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STATUS OF COOPERATION AMONG AFRICAN COUNTRIES IN THE FIELD OF WATER

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Background documentation
United Nations Economic Commission for Africa (UNECA).

Introduction

Cooperation and conflict are two common stages in the management of shared water resources, due either to resource scarcity or quality deterioration, antagonistic water use activities of riparian State actors, among several causes that increase the economic value of the water resource and accentuate the need for robust arrangements for the equitable allocation and management of the resource. Cooperation leads to better exploitation of a resource potential than each party taking an independent course of action that ignores externalities to other users of the resource. Countries find many more issues of cooperation than of conflict over many issues including management, quantity, quality, infrastructure, hydropower, and economic development. Equally, despite their complexities, international waters can also act as a unifier in basins where relatively strong institutions are in place (e.g., LCBC's role in border demarcation in the Lake Chad).

The international community has long advocated institutional development in the world's international waterways and has given considerable attention in the 20th century to developing and refining principles of shared management. The Madrid Declaration was published in 1911 on the international regulation concerning the use of International Watercourses for Purposes other than Navigation. The Madrid Declaration outlined certain basic principles of shared water management, recommending that co-riparian states establish permanent joint commissions and discourage unilateral basin alterations and armful modifications of international rivers. Expanding on these guidelines, the International Law Association developed the Helsinki Rules of 1966 on the Uses of Waters of International Rivers, which later matured into the 1997 UN Convention on the Non-Navigational Uses of International Waters.

These widely accepted international freshwater management principles guided most African States in the establishment of institutions for cooperation and management of major shared water resources on the continent.

Factors responsible for cooperation around water in Africa

Several factors are known to influence cooperation on the development, use, management, conservation and protection of international river basins, including hydrologic, economic and political incentives and disincentives.

Furthermore, beyond the principles of international water law, there are some other complex legal doctrines governing the behaviour and thus disposition of States to cooperation on transboundary water courses. While practitioners of international law have formulated doctrinal schemes of considerable sophistication about the water issue, they have not been able to translate those schemes into effective institutions for the management of transboundary relations in many instances. Being a decentralized system that relies on self-help for its enforcement, international law lacks such features as compulsory jurisdiction and centralized enforcement that are characteristic of domestic legal systems

Although it is common to assume *a priori* that the treaties or conventions or protocols binding riparian countries in African transboundary basins are driven solely by water-related concerns contained in those agreements, external factors usually not included in the texts, also play an active role in the formation and application of those agreements in Africa. Drivers for the formation, objectives and operation of the existing RBOs indicate that both internal and external factors are drivers. Internal drivers are the goals or objectives contained in the transboundary waters agreements, while external drivers are those factors not explicitly contained in the agreements but nevertheless wield substantial influence in the formation and orientation of treaties.

The existing RBOs in Africa have set four broad objectives, namely: joint management of shared water resources (e.g., LCBC), water resources development for hydropower and agriculture (e.g., OMVS, OMVG), sustainable development and environmental protection (e.g., Lake Victoria Basin), and efficient water management and optimal use of water resources (e.g., Nile). Further to these, other external factors including the concept of hydraulic mission, geopolitics, cultural ties, international environmental agendas, and the global concerns with water conflicts, have all influenced the formation of the existing RBOs.

The external drivers are external both to the treaties or agreements and to Africa itself. External drivers often encourage ideas that do not conform to local conditions and interests. For instance, some people believe that environmental concerns may have been imported to Africa before the level of economic and water resources development warrants this. Similarly, levels of water scarcity are generally less than in other parts of the world, suggesting that resources spent to avoid conflict could in fact be better employed to augment the quantity of water supplies to the African population. Analysis of the role and impact of external drivers suggest that those agreements in which internal desires coincide with external forces have the highest chances of meeting objectives of all parties involved.

The international relations schools of thought may also provide some useful insights on this issue. For instance, power and capabilities define relations in the international system. The preoccupation with autonomy, power and security predisposes states towards conflict and competition. Certain conditions are stressed for cooperation, such as the presence and acceptance of a dominant power in taking the lead to reach a basin-wide cooperation. This

means that cooperation is likely only when the dominant power in the basin is induced to cooperate for one reason or the other.

To forge any meaningful cooperation may require external facilitation, both from point of view of identification of hydrologic, economic and political incentives and payoffs for cooperation, and also for attracting funding for projects that can justify such cooperation.

Common challenges and strategies for the management of water resources

Power is centrally controlled in all countries and transboundary waters agreements are signed between countries. However, policy decisions rarely consider the needs, desires and aspirations of the basin inhabitants, even when the opposite riverbanks share more commerce, common culture and regional ties with each other than with other respective heartlands.

