

Nile Cooperation beefing up with time!

Sudan to Benefit from Joining Entebbe Agreement on Nile

Gutema Kumsa 07-01-15

The most ancient civilizations developed on the banks of the River in Egypt, Sudan, Ethiopia and Uganda. The Nile ten riparian states (Burundi, Rwanda, Democratic Republic of Congo, Kenya, Tanzania, Uganda, Ethiopia Eritrea, Sudan and Egypt) include the five poorest countries in the world. Seven of those riparian countries witnessed, during the last fifteen years, or are still undergoing, armed conflicts. More than 300 million people in those countries (10% of the people of the African continent) live and rely on the Nile, and the number is expected to reach 500 million by 2025.

Nile is the longest river in the world (6650 km.); and one of its tributaries originates from the second largest lake in the world (Lake Victoria – 68,500km.). It has the largest swamps in the world (the Sudd- 30,000km), and the oldest and largest dams in the world, as well as the oldest and most controversial agreements (with a wide range between full acceptance and full rejection).

About 86% of the river waters flow from Ethiopia, (**59** % from the Blue Nile, 13% from the Atbara River, and 14% from the Sobat River), with the Equatorial Lakes contributing only about 14%. The flow of the Nile at Aswan is estimated as 84 billion cubic meters (BCM). This amount of water makes the river one of the poor flowing rivers in the world compared with the size of its basin, its length and the number of countries sharing it.

The Nile flow is about 2% of the Amazon; 6% of the Congo; 12% of the Yangtze; 17% of the Niger and 26% of the Zambezi. This limited and poor flow of the Nile represents the main and primary challenge for the Nile River, the riparian countries and the people of the Basin,

particularly with the growing population, increasing demands for water, climate change and environmental degradation.

The sense of cooperation as epiphany comes when assiduous Ethiopia started to construct the Renaissance Dam with a height of about 170 meters. It is expected to create a lake which will be created will contain 74 billion cubic meters of water and generate 5,000 megawatts of electricity when work is completed in 2017.

Egypt and Sudan had been objecting construction of the dam on the basis that it would deprive them of a great deal of water, rendering agricultural land into desert and reducing the power output of Egypt's High Dam and Sudanese dams.

However, Sudan expressed support for the dam since it would help to stem the build-up of silt that has bedeviled Sudanese dams, causing them to lose more than half of their water storage and electrical generation capacities, and that it would also bring flooding to an end, regulate electricity generation, help in production of multiple crops, and replenish ground water on an annual basis – ending the present situation of seasonal fluctuation. Other reasons for Sudan's support could be found in Ethiopian promises to sell Sudan and Egypt electricity generated by Ethiopian dams at cost price, and to irrigate Sudanese lands via a canal fed from the Renaissance Dam's lake.

In line with this, it is to be remembered that one of the historical events on the New Nile Perspectives Conference took place in Khartoum, Sudan, on 6-7 May 2013, and was also attended by experts from other countries and regions.

The event was organized around the theme 'New Nile Perspectives' by the Ministry of Water Resources and Electricity of Sudan together with the Institute for Water Education (IHE) of the UN Educational, Scientific and Cultural Organization (UNESCO), the International Water Management Institute (IWMI), the Eastern Nile Subsidiary Action Program (ENTRO) and other partners. The objective of the conference was to disseminate and discuss results of state of the art research on the Eastern Nile.

Unseen in the history of Nile cooperation and Nile related meeting, it brought together over 120 water experts from Egypt, Ethiopia, South Sudan and Sudan, concluded with the adoption by researchers and policy makers of the Khartoum Declaration, expressing their commitment to “continue on-going and develop new activities that would bring a New Nile Future closer,” bringing peace, prosperity and sustainable development to all the residents of the Eastern Nile basin.

Delegates were presented with the findings of the Blue Nile hydro solidarity research project, carried out by UNESCO-IHE, the University of Khartoum, Addis Ababa University, Vrije Universiteit Amsterdam and IWMI.

