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Calming the Waters: The East African Community and Conflict over the Nile Resources

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ABSTRACT Control of the waters of the Nile Basin has long been contested among the ten African riparian states that sit within the wider catchment area. In colonial times, use of the Nile was regulated by treaties promulgated and supported under British rule. These agreements favoured Egyptian and, to a lesser extent, Sudanese primacy in controlling the great river. This situation began to be challenged in the 1960s with the end of colonial rule in the region, and these challenges have now again been renewed in recent years with the revival of the East African Community. The members of the EAC, Kenya, Uganda and Tanzania, have a common interest in facilitating the economic development of the Lake Victoria Basin, and by extension this gives them an incentive to tackle the long-standing issues over the regulatory devices governing use of the Nile waters. This article reviews the background to the conflict over the Nile waters and describes the activities of the revived EAC to demonstrate the ways in which this regional organization has, since 1999, elaborated new policies and structures to strengthen and sustain the Nile Basin Initiative and the Nile Basin River Commission.

In April 2006 countries in the Nile Basin launched the Nile River Basin Commission (NRBC) to foster cooperation, sustainable, equitable and peaceful use of water resources of the River Nile. The new organization signifies the triumph of regionalism over unilateralism in settling conflicting claims over shared water resources. But the NRBC is yet to develop the requisite capacity to restore confidence and end decades of frosty relations and palpable threats of what is widely spoken of as a 'looming war' for the Nile waters. The East African Community (EAC) needs to work with Africa's external partners, including donor countries, UN agencies, the World Bank, the European Union (EU) and regional organizations such as the African Union (AU) to mobilize financial and diplomatic support to the new initiative to ensure its success in averting potential regional conflicts over water and other resources in the Nile Basin.

Sitting on the headwaters of the Nile, including Lake Victoria, the three East African countries of Kenya, Uganda and Tanzania lie firmly in the vortex of this potential international conflict over the Nile resources. Tensions over the Nile waters have increased as a result of spiralling demand for water to generate hydroelectric power, for drinking and irrigation amid acute poverty, food insecurity wrought by cycles of drought and famine, and growing population. These forces have led the East African States to

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abandon what in the past has been seen as ‘the complacent of the White Nile Riparian States’¹ and to actively challenge the 1929 colonial treaty between Britain and Egypt on which the international legal regime governing the use of the Nile waters is anchored. The out-of-date legal order of things in the Nile Basin outrageously bestows almost exclusive rights to Egypt and Sudan to exploit the Nile waters while barring other riparian states – Burundi, the Democratic Republic of Congo, Eritrea, Ethiopia, Kenya, Rwanda, Tanzania and Uganda – from using the Nile waters.

With 86 per cent of its land classified as very arid and 96 per cent of the population living astride the Nile Valley, Egypt depends on the Nile for fresh water and to irrigate its agriculture to feed 70 million people.² Control of the Nile waters is a matter of life and death. As a result, Egypt has always viewed the Nile from a security prism, threatening war against attempts to revise the law. A Nile water war appeared a real possibility under President Anwar Sadat, who warned that: ‘Any action that would endanger the waters of the Blue Nile will be faced with a firm reaction on the part of Egypt, even if that action should lead to war.’³ This threat materialized as a policy of destabilization in the volatile Horn of Africa region.

The revival of the East African Community (EAC) in 2001 – after its ignominious collapse in 1977 – has provided a new regional framework for discussion of water issues. For the three principal East African states, Kenya, Uganda and Tanzania, the use of the resources of Lake Victoria and its catchments areas has been a prime concern. The EAC has also ended internal divisions within East Africa, enabling them to forge unity in challenging the Egyptian and Sudanese monopoly over the Nile waters. At the same time, following the Sadat era, Egypt has relaxed its position making it possible to form the Nile Basin Initiative in 1999. Its Minister for Water Resources and Irrigation (WRI), Mahmoud Abu-Zeid, promised in March 2004 that, ‘Whatever decisions that are spelt out in the framework, Egypt will accept.’⁴ But the issue of an outdated international law still persists.