The power structure of the river basin organizations (RBOs) often reflects political and economic imbalances among members.

Implementation of accords is generally left to the discretion of signatory parties rather than being unequivocally programmed into an agreement.

At both national and sub-national levels, mechanisms rarely exist for public participation. Only recently do we have entities like the African Network on Water (ANEW) – a grouping of NGOs interested in water issues - coming into the scene.

How to ensure full participation of African States in forging cooperation on water resources management at basin-level. This is where the issue of mechanism becomes relevant. Other two important issues are the issues of financial contributions of Basin States to RBOs and free riding.

There were external drivers behind the formation of the RBOs and therefore they might be considered to have benefited from the experiences in other parts of the world. Since the advent of the Tennessee Valley Authority, better known as TVA, in 1933, the model for a comprehensive river basin development and management was known worldwide.

There are still many deficiencies that need to be addressed in the treaties or conventions or agreements establishing the existing RBOs. They are not yet as perfect as implied in this information.

Conflicting interests of internal and external drivers, as well as the changing priorities and interests of the donor countries, who were instrumental to the formation of the RBOs, are reasons for the deterioration of RBOs. The deterioration makes African countries to face increasing water scarcity, the threat of desertification, hunger and poverty.

National-level, river basin and country-to-country cooperation on water resources management in Africa

Water resources management at the national level in African countries generally vests ownership of the resource to the national government that in turn established Ministries and Departments that administers and enforces the provisions of the water legislation. The Ministries and Departments are responsible for putting in place robust management systems for the water resources assessment and to oversee the water uses to ensure that water allocations and permits are well managed.

On the other hand, cooperation around international rivers are piloted at the level of governments, either within the framework of Joint Commissions or within specially established River Basin Organizations. The following are some of such existing good practices and experiences in river basin management on the continent:

The Nile River Basin

The Nile Basin with a surface area of more than 3 million km^2 or about one tenth of Africa's land area is a major transboundary basin shared by ten countries (Burundi, Democratic Republic of Congo, Egypt, Eritrea, Ethiopia, Kenya, Rwanda, Sudan, Tanzania and Uganda). The length of the river from the headwaters to the Mediterranean Sea of about 6,500 km makes it the longest river in the world. The population depending on the water resources of the Basin tops 250 million.

The regulation of the Nile river dates back to 4000 BC, but it took up to 1999 before the basin was considered as a single hydrological unit for management purposes. From 1898 until the late 1940s, attention on the waters of the Nile focused almost entirely on the irrigation water needs of Egypt and Sudan. The possible requirements of other upstream riparian countries were not adequately addressed. Probably the most known international treaty on the Nile is the Nile Waters Agreement of 1959 that estimated the availability and proposed allocations of the water to Egypt and Sudan. In addition to the 1959 Agreement, at least six other major agreements on the use of the Nile waters have been signed, none of which included more than three countries.

In 1992, the Council of Ministers (COM) of Water in the Nile Basin countries launched a new initiative to promote cooperation and development in the Basin, called the Nile Basin Initiative (NBI). This led to the formation of the Technical Cooperation Committee for the Promotion of the Development and Environmental Protection of the Nile Basin (TECCONILE) in 1993, and the preparation of the Nile River Basin Strategic Action Programme (NRBAP) in 1995. The NRBAP put in place three transitional institutions, namely: Nile COM or Council of Ministers, Nile TAC or the Technical Advisory Committee, and the Nile SEC or the Secretariat. These institutions currently enhance cooperation while the general cooperation Agreement is still being worked out.

The Niger River Basin

The Niger River Basin covering an area of about 2.3 million km^2 is shared by nine countries in the West African sub-region (Guinea, Mali, Cote d'Ivoire, Burkina Faso, Niger, Benin,

Cameroon, Chad, and Nigeria). The total length of the River from source in Guinea to the Delta with the Atlantic Ocean at the Gulf of Guinea is about 4,200 km.

The history of treaties over the Niger River dates back to the Barcelona Convention of 1921 between Great Britain and France. The modern day River Basin Organization established for the management of the Basin, however, was initiated in October 1963, leading to the formation of the River Niger Commission in November 1964, changed in November 1980 to the Niger Basin Authority.

Senegal River Basin
The Senegal River Basin covers about 420,000 km2 with a population of about 5 million people depending on the resources of the Basin. The River is 1,800 km. long and is shared by four countries (Guinea, Mali, Mauritania and Senegal). Two conventions, namely the Bamako Convention of 26 July 1963 and the Dakar Convention of 30 January 1970, have been signed by the four riparian countries on cooperation around navigation and equal treatment of riparian country populations in the Basin. The agreement also created the Organisation for the Development of the Senegal River (OMVS).