The Khartoum Declaration summarizes the conference findings and calls for further cooperation in research and sharing of data between civil society, politicians and researchers along the Eastern Nile. In the Declaration, Conference participants commit to: strengthening the science-people-policy linkages; envisaging joint ecosystem management at various spatial scales; creating a digital repository for data and models with open access to all riparian residents; maintaining, rehabilitating and expanding monitoring networks for water and the environment; scaling up training in land, water, ecosystems and livelihoods and share educational resources regionally; establishing a joint regionally owned research fund which facilitates integrated, applied and action-driven research activities; establishing the Nile Museum; and organize regular forums of Eastern Nile scientists, professionals, policy makers and civil society.

The Sudanese Minister of Water Resources and Electricity, Mutaz Mussa, said in a statement carried by local and regional media on 9 October 2014 that the Sudan would not sign Entebbe Agreement in its present form unless an agreement is reached on the pending issues. The Minister said the Sudan’s constant position is continued cooperation around the Nile Basin issues, stressing the importance of this cooperation irrespective of the framework agreement which the Sudan considers a means for cooperation, rather than an end.

There are numerous reasons for which the Sudan has to join Entebbe Agreement, and as soon as possible. Even the reasons, the importance of cooperation, which the Minister emphasized, are

among those which make it imperative for the Sudan to join the Agreement because the latter is squarely based on cooperation.

Entebbe Agreement is the diminutive name of the Nile Basin Framework Agreement. It was named after the Ugandan city which hosted its signing ceremony in May 2010 by six countries, not including the Sudan. It is the legitimate child of the Nile Basin Initiative of which the Sudan was, and is still a member, in spite of the confusion that accompanied what some people named as Sudan's withdrawal from, or suspension of its membership in it.

The Nile Basin Initiative idea surfaced in 1997 and took its formal shape on 22 February 1999 in Dar-es-Salaam, the Republic of Tanzania, after the Water ministers of the Nile Basin countries initialed the minutes of the meeting which founded the Nile Basin Initiative. Those ministers agreed that the aim of the Initiative was to achieve sustainable economic and social development through equitable benefits from the common Nile water.

The World Bank and a number of donors played a facilitating role in the birth of the Initiative. The Initiative succeeded in several aspects, including establishment of a secretariat in Entebbe, Uganda, an office for the eastern Nile in Addis Ababa, and an office for the Equatorial lakes Nile in Kigali, Rwanda, in addition financing a number of joint projects from the donors fund which was established for the purpose.

Work on the Nile Basin Framework Agreement (ENTEebbe Agreement) began 15 years ago but confronted an impasse due to basic disagreements on some of its articles. It consists of 44 articles distributed over the preamble and six chapters in addition to a supplement on resolving disputes.

The Agreement is based on a group of principles on the use, development and protection of the Basin, including the principle of exchanged cooperation that observes equality of sovereignty and good-will and also the principles of sustainable development. It is also based on the principle of equitable and reasonable use, like the provision of the UN Agreement on the International Water-courses, the right of each member state of the Nile Basin to the use of the Nile water within its territories without inflicting any harm on the other member states.

The Agreement establishes an inclusive commission of all member states for administration of the Basin, exchange of information and discussion of the joint projects. The Agreement obligates the member states to resolve their disputes peacefully, detailing the procedures and bodies of the solutions.

The Sudan and Egypt rejected the Agreement for three reasons which we will discuss hereunder. Most member states of the Nile Basin signed the Agreement. It was signed by Ethiopia, Tanzania, Uganda, Rwanda and Kenya in May 2010, followed by Burundi in February 2011. In order to come into force, the Agreement requires approval by six member states and this was the number of the signatories at that moment.

Ethiopia ratified the Agreement in June 2013 and the Tanzanian Council of Ministers ratified it on 6 October 2014, paving the way for endorsement of the Agreement next month, as was stated by the Tanzanian Minister of Water Resources. For its part, South Sudan has declared its support to Entebbe Agreement and its intention of enlisting to it but this was impeded by the current armed conflict.

South Sudan chairs the Ministerial Council of the Nile Basin for this year and is due to assume the post of executive secretary of the Initiative in 2016, placing the Nile Basin issues among the government's concerns in the coming months. Therefore, bringing Entebbe Agreement into force becomes only a matter of time, and for this reason, the Sudan must think twice and consider its own interests, just as it has done with regards to the dispute over the Ethiopian Renaissance Dam.