Discussions of water and security in the Nile Basin are informed by the overarching debate on whether or not water stress is a potential cause of wars. Two opposing viewpoints on water and international security have gained ground in both academic and policy circles: one viewpoint ubiquitous in the corridors of international policy institutions is that conflicts over water will lead to acute international conflict – the notion of ‘looming water wars’. Former United Nations Secretary-General Boutros Boutros-Ghali – an Egyptian national – teed off the debate when he declared in the 1980s that future wars would be fought over water. Boutros-Ghali reiterated his warning in 2005, urging the international community to ensure an equitable sharing of water between nations to prevent future wars in Africa and the Middle East.⁵ Within the Bretton Woods institutions, the water-security thesis was given a boost in 1995 when Ismail Serageldin, vice-president of the World Bank said that: ‘The wars of the next century will be about water.’⁶ The ‘environmental security’ angle to this argument draws a causal link between water scarcity and acute conflict, suggesting, as Westing does, that ‘competition for limited ... freshwater ... leads to severe political tensions and even war.’⁷ The argument’s historical limb suggests that ‘history is replete with examples of violent conflict over water’.⁸

Critics of this mainstream view make two counter-arguments: first, that there is little evidence that water has ever been a cause of international warfare; and, second, that wars over water seem neither strategically rational nor economically viable. This view dismisses the idea of ‘looming water wars’ as anecdotal and far-fetched, with Wolf asserting that:

‘with one exception (now almost 4,500 years old), there has not been a war fought over water’.⁹ While a war may not be fought solely over water, river basins pool together a multiplicity of factor and interests that make water a potent trigger of violent conflict, especially in the context of Africa’s volatile Horn and the Great Lakes regions which have known many internal and international conflicts.

Apart from the Egyptian overt threat of war to protect its Nile hydro-hegemony, it is no longer in doubt that Africa’s trans-boundary river systems are increasingly becoming possible flashpoints. The Komati shared by South Africa, Swaziland and Mozambique, the Zambezi Basin (ZB) shared by Zambia, Zimbabwe and Mozambique, and the Okavango river valley are three potentially explosive trans-boundary water systems in Southern Africa. The River Cuito starts in the marshlands of the Okavango delta in Botswana before heading to Angola through Namibia’s Caprivi Strip – which has seen spiralling tensions and conflicts. In West Africa, the Niger River Basin involving nine countries and the Volta are also potential hotspots.¹⁰ It is estimated that by 2025, about one in two Africans will be living in countries that are confronted with water scarcity and water stress.¹¹ This article explores how the hydro-politics of the Nile Basin are shaping relations within the East African Community and between its members and other riparian countries in the Nile Basin. It is argued that the threat of a ‘water war’ in the Nile Valley is real. However, regionalism in the form of the EAC and the NBI is providing a useful trump card, building confidence and cooperation among belligerent states towards a shared vision of a sustainable exploitation of the Nile waters and resources.

The Nile System: The Roots of the Conflict

The Nile Basin is a classic study of a stubborn legacy of unequal powers relations in that it governs the use of a common resource fostered by colonialism. The maxim that ‘he who controls the Nile controls Egypt’ spurred a frenzied search for the source of the Nile by nineteenth-century British imperial expansionists, and the eventual colonization of East Africa.¹² For over seven decades between 1890s and 1960s, the British erected a legal infrastructure that subordinated the rights of its East African territories to use the Nile waters to Egypt, ensuring that no future development deemed to reduce the flow of water to Egypt would be undertaken. This skewed legal regime of water use has been at the heart of an escalating tension between the EAC countries and Egypt (and Sudan).

The Nile is Africa’s and the world’s longest river, approximately 6,825 kilometres long. The Nile Basin covers ten riparian states with 336 million of Africa’s total population of 850 million and a catchment area constituting 10 per cent of the continent’s land area.¹³ Conflict prevention through poverty eradication, improved food security and reduced environmental degradation in the Nile Basin is directly linked to Africa’s stability. The Nile has two great branches: the White Nile from equatorial East Africa, and the Blue Nile from Ethiopia, both formed on the western flank of the East African part of the Great Rift Valley.

Lake Victoria – its waters divided between Kenya, Uganda and Tanzania – is considered the source of the Nile, but over forty rivers feed this vast lake. On 30 April 2005, a team led by South Africans Peter Meredith and Hendri Coetzee navigated what they consider to be the true source of the Nile – the remote Rukarara headstream of the Akagera River, in Nyungwe rainforest of Rwanda. From Lake Victoria the White Nile flows over 5,500 km to join the Blue Nile in Khartoum, losing much of its water to

swamp areas near its source and to evaporation as it travels through arid terrain in Northern Uganda and Southern Sudan. The Blue Nile itself springs from Ethiopia's Lake Tana, and travels 1,529 km to join the White Nile. During summer runoffs, when heavy rain falls in the Ethiopia highlands, the Blue Nile carries between 80 and 85 per cent of the Nile waters. Ethiopia is thus the epicentre of the hydro-politics of the Nile Basin, with its relations with Egypt have been badly strained for many decades as a consequence.¹⁴