The OMVS consists of a Committee of Heads of States and Governments that defines policies for cooperation and development, the Council of Ministers that formulates policy, planning and coordination, and the High Commission that implements policy decisions.

Lake Chad Basin
The Lake Chad Basin extends over an area of more than 3.5 million km2 covering six countries (Chad, Central African Republic, Niger, Nigeria, Cameroon and Sudan). Libya also recently joined the countries of the Lake Chad Basin. The Convention establishing the Lake Chad Basin Commission for the management of the resources of the Basin is the Fort Lamy Convention of 22 May 1964. The Lake Chad that used to occupy an area of 25,000 km2 in the early sixties has now been reduced to one tenth of its area in recent times due to the droughts of the seventies and eighties, as well as upstream dam impoundments along the influent rivers.

The convention establishing the Lake Chad Basin Commission (LCBC) made no provisions for water allocations among the riparian States, and this presently poses a problem for demand management in the face of the shrinkage of the Lake Chad, that may be exacerbated if and when the proposed inter-basin water transfer from the Oubangui basin is realized.

The LCBC comprises the Summit of Heads of State, a Council of Ministers also known as Session, and the Executive Secretariat.

The role of ECA in water resources management in Africa.

The UNECA has been an active player in water resources management in Africa, particularly through activities geared towards catalyzing cooperation among the countries of the African region involving the resolution of national and river basin-level issues on water resources management. Such activities include the provision of regional advisory services and technical assistance to the national governments, inter-governmental organizations like the River Basin Organizations (RBOs), or the Regional Economic Communities (RECs) around the continent and the African Union. Examples of ECA interventions in the area of catalyzing cooperation around water resources management in Africa in recent times include the following:

Technical support to the RECs

Directly through regional advisory resources available at the headquarters as well as through its sub-regional offices located in the five African sub-regions, ECA has provided technical assistance to the African Regional Economic Communities. Such technical assistance include the on-going support to the Economic Community of Central African States (ECCAS) on its quest to transform the existing CICOS (Commission International du Congo, Oubangui, Sangha) into a veritable River Basin Organization for the integrated water resources management (IWRM) of the Congo Basin. CICOS was established by four of the more than ten riparian countries of the Congo basin and can be considered to be a partial coalition of the Congo basin countries at present. Another example of ECA's support to the RECs is the on-going support on training and assistance to the countries of the Southern African Development Community (SADC) on the implementation of the SADC Protocol on the management of water resources, as well as on meeting the Millennium Development Goals (MDGs) twin-targets on portable water supply and sanitation.

Direct technical support to the RBOs

The UNECA is a privileged development partner to all the existing RBOs. Regional advisory services are regularly put at the disposal of requesting RBOs on technical issues bordering on the equitable allocation of internationally shared water resources, assessment of downstream ecological flows and environmental impact assessment of planned water resources projects, integrated water resources management, hydrological and hydro-geological data collection network installation, flood and drought management, and financial resources mobilization. The Niger Basin Authority (NBA), Nile Basin Initiative (NBI), Volta Basin Authority and the Lake Chad Basin Commission (LCBC) are examples of beneficiary RBOs in this regard. The ECA assisted the LCBC in preparing the technical presentation to the Round Table Conference on the Lake Chad in 2005, and to organize a Workshop to draw-up guidelines for projects on inter-basin water transfer in Africa.

Technical support to the African Union (AU)

The ECA regularly provides support to the African Union Commission on issues relating to water. In this regard, ECA even goes a step further by using its coordination role vis-à-vis other UN Agencies involved in water-related activities in Africa, a grouping formed by

ECA and known as UN-Water/Africa, to mobilize other UN agencies to assist the AU. The most recent example and demonstration of this commitment is the preparation of documents for the Sharm El Sheik AU Summit on water and sanitation, held in June-July 2008.

Furthermore, through the formation of the UN-Water/Africa Group, secretariat of which is permanently domiciled at ECA, the African Ministers responsible for water were mobilized in 2002 to form what is now known as the African Ministers' Council on Water (AMCOW). AMCOW constitutes a cooperation forum for all African Ministers in-charge of water issues, and has now been recognized as the technical arm of the AU responsible for water resources policy formulation in Africa. All issues on water in Africa are now channeled to AMCOW for resolution, while all technical and analytical work on all issues to be addressed by AMCOW are analyzed by the ECA-coordinated UN-Water/Africa Group.