The three points of disagreement on Entebbe Agreement can be summed up as follows:

First: The water security: Article 14 deals with the water security which, according to the Agreement, includes the right of each Nile Basin member state to the water for health, agriculture and environment purposes. This article was the main reason for the collapse of the negotiations as Egypt and Sudan insist that their existing uses and rights referred to in the Nile Water Agreement of 1959 which divides the Nile water between them (55.5 billion cubic meters for Egypt and 18.5 billion cubic meters for the Sudan) is not subject to negotiation and is a red

line that cannot be crossed and constitutes the water security for them and that those uses and rights should be included in the Entebbe Agreement.

The other member states reject this and insist that they have rights in the Nile water in accordance with the equitable and reasonable benefits theory and that Egypt and Sudan have to recognize those rights and negotiate on them.

Second: The advance notification: Egypt and the Sudan demanded inclusion of detailed provisions in the Agreement on the advance notification to all member states on projects any member state plans to establish on the River Nile. The other member states reject this matter, fearing that the notification might be interpreted as granting Egypt and the Sudan the right to imposing a veto. Those member states argued that Egypt and the Sudan did not notify the other states on any one of their projects on the River Nile.

Third: The method of amendment of the Agreement: Egypt and Sudan demanded that any amendment should be made by consensus or majority, provided that the majority must include Egypt and the Sudan. The other member states opine that an amendment could be made by an ordinary majority, irrespective of whether or not including Egypt and the Sudan, and that no state must possess the right to veto. Those disagreements were so grave that they caused an impasse in the negotiations.

Therefore, we believe that rejection by the Sudan of the Entebbe Agreement is not based on objective reasons and we believe that the Sudan must join the Entebbe Agreement for the following reasons:

First: Barricading behind the rights contained in the Nile Water Agreement of 1959 is unlawful and illogical because this agreement is a bilateral one between Egypt and the Sudan and imposes no obligation to the other member states of the Nile Basin; those states rejected this agreement in writing since its signing. They even defied it by building projects on the River Nile without notifying or consulting Egypt and the Sudan.

While Egypt insists on its uses which exceeded 60 billion cubic meters, the Sudan speaks on the rights which are 18.5 billion cubic meters, according to the 1959 Nile Water Agreement. The

reason that makes the Sudan speak about the rights rather than the uses is that its uses have not exceeded an annual 12 billion cubic meters since 1959, as was indicated by former Sudanese Irrigation and Water Resources Minister Kamal Ali himself (see Al-Sahafa newspaper, edition number 6487, dated Wednesday 10 August 2011, page 3). This means that the Sudan has failed to use about 360 billion cubic meters of its rights from the Nile water since the signing of the Nile Water Agreement in 1959.

The source countries are therefore not related to or obliged by the rights of the Sudan to the Nile water resulting from the 1959 Nile Water Agreement because it is bilateral and not obligatory to the other countries and therefore those rights cannot in any way be protected by the Sudan's refusal to sign Entebbe Agreement.

Second: The other Nile Basin member states also have rights to the Nile water according to the international law, equity, fairness and logic. Both Egypt and the Sudan acknowledged those rights in the 1959 agreement but placed procedural obstacles which contradict the international law on water and the sovereignty principle of the nations. That agreement (as we have in articles on secrets and mysteries of the negotiations of the Nile Basin Agreement of 1959) stated that any state which wants any amount of the Nile water must forward an application to Egypt and the Sudan which will whether to accept or reject the application. In the case of acceptance, the two countries would fix the amount to be granted to the applicant state and the two countries, through the Egyptian-Sudanese joint permanent technical commission, will monitor any excess of the fixed amount granted to the state.

The countries of the source (especially Ethiopia which contributes 86% of the Nile water) frequently cite this provision as an example of the kind of cooperation which Egypt and the Sudan talk about. The source countries ridiculed this provision a lot and were closely heeded and got a lot of sympathy by numerous nations in the international conferences.