In 1929 Egypt and Britain – who did so on behalf of Sudan – signed the Nile Water Agreement (NWA), which bound Britain, and by extension all of its colonies, to refrain from any action regarding the Nile that would diminish the volume of water that reached Egypt.¹⁵ The treaty required that 'no irrigation or power works or measures are to be constructed or taken on the River Nile or its tributaries, or on the lakes from which it flows in so far as all these are in the Sudan or in the counties under British administration, which would entail prejudice to the interests of Egypt'.¹⁶ Although the Treaty allocated a portion of the waters for Sudan's usage, Egypt got the lion's share – twelve times that of Sudan.¹⁷ It also gave Egypt the authority to inspect any projects conducted on the Nile, and to veto any undertaking that negatively impacted on its interests. Egypt was also granted rights to monitor flow of the Nile in Sudan and to carry out hydraulic work on the river without consent.¹⁸ Sudan, under British control, was made party to these arrangements by default, but independent Ethiopia has always refused to accept this treaty.

Upon Sudan's independence in 1956, it became necessary to review the 1929 treaty. A revised Agreement between Egypt and Sudan in November 1959 rationalized the water allocation ratio between the two states, raising Sudan's portion to a third of Egypt's. The Agreement effectively strengthened Egypt's hand and that of Sudan in their monopoly over the waters of the Nile, but did nothing to improve the position of the other seven riparian states of the Nile Basin. Ethiopia again declined to recognize the revised treaty, and asserted its own right to exploit its water resources for the benefit of its citizens. In a sense, the treaty tightened Egypt's hold over the countries of East Africa, which were then still British colonies. The main characteristic of these historic Nile agreements is that they were all bilateral treaties, rather than multilateral or international, and they were only given authority by the imperial authority of Britain.¹⁹

With 96 per cent of its population living in the Nile Valley, Egypt depends on the river for fresh water.²⁰ Sudan also relies on the Nile for close to 77 per cent of its fresh water. Egypt's economic dependence on the Nile is also apparent. The World Bank reports that 96.44 per cent of Egypt's economically active population is involved in agriculture and, despite consuming 88 per cent of the Egypt's water, the agricultural sector only accounts for 14 per cent of the country's Gross Domestic Product (GDP). Egypt also needs even more water in the future because of 'a demographic explosion', which has seen its population rise from 20 million in 1950 to 70 million by 2006. Moreover, Egypt's irrigation subsidies – to the tune of \$5 billion annually – discourage water conservation.²¹ The construction of the Aswan High Dam, between 1964 and 1971, hugely enhanced Egypt's economy and allowed a massive extension of land under irrigation. The colonial legal regime that allows Egypt to use the Nile waters in this way while denying the East African states and other Nile Basin riparian countries a voice in water policies.

The hydro-politics of the Nile revolves around Egypt's and Sudan's desire to maintain a strong hold on the Nile waters amid growing resistance by the other eight riparian

states.²² Back in the 1950s, Gamal Abdel Nasser invoked pan-Africanism to ensure a sort of *pax-Egyptiana* to neuter any contestation of its monopoly over the Nile waters. He launched a campaign for the unity of the Nile Valley, which sought to bring Ethiopia, Eritrea, the Sudan, Somalia, Uganda, and Kenya under the umbrella of Egyptian influence. However, this campaign quickly unravelled during the 1960s as the independent countries of the Nile Basin came to see Nasser's pan-Africanism as nothing more than a convenient means to control them. Under Anwar Sadat (1970–78), Nasser's more zealous successor, Egypt's experiment with pan-Africanism gave way to vociferous pan-Arabism, overt threats of war, and covert destabilization of the other riparian states. The crude version of this policy was aimed at weakening the Nile Basin states to ensure that they did not have the requisite capacity to undertake development projects that would significantly affect the flow of Nile waters.²³ Analysts have documented Egyptian aid to various armed groups waging wars against states in the Horn and Great Lakes of Africa as part of its larger strategy of controlling the Nile waters. Kendie has shown how Cairo supported the Eritrean fighters against Ethiopia. In doing so, it played the pan-Arabic card to mobilize support for African insurgent groups from the oil-rich Arab countries. Even as early as April 1962, Nasser secured the Arab League's (AL) support for the Eritrean fighters, and financed the establishment of the office for the Eritrean Liberation Front (ELF) in Cairo.²⁴ More than thirty-five years later, the 1999 issue of *Stanford's Global Intelligence*²⁵ alleged that Egypt supported Eritrea with arms and expertise during its 1998–2000 war with Ethiopia, which killed to the tune of 70,000 soldiers. Analysts attributed Egyptian support of Eritrea because of its mistrust of Ethiopia's plans for the Blue Nile.²⁶

