

STATEMENT BY HONOURABLE PROF. MARK J.MWANDOSYA (MP) DURING PRESS CONFERENCE ON THE NILE RIVER COOPERATION HELD ON 17TH MAY, 2010.

1. HISTORY OF COOPERATION ON THE NILE RIVER:

The Nile River Basin is shared by ten countries of Burundi, Democratic Republic of Congo, Egypt, Ethiopia, Kenya, Rwanda, Sudan, Tanzania and Uganda. Its waters have been used for millennia.

Formal cooperation on the Nile River started in 1967 with the HYDROMET Project whose objective was to collect data for determination of the water balance of the Nile Equatorial Lakes region.

Later cooperation was formed in 1992 known as TECCONILE (Technical Cooperation for the Promotion of the Development and Environmental Protection of the Nile Basin) In 1995 Nile Council of Ministers approved the Nile river Basin Action Plan with 22 projects. One of the projects was D3- Nile river Basin Cooperative Framework whose objective was to put in place a permanent legal and institutional framework through a negotiation process.

2. THE NILE BASIN INITIATIVE (NBI):

The Nile Council of Ministers established the NBI as a transitional institutional arrangement pending finalization of the D3 project. Basin countries agreed to start implementation of development projects while developing the Cooperative Framework. The Basin countries have a common Shared Vision: To achieve sustainable socio-economic development through the equitable utilization of, and benefits from, the common Nile Basin water resources.

Two types of programmes have been implemented since 2001; i. The Shared Vision Programme, consisting of eight basin-wide projects aimed at building capacities of riparian States and enhancing trust and confidence for dialogue and cooperation while at the same time creating conducive environment for investments. All except projects; Regional Power Trade and Water Resources Planning and Management have closed. ii. The Subsidiary Action programme being implemented under two programmes pursuant to the principle of subsidiarity; 1. Nile Equatorial Lakes Subsidiary Action Programme (NELSAP) 2. Eastern Nile Subsidiary Action Programme. These programmes which involve two or more Basin countries are implementing investment projects on the ground such as for water supply, irrigation and electric power. For Tanzania the Mara and Kagera river basins water resources management projects are being implemented under the NELSAP. Another example is the ongoing Rusumo hydropower project to generate electric power to Tanzania, Rwanda and Burundi.

3. AGREEMENT ON THE NILE RIVER BASIN COOPERATIVE FRAMEWORK:

It establishes the Principles governing the use, management, development and conservation of the Nile water resources and details the rights and obligations of Basin States as well as the institutional framework for effective implementation of the framework. **The Agreement has six parts:**

Starts with Preamble with Articles 1 and 2

- i. Part I: General Principles- Article 3
- ii. Part II: Rights and Obligations- Article 4 - 14
- iii. Part III: Institutional Structure- Article 15 – Article 31
- iv. Part IV: Subsidiary Institutions- Article 32 & Article 33
- v. Part V: Miscellaneous Provisions- Article 34 & Article 35
- vi. Part VI: Final Clauses- Article 36 – Article 45

Negotiations started in 1997 with formation of Panel of Experts (PoE)

Presented proposals of permanent legal and institutional framework to 8th NILECOM in Khartoum in March, 2001

Task passed to Transitional Committee which presented Report to NILECOM in Entebbe in August, 2001

9th NILECOM in Cairo in February, 2002 formed a Negotiations Committee and officially launched during 10th NILECOM in Addis Ababa in December, 2003

The Negotiations Committee held seven meetings under the Chairmanship of Prof. Goerge Khroda and Legal Advisor, Prof. Stephen MacCaffrey

Negotiations Committee presented Report to NILECOM in Addis Ababa in March, 2006.

Since then negotiations taken over by Ministers

Negotiations continued by NILECOM in Bujumbura (May, 2006), Kigali (Feb.2007), Entebbe (June, 2007), Kinshasa (May, 2009), Alexandria (July, 2009) and finally Sharm El Sheikh (April, 2010).

At the Kinshasa NILECOM seven countries of Burundi, D.R Congo, Ethiopia, Kenya, Rwanda, Tanzania and Uganda decided to adopt the Draft Cooperative Framework Agreement and annex the pending Article 14(b). The unresolved article was to be resolved by the Nile River Basin Commission six months after its establishment, Egypt and Sudan did not support this decision.

The article states: *“Not to significantly affect the water security of any other Nile Basin State”*.

Egypt and Sudan proposed that the article be reworded as:

“Not to adversely affect the water security and current uses and rights of any other Nile Basin State”.