Joining the Entebbe Agreement by the Sudan will change this erroneous kind of elimination and will constitute unconditional recognition and acceptance of the rights of the other states which is a basic principle in the international law and the Sudan will gain the trust, respect and cooperation by the countries of the Nile source.

Third: Most of Ethiopia's needs from the Nile water are limited to generation of electricity which does not consume water because after generation of the electricity, the water returns to the river and continues flowing to the Sudan and Egypt. Moreover, there are numerous benefits to the Sudan from the Ethiopian dams because they block the flow of silt which makes the Sudanese dams lose half of their storage capacity, check the destructive annual floods and regulate the flow of the Blue Nile and River Atbara throughout the year.

In a simple measure of cooperation, agreement can be reached on the length of duration required for filling the lakes behind the dams Ethiopia plans to build as the longer the duration, the less negative effects on the Sudan and Egypt. It is to be mentioned here that the rate of evaporation in Ethiopia is low due the mild temperatures and the depth of the lakes, compared to the high rate of evaporation in the High Dam where it is 10 billion cubic meters a year and more than 7 billion cubic meters in the lakes of the Sudanese dams.

Therefore, the dams in Ethiopia will have remarkably positive effects on the Sudan and do not offer any pretext for objection to Entebbe Agreement. Moreover, joining the Entebbe Agreement offers the Sudan an opportunity of getting advance knowledge of the planned Ethiopian projects to discuss their negative impacts and work together for minimizing the effects.

Fourth: The marshes in South Sudan pose a great barrier to the flow of the White Nile water and they regulate and limit the quantities of the water which flows north to the Sudan and Egypt. Several studies have shown that the countries of the Equatorial lakes use 10 billion cubic meters of the White Nile water (which is a high figure that those countries cannot use over long decades) and its effect on Egypt and the Sudan will not exceed one billion cubic meters because of the marshes which block and determine the quantity of water flowing through them to the Sudan and Egypt.

This means that the use of water by the Equatorial Nile countries will not be at the expense of the Sudan and even if the water needs of the countries of source get higher, a solution can be reached through negotiation and cooperation rather than boycotting negotiations and cooperation. This situation therefore supports a decision to join the Entebbe Agreement.

Fifth: The other states of the Nile will establish their projects on the River Nile, whether on consent or dissent of the Sudan and Egypt. Ethiopia has built a number of dams over the last 40 years without notification or consultation of Egypt or Sudan. It has built Tekezy Dam on River Atbara. It is a big dam about 190 meters high with a storage capacity of more than 4 billion cubic meters and generates more than 300 megawatts of electricity. It has also finished building Tana Pelisse Dam which generates about 500 megawatts.

This was preceded by Tise Abai and Fincha dams and the great Renaissance Dam, which generates more than 6,000 megawatts, is close to completion.

Tanzania has finished the first phase of Sheen Banga potable water project which is fed from Lake Victoria, northwest of Tanzania, and commenced building the second phase of the project. Uganda continues building its dams on the White Nile. It has inaugurated Buga Ghali Dam in the first week of October 2012 and started construction of Karoma last year (2013) and then Esimba Dam this year (2014).

Most of those projects were implemented without consultation of Egypt and the Sudan and some of them even without their knowledge. It is wise and logical that the Sudan joins Entebbe Agreement so that it can sit down with those countries under the umbrella of the joint commission for discussion of those projects and for the likelihood of cooperation with, rather than boycotting them, burying heads in the sand and repeating monotonous statements on cooperation which are lacking in content and credibility.

Sixth: There is a deep-rooted bitter grievance among the nations of the Nile source caused by the arrogant and eliminating policies of Egypt and the Sudan in connection with the Nile water and asking those nations to submit to them applications for using the river water. There is also a tremendous sympathy with the source nations due to the policies and positions of Egypt and the Sudan around the Nile water, especially with what has transpired by Wiki Leaks about Egyptian plans, in cooperation with the Sudan, during the reign of President Hosni Mubarak, for striking the Ethiopian dams from a position close to Kosti, in spite of a denial of those plans.