However, Egypt's support for Somalia in a series of armed conflicts with Ethiopia in 1960, 1964 and 1977–79 drew it into direct collision with another Nile riparian state, Kenya. Like Ethiopia, Kenya has since the late 1950s been wrestling with the problem of Somali irredentism in its North-Eastern province. This precipitated Kenya's *shifita* [bandit] war of the 1960s. It was in this context, following the outbreak of the Ogaden War in 1977, that Kenya announced it would fight 'side by side' with the Ethiopians to beat back what it described as Somali 'aggression'. In May 1978, the Kenya Air Force (KAF) forced Egyptian planes carrying weapons for the Somalia army to land at Nairobi's Jomo Kenyatta Airport.²⁷ Egypt's policy of covert destabilization was aimed as much at preventing any concerted challenge against its control of the Nile Basin as it was at weakening the potential of the target states to undertake development projects with any significant impact on the Nile waters. A further strategy has been the active blocking of financial assistance from international and regional donors: When Ethiopia began the Tana Beles project in 1988, Egypt blocked a loan for the project from the African Development Bank (ADB).

East Africa and the Nile River Question

The question of fair sharing of the Nile waters has again come to the fore following the revival of the East African Community (EAC) in 2001.²⁸ The Nile has been a central element in the evolution of regionalism in East Africa going back to the early 1920s, when the British colonial territories of Kenya, Uganda and Tanganyika united to form, first, a free trade area, and later (1927), a customs union. The Nile featured in the development debates of the original EAC, which was created in December 1967. However, tensions

between the three East African states following the community's ignominious collapse in 1977²⁹ removed the Nile question from the political agenda for the next two decades.³⁰ The revival of the EAC after 1999 marked the re-emergence of regionalism in post-Cold War East Africa as a vehicle of global competitiveness, development and conflict resolution. A number of interrelated factors made this revival possible. First, the disintegration of ideological orthodoxies – Nyerere's Ujamaa, Obote's 'socialist charter' and Kenya's state capitalism – removed political barriers to cooperation. Related to this was an emerging common bond of liberal values focusing on democratization, human rights and the rule of law. Third, the East African states feared their own marginalization in the face of the strengthening of regional organizations in other parts of the continent.³¹

The three East African countries signed the provisional treaty establishing the East African Community in November 1999, and the EAC formally came into being again in July 2002. The principal purposes of the EAC are stated as the development of 'policies and programmes aimed at widening and deepening co-operation among the partner states in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs, for their mutual benefit'. This broad mandate has enabled it to address a swath of regional issues, and the dispute over the use of Lake Victoria and the Nile waters has been very prominent among them.³² Population expansion, demand for more hydro-electric power, food shortages, drought and famine as well as expanding markets for fish and other marine resources has increased pressure on the EAC to utilize the waters of Lake Victoria and its catchments areas to meet these economic and development needs. Besides the challenge of creating capacity to 'provide access to safe water and to maintain Lake Victoria as a viable source', as Nyanjom rightly suggests, the EAC will also be measured against its ability to ensure the use of resources in a peaceful and secure environment.³³ Environmental and natural resource conservation activities are central to ensuring regional stability. The *Second EAC Development Strategy: 2001–2005* specifically highlights 'areas of common interest such as the Lake Victoria and its Basin and other shared ecosystems'.³⁴ The stability of the Lake Basin and its catchment areas is inextricably linked to the stability of the whole of the Greater Horn of Africa given that it contains as much as 40 per cent of the regions population, generating half of the region's GDP.³⁵ Realizing that unilateral projects by states can stoke potential water-based tensions within the region, the EAC Treaty commits partner states to 'the establishment of a body for the management of Lake Victoria'.³⁶ As an important part of this, the EAC hydro-policy is explicitly spelt out in a section of the strategic document entitled 'Co-operation in Integrated Water Resources Management and Development'(CIWRMD). The section stipulates that:

Partner States recognize that water is life and is at the heart of sustainable development . . . Partner States are therefore committed to developing the following: a shared Water Resource Vision (WRV); a common Water Resources Policy; and a comprehensive Water Resources Strategic Action Programme.³⁷

By pushing the margins of fair-play in the use of shared water resources, the EAC has inevitably questioned the existing regime of water use in the Nile Basin, which has long been 'a source of tensions over the waters of the Nile'.³⁸