The current uses and rights referred to in the latter proposal are based on the old colonial agreements which have long been rejected by the seven countries as invalid

The seven reaffirmed their position in Alexandria where the NILECOM decided to give countries six months to allow for more time to enable member states move forward together. The NILECOM mandated the Nile Technical Advisory Committee and the Negotiations Committee to: i. To make an update on consultations and reflections by member states and to recommend to NILECOM the basis for moving forward in an inclusive manner ii. To consider and advise on the transitional arrangements to include such matters as personnel, programs, projects, assets and liabilities if any, and other related issues iii. To discuss and advise on procedures for signing of the Cooperative Framework Agreement iv. To discuss any other related issues. The Joint Technical and Negotiations Committee could seek advice from one or more international experts. Three meetings of the Joint Committee were held; Kampala (September, 2009), Dar es Salaam (December, 2009) and Sharm El Sheikh (April, 2010). There was no movement on the positions held by the respective countries from the Kinshasa decision. Finally at the Extra-ordinary NILECOM meeting in Sharm El Sheikh, Egypt, the seven countries reaffirmed their Kinshasa position and decided that the Cooperative Framework Agreement be opened for signature for one year on the 14th May, 2010 at the NBI Secretariat and let consenting countries start signing.

During the Sharm El Sheikh NILECOM Egypt and Sudan presented a new proposal of issuance of a **Presidential Declaration**. This is the same proposal that presidential envoys from Egypt and Sudan sent to all the Nile Basin States before the Sharm El Sheikh meeting. It proposes to establish the Nile River basin Commission without the legal basis of the Cooperative Framework. This was not accepted by the seven countries which insisted that what we have been striving for years is a legal and institutional framework which is provided for in the CFA. The Nile River Basin Commission must therefore derive its legitimacy from the CFA.

4. OPENING FOR SIGNATURE OF THE NILE RIVER BASIN COOPERATIVE FRAMEWORK DONE IN ENTEBBE, UGANDA 14TH MAY, 2010

Done pursuant to decision of seven Nile Basin states at the Sharm El Sheikh NILECOM meeting

Opening presided over by Hon. Isaac Musumba on behalf of the Minister for Foreign Affairs and International Cooperation of Uganda.

Country delegations were led by:

- i. **Democratic Republic of Congo:** H.E Ambassador of D.R Congo in Uganda
- ii. **Ethiopia:** Hon. Asafaw Dingamo: Minister for Water Resources
- iii. **Kenya:** H.E. Maj.General (Retired) Geoffrey L. Okanga, High Commissioner of Kenya in Uganda
- iv. **Rwanda:** Hon. Stanislas Kamanzi, Minister for Lands, Environment, Forestry, Water and Natural Resources

- v. **Uganda:** Delegation include Hon. Ms. Maria Mutagamba, Minister for Water and Environment

Burundi could not send a delegation due to election campaigns that have started in the country. Hon. Eng. Deogratia Nduwimana, Minister for Water, Environment and Urbanisation had indicated even in the Sharm El Sheikh that it might not be feasible to attend the opening of the CFA at Entebbe due to the election campaigns.

After the opening, four countries of Ethiopia, Rwanda, Tanzania and Uganda signed the CFA.

Kenya gave a statement of support and solidarity with the four signatories and promised that Kenya would sign the CFA soon.

D.R. Congo and Burundi are expected to follow suit.

5. WAY FORWARD:

After the opening for signature of the CFA:

- The CFA is to remain open for one year till 13 May, 2011 (Article 41)
- Countries may initiate ratification process respective to each country Constitution and procedures (Article 42)
- Agreement to enter into force upon on the sixtieth day following the date of the sixth instrument of ratification or accession with the African Union.(Article 43)
- The NBI Secretariat to initiate transition to a River Basin Commission

Nile cooperation after opening of the CFA:

- Upon its establishment, Commission to be accorded legal status in all the consenting Basin States as well and the international community and organizations and hence take the Nile cooperation to a higher level.
- Commission to do own procurement without use of UNOPS which is costly
- Commission to attract and be able to solicit financing on behalf of the member states

Objectives of the Commission:

- To promote and facilitate the implementation of the principles, rights and obligations provided for in the present framework
- 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
- To facilitate closer cooperation among the States and peoples of the Nile River Basin in the social, economic and cultural fields

Areas of cooperation without agreement on all the Articles:

- Climate change
- Protection of water resources and the environment
- Water borne diseases
- Water pollution
- Soil erosion and siltation
- Invasive weeds etc

Why Tanzania has signed the CFA:

Tanzania has signed the CFA for the following reasons:

- The CFA will strengthen cooperation since now there will be a permanent Commission legally recognized by all consenting parties and the international community to promote wise use of the Nile waters
- Commission to provide mechanism of resolving disputes on water use if they arise
- Tanzania and the other six countries have tried for over ten years to negotiate for an Agreement that is acceptable to all countries. After Sharm El Sheikh it became obvious that this was not possible. Tanzania and the other countries want to move forward
- Tanzania to use her international stature to continue dialoguing with Egypt and Sudan so as to uphold the One Nile philosophy that has been cultivated over the years

Opinion of Tanzania on position taken by Egypt and Sudan:

- Tanzania respects position taken by the two countries as sovereign States
- Tanzania recognizes the sensitivity of water security to Egypt and Sudan but access to the waters of the Nile River is a central requirement for the existence of **all** Nile Basin States
- The CFA contains all the safeguards to ensure water security to all Basin States
- Insistence by Egypt and Sudan for the CFA to recognize their **current uses and rights** is not acceptable to Tanzania and indeed all the other upper riparian countries.