Joining Entebbe Agreement will remove part of this grievance and sympathy and will offer a proof of good-will on the part of the Sudan besides providing a possibility of a sincere cooperation (rather than hollow cooperation slogans) with the other Nile Basin nations.

Seventh: Observers expect that South Sudan and the Democratic Republic of Congo would join Entebbe Agreement in view of the historic, geographic, ethnic and cultural relations that bind them with the other states of the Nile source. This will result in a coalition of eight nations opposed to the Egyptian-Sudanese coalition which was established by the 1959 Nile Water Agreement. The Sudan will then be confronted with a state of isolation that was feared by some members of the Sudanese delegation.

In order to reaffirm the sincere cooperation slogan, it is for the interest of the Sudan to join Entebbe Agreement.

Eighth: Cooperation is the mainstay of the International Water Law. The UN Convention on Water-courses mentioned the word “cooperation” and its derivatives 15 times and, according to this UN convention and also to Entebbe Agreement, cooperation is based on the principle of equitable and reasonable benefits which, as underlined by the International Court of Justice, over-rules all other principles.

The Sudan agreed in 1999 that this principle would be the foundation of the Nile Basin Initiative. The UN Convention came into force in August 2013, which means that it is only a matter of time for Entebbe Agreement to come into.

Association by the Sudan to Entebbe Agreement, which is in concert with the UN Convention, will imply acceptance by the Sudan of the principles of the International Water Law which was agreed upon and accepted worldwide. It should be indicated at this point that the Sudan voted in the UN General Assembly on 21 May 1997 for the UN Convention which the Sudan commended, but has not yet signed or joined that Convention for reasons that cannot be missed by the sagacity of the reader.

Discussion on the Renaissance Dam began in the Sudan in April 2011 in a big row and in absence or pretending to forget knowledge about where the real interests of the Sudan lie. When

the mist dispersed, great benefits the Sudan would get from the Dam became apparent. There were recent reports that the Sudan began to import electricity from Ethiopia, something which practically manifests the benefits of the Ethiopian dams to the Sudan. It is to be reminded that the Sudan deficit from electric power is at present 40% of its demand; while Merowe Dam has failed to fulfill a promise of yielding 1250 megawatts for several reasons which there is no room to discuss here.

The Sudan cannot build the projected Kajbar or any other dam due to strong and this time organized objections, and due to absence of the required funds, bearing in mind the huge foreign debts on the Sudan. The Sudan has therefore become aware that the Ethiopian electricity, which costs one-quarter of the Sudanese electricity, provides a solution to its growing power problems. It must also be reminded that the electric connection between the two countries was completed in December 2013 financed by the donors' fund of the Nile Basin Initiative which is run by the World Bank.

In the wake of the Sudan's support to construction of the Renaissance Dam, the benefits that can be collected from a sincere cooperation have become apparent. The same benefits can be gained from Entebbe Agreement, which is founded on cooperation, opening up new and wider horizons for cooperation with the other Nile Basin states.

If it joins the Agreement, the Sudan, which encompasses the largest part of the Nile Basin, will be regarded as a serious state for cooperation on common basins. The country will also occupy an influential position in the Nile Basin Commission which will be the spearhead for cooperation, exchange of information and conflict resolution. Joining the Entebbe Agreement will show that the Sudan possesses a political will-power for taking decisions that serve its own interests, just as it has done with regard to the Renaissance Dam.

For these reasons, we believe that the Sudan must join Entebbe Agreement as soon as possible and in its present form as, through sincere cooperation and diligent action, the Nile Basin nations will embark on a new chapter aimed at emancipating their peoples from poverty, hunger, thirst and backwardness which engulf most of the territories of those nations which widen day-by-day.

Various scholars have underlined that full mutual cooperation – in complete good faith - is the only way for the parties concerned to benefit from the limited waters of the Nile. From this standpoint, they recommended that Egypt and Sudan should, as a priority, focus their efforts upon cooperation and negotiation with Ethiopia and other Nile riparian states for shared responsibility in ownership, management, and financing mechanisms for Nile-related projects including the Grand Ethiopian Renaissance Dam; in this way all three countries may avail the benefits of Nile including electricity supply and irrigation.