Following the formation of the EAC, the Kenya, Uganda and Tanzania, countries that were previously thought to be more 'complacent' than their Nile Basin counterparts such as Ethiopia, began to vigorously assert their right to utilize the Nile's waters.³⁹ The EAC

countries have based their claims to a fair share of the Nile waters on the discourse of rights to counter Egypt's security discourse. In December 2003, Kenya reportedly renounced the 1929 Treaty.⁴⁰ In response, Egypt's Water Resources Minister Mahmoud Abu-Zeid returned to the language of the Sadat era, declaring Kenya's intended withdrawal from the Nile Basin Treaty (NBT) to be 'an act of war' against his country, and further hinting at economic sanctions by his country against Kenya. This belligerence compelled Kenya's Minister for Water Resources Management and Development (WRMD), and chair of the Ministers' Council, Martha Karua, to storm out of a meeting of regional water ministers.⁴¹

Then, in February 2004, it was reported that Tanzania, frustrated with the ongoing talks with Uganda, Kenya and Egypt, decided to go ahead with its \$27.6 million project to extract water from Lake Victoria in clear violation of the 1929 and 1959 Treaties.⁴² Tanzania's Deputy Permanent Secretary in the Ministry of Water and Livestock Development (WLD), Dr Nyamurunda, claimed that since independence Tanzania had held the position that the two Nile Treaties were illegal, going on to state that other Nile Basin countries 'also believe that the treaties were illegal'.⁴³ Similarly, there has been discussion of the status of the treaties in Uganda: a prominent Ugandan MP has called for rejection of the colonial treaties, and in April 2004, Uganda's president, Yoweri Museveni, called into question Egypt's monopolization of the Nile.

This pressure to assert the right to an equitable utilization of the Nile waters stems from a number of factors. Water stress is beginning to take its toll on the region. Recent droughts have been particularly devastating for both pastoralists and agriculturalists,⁴⁴ and have contributed to a drop in the water level of Lake Victoria – a matter highlighted in the January 2006 report by the EAC Regional Technical Working Group (RTWG), where it is claimed that the decrease has been brought about by 'the extended 3-year period of drought in the region and over abstraction of water for power generation'.⁴⁵ Commenting on this, the World Bank recently noted: 'This is a very complex situation, given the environmental, social and economic importance of Lake Victoria, the prolonged period of drought, and significant hydropower shortfalls throughout the region'.⁴⁶ The Water Minister and President of the African Ministerial Council (AMC), Maria Mutagamba, recently stated that Uganda is reducing the water outflow of the Owen Falls Dam (OFD) to counteract the recent drop in the dam's water level, brought about by drought. The decreased water level has undermined the productivity of the dam's hydroelectric facility, further exacerbating the country's severe power shortage.⁴⁷ As a result of the drop in the lake's level, power shortages have been reported across the region. In January, the Tanzanian Electric Power Supply Company (TANESCO) was forced to ration electricity, with shortages seriously affecting both households and industry.⁴⁸ The World Bank has also offered to assist countries that stand to lose hydroelectric output by installing thermal and gas power and speeding up the development of a regional electricity network.⁴⁹

The situation is further complicated by environmental concerns regarding Lake Victoria and its catchment areas. As Minister Mutagamba recently noted, 'the statistics on the livelihoods of the majority of the people in the Basin indicates poverty is prevalent. The trends in socio-economic development are equally not encouraging and the environment on which most of the livelihood is derived is increasingly getting mismanaged and degraded'.⁵⁰ These developments have led the Tanzanian Water Minister to conclude that: 'Water will top the list of priority policies of our countries [EAC] in the future'.⁵¹ And with that the claims for equitable use of the Nile waters will inevitably be on the political agenda.

Egypt has reacted to the new challenges to its monopoly over the Nile waters by adjusting its policy to try to deal more amicably with disputes over the Nile waters. Its foreign policy has itself undergone a notable shift from confrontation to cooperation, from fostering instability to promoting peace in the Nile Basin. Ethio-Egyptian icy relations have recently appeared to thaw, evident in an August 1998 article in the issue of the *Addis Tribune* by the Egyptian ambassador to Ethiopia, Marawan Badr. 'Egypt recognizes that each state has the right to equitable utilization of its waters in accordance with international law,' the envoy wrote, further acknowledging that 'existing water agreements do not hinder the utilization of the Nile waters by any of the riparian states'.⁵² The new Egypt strategy appears to be not to block Nile projects, but to ensure that projects initiated by other riparian countries are not so large that they will significantly affect the volume of water reaching Egypt. Badr also stated that 'Egypt is ready to cooperate . . . in exploiting its huge hydro-electric power potentials, and does not object to the construction of small scale water dams.'⁵³ Egypt has provided grants to the East African countries in support of small-scale projects designed to deal with specific water-related problems. These have included:⁵⁴

(1) Excavation of groundwater wells in Kenya's Arid and Semi-arid Zones:

Egypt provided a grant of \$4.2 million in 1996 to help Kenya excavate a hundred groundwater wells in its arid and semi-arid regions hit with drought and water shortages. The work, carried out by an Egyptian company, RIGWA, was completed in 2001. There are plans to extend the project to a new phase.

