [sic] Dispute Resolution: the Nile Waters Agreement," accessed December 2010, available at www.transboundarywaters.orst.edu/research/case_studies/Documents/nile.pdf.

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| 1998 | First meeting of the Nile Technical Advisory committee (Nile-TAC). |
| 1999 | Nile Basin Initiative (NBI) established as a cooperative framework between all the Nile countries (excluding Eritrea) for the sustainable development and management of the Nile. |
| 2000 | Three representatives from each Nile basin country and a panel of experts begin drafting a Cooperative Framework. |
| 2004 | First basin-wide project under NBI, the “Nile Trans-boundary Environmental Action project, launched in Sudan. |
| 2007 | First draft of <i>Cooperative Framework Agreement</i> (CFA) is finalized. |
| 2009 | May: Kinshasa, Democratic Republic of the Congo ministerial meeting decides on the date of signing the CFA. |
| 2009 | July: Alexandria, Egypt, Ministerial Meeting decides to allow six months of consultations. |
| 2010 | April: Sharm el-Sheikh, Egypt, Ministerial Meeting fails to resolve impasse over CFA. |
| 2010 | May 14 th : Uganda, Ethiopia, Rwanda, and Tanzania sign CFA. |
| 2010 | May 19 th : Kenya signs CFA. |

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