(2) The Water Hyacinth Agreement (1998) (WHA):

Egypt and Uganda signed an agreement in 22 March 1998 to control the problem of Water Hyacinth. Under the agreement, Egypt undertook to provide \$13.9 million to support Uganda's efforts to fight back the aquatic weeds, specially the water hyacinth in the outlets and inlets of lakes Victoria, Kyoga, Albert and in the Nile, through purchasing and delivering suitable equipment and machinery to the sites of concern.

(3) The International Post-graduate Diploma on Shared Water Resources:

Egypt has also been providing opportunities to water resources professionals in the Nile Basin Countries (NBC) to study for a diploma in Shared Water Resources (SWR) at the department of Irrigation and Hydraulics of the Faculty of Engineering of Cairo University. Other Egyptian institutions also carry out training courses for trainees from the Nile Basin countries.

The policy shift is also evident in Egypt's active involvement in the peace processes involving the riparian states. Egypt has not only participated in the peace process in Darfur, Western Sudan, but has also contributed to the United Nations Mission in Sudan (UNMIS) and to the African Union's Mission in Darfur (AMIS).⁵⁵ Egypt may have changed its approach, then, but its strategic interests in the Nile waters remain intact. In this regard, its involvement in the resolution of the north-south civil war in Sudan should be viewed as a strategic decision to ensure that Sudan remains as one state bound by existing treaties on the Nile waters. The Comprehensive Peace Agreement – signed in January 2005 by the Sudan People's Liberation Movement/Army (SPLM/A) and the government of Sudan – provides for Southern Sudan's right to secede after a referendum, six years down the line. This has obvious and serious implications for the status of the Nile treaties. A new Southern Sudanese state will not be a signatory to any existing treaties, and the Egyptian government will have to broker a new deal in order to maintain hydro-hegemony in the Nile Basin. Maintaining the unity of the Sudan is thus a foremost goal of the Egyptians in spite of the referendum provisions. 'Egypt will continue its support for the important steps taken by the Sudan towards peace and stability, in the

context of maintaining that country's sovereignty and territorial integrity,' the Egyptian Ambassador to the United Nations, Ahmed Abul-Gheit, stated in the General Assembly.⁵⁶

Egypt has also indicated its willingness to support food production around Lake Victoria. Food exports to the country can ease its heavily dependence on food imports to supplement insufficient production and expanding population. This is possible because Egypt is a member of the Common Market for Eastern and Southern Africa (COMESA). In this sense, the development of the region, albeit partially, is potentially beneficial to Egypt.

The Refurbished EAC the Emerging Nile Basin Security Architecture

Following the formation of the first EAC in 1963, the three EAC partner states were involved in various regional initiatives on the Nile Basin. Some of these involvements continued even after the collapse of the community in 1977, and five projects in particular remained important at the time of the revival of the Eac in 1999. These are:

(1) The 1967 HYDROMET Project (HP):

In 1967, five of the riparian countries – Egypt, Kenya, Sudan, Tanzania, and Uganda – signed a UNDP-funded Hydrometeorological Survey agreement to study the water balance of the catchments of Lakes Victoria, Kyoga and Albert, which has a direct bearing on the economic development of all the riparian countries.⁵⁷ Rwanda, Burundi and the Democratic Republic of Congo also requested further UN Cooperation to extend the project area to include the portion of the Lake Victoria Catchments within Rwanda and Burundi, and Lake Albert in Congo. In 1971, Ethiopia reportedly joined the project as an observer. But even as most of the Nile Basin states signed onto the project, they 'remained suspicious of the motives and the outcome of the downstream dominated *Hydromet* initiative'.⁵⁸

(2) The 1977 Kagera Basin Organization (KBO):

The four countries that share the Kagera River Basin (KRB) – Burundi, Rwanda, Tanzania and Uganda – established the Kagera Basin Organization (KBO) in 1977 to manage resources in the Kagera Basin. The UNDP-financed KBO designed a number of projects, which were presented at a Donor Conference held in Paris in 1979. Although a UNDP report (1982) highlighted agriculture, energy, transport, environment, industry and health sectors as priority areas of cooperation, chronic shortage of money prevented the KBO from initiating projects.

(3) The 1983 Undugu Project (UP):

The predecessor of the African Union, the Organization of African Unity (OAU), created *Undugu* (Swahili for brother) in 1983 to 'forge cooperation in areas of infrastructure, environmental cooperation, culture and trade'.⁵⁹ The Undugu project brought together Burundi, the Central African Republic, the Democratic Republic of Congo, Egypt, Rwanda, Sudan and Uganda, with Ethiopia, Kenya and Tanzania as observers. However, as Robert Collins observes, the *Undugu* project failed to yield any notable results and its members 'did little except discuss the drought and had no plans when the rains returned'.⁶⁰

(4) The 1992 TECCONILE Project:

In December 1992, a meeting of the Ministers responsible for water affairs from the Democratic Republic of the Congo, Egypt, Rwanda, Sudan, Tanzania, Uganda in Kampala, Uganda, resolved to form a transitional mechanism known as the Technical Co-operation for the Promotion of the Development and Environmental Protection of the Nile Basin (TECCONILE). Burundi, Kenya, Eritrea and Ethiopia have participated as observers.⁶¹ A number of projects were mooted within this framework. One of these was the Nile River Basin Action Plan (NRBAP) formed in 1995, including 22 technical assistance and capacity building projects, with estimated cost of \$100 million, to undertake 'technical assistance and capacity building projects' relating to the Nile Basin.⁶² A second project, the D3 Project, was charged with the development of a 'Nile River Basin Cooperative Framework' for the management of the Nile.⁶³ In 1996, a Panel of Experts was also drawn from the Nile riparian states to facilitate this process. A Council of Ministers of water affairs (Nile-COM) was formed with technical committee acting as a steering committee for this framework. The Nile-COM convened in 1997 and asked the World Bank to lead and coordinate donor support for their activities.

(5) The 1994 Lake Victoria Environmental Management Project (LVEMP):

Even before the revival of the EAC, the East African states entered into arrangements aimed at managing their

shared water resources. Acknowledging that Lake Victoria demands urgent attention through regional cooperation, the three countries prepared National Environmental Action Plans (NEAP) focusing on problems such as water pollution, biodiversity loss, land degradation, deforestation, and damage to wetlands in Lake's catchments areas. Discussions on broadening regional environmental cooperation covering the Lake Victoria Basin started in late 1992. These led to the signing in 1994 of a tripartite agreement on the Lake Victoria Environmental Management Programme aimed at using resources within the basin to generate food, employment and income, supply safe water, and sustain a disease free environment and to conserve biodiversity and genetic resources.⁶⁴ The LVEMP took into account ongoing activities funded by the Global Environment Facility under the project Institutional Support for the Protection of East African Biodiversity implemented by the Agricultural Organization (FAO) and UNDP.

In all these endeavours, the East African states suffered from lack of coordination and harmonization of policies throughout the decades of the 1980s and 1990s, and this undoubtedly worsened political tensions in the Lake Victoria Basin. The revival of the EAC in 1999 has signalled a new era of policy co-ordination, the easing of regional tensions, and the emergence of a united front in challenging the colonial-based regime governing the Nile waters.

The current EAC position on the Nile Basin derives from the specific policies created since 1999 to regulate the use of the Lake Victoria Basin. As we have indicated, the treaty establishing the EAC obliges the three partner countries to coordinate and harmonize their policies on sustainable use of the Lake Victoria Basin and to negotiate as a bloc on issues relating to the basin. The treaty also commits the states to increase investment in the field of energy, transport, communication, forestry, tourism, agriculture, fisheries, livestock, mining and other areas of social economic development to stimulate development and eradicate poverty in the basin. Achieving these objectives requires a massive use of the waters of the Lake and its rivers, which has direct implications for relations with Egypt. The policy position is further elaborated by the 'Protocol for Sustainable Development of the Lake Victoria Basin' of 29 November 2003, which recognizes the Lake Victoria Basin as 'an economic growth zone' which is connected to the larger Nile River Basin. 'In view of the relationship between the Lake Victoria Basin and the Nile River Basin,' the Protocol stipulates, 'the partner [EAC] states shall cooperate with other interested parties, regional or international bodies and programmes and in so doing, partner states shall negotiate as a bloc'.⁶⁵ In checking against harm to neighbours and the possibility of conflict, the Protocol requires that when utilizing natural resources of the Nile Basin within its jurisdiction, a partner state 'Take all appropriate measures to prevent significant environmental harm to other partner states', and 'Take into account the vital economic, social and cultural interest of other partner states.' The Protocol also establishes a Sectoral Council to provide overall policy directions and guide the implementation of projects and programmes, a Co-ordination Committee to implement the decisions of the Sectoral Council and to deal specifically with any matter relevant to the Lake Basin. Although the Protocol does not explicitly define relations with other riparian states, it thus has within it the building blocks for a policy of cooperation in utilizing resources by all the states of the Nile Basin.

The EAC position on the Nile Basin has been clarified further through debates in the East African Legislative Assembly, centring on the fundamental issue of the treaties and agreements governing the utilization of the Nile waters and their relevance to the EAC member states. A popular position espoused by the Chairperson of the East African Council of Ministers is that even though most of the treaties are antiquated because of their colonial

origins 'the three East African countries can use bargaining skills, given the availability of the law of internally shared water resources, to push for our rights in the utilization of the Nile waters.'⁶⁶ While recognizing that the Nile Basin Treaty (1929) should not be allowed to continue and must be challenged, emphasis is on a peaceful, negotiated response: 'This peaceful approach will benefit East Africa more than the proposal that we rescind the existing agreements.' This pragmatic decision has emerged from the realization that 'If we were to rescind, we would go under international sanctions. We can only do so if we have enough resources to undertake our own projects on shared waters.'⁶⁷ But it is generally believed that 'the status quo cannot continue for ever.'⁶⁸ The dominant voices in this debate therefore favour a negotiated settlement. Despite this, some argue that as the re-negotiation of the new treaty proceeds, the East African countries should be 'compensated for the Nile waters' by Egypt and, to a lesser extent, Sudan.

These initiatives culminated in May 1999, in the formation of the Nile Basin Initiative (NBI) involving all the ten riparian states of the Nile Valley: Burundi, the Democratic Republic of Congo, Egypt, Eritrea (observer status), Ethiopia, Kenya, Rwanda, Sudan, Tanzania and Uganda. This group at first explored the mechanisms required to establish a permanent cooperative framework, and after a long period of intense diplomatic haggling, a NBI secretariat was established in November 2002, to be based in Entebbe, Uganda. A key objective of the NBI is to develop the water resources of the Nile in a sustainable and equitable way to ensure prosperity, security and peace.⁶⁹

The development of the NBI has been a slow process. From March 2004, the three EAC states initiated meetings under the auspices of the Nile Basin Initiative to thrash out their differences and negotiate a new arrangement on how all the countries could benefit from the Nile water resources.⁷⁰ In April 2005 the Permanent Secretary in Uganda's Water Ministry, Bezalel Kabanda, reported that separate talks involving the EAC states on the one hand and Egypt and Sudan on the other regarding the disputed colonial treaties were already underway.⁷¹ In January 2006, Kenyan Water Minister, Mutua Katuku, revealed that: 'A lot of progress has been made in the negotiation for a new Nile River Basin Cooperative Framework.' Katuku hinted that a draft agreement was already in place, providing for 'equitable use' of the Nile's resources.⁷² These negotiations led to the formation of a permanent commission, the Nile River Basin Commission (NRBC), in April 2006 by the Nile Council of Ministers (NCM), comprising of nine of the riparian states.

Despite this appearance of progress, the issue of the colonial pacts on the Nile waters remains unresolved. Tanzania's Water Minister Stephen Wassira has repeated the assertion that the 1929 colonial pact between the United Kingdom and Egypt on the use of the water from the Nile Basin by other riparian countries is obsolete. 'We were not part of the deal because when it was concluded our countries were colonies. We did not exist as independent nations by then,' he argued. The EAC countries now expect the new agreement to form the basis of all future issues pertaining to the use of the Nile, including lakes of the riparian states,⁷³ but it is not yet clear that other members of the NBI share this vision in its entirety.

One area of potential conflict is power generation. Under the aegis of the NBI, the EAC countries have been exploring ways to avoid conflict over hydroelectric power through a power trade project.⁷⁴ In April 2006, the Executive Director of the NBI, Patrick Kahangire, unveiled plans to develop agreements on hydroelectric power,⁷⁵ to be implemented through two semi-autonomous investment programmes: the Eastern Nile Subsidiary Action Programme (ENSAP) involving Egypt, Ethiopia and Sudan, and the Nile Equatorial Lakes

Subsidiary Action Programme (NELSAP), which brings together Burundi, Congo, Kenya, Rwanda Tanzania and Uganda (with Sudan and Egypt). One of the projects under way is the Rusumo Falls 61 MW hydropower project on River Kagera, bordering Rwanda and Tanzania, and also envisioned to benefit Burundi.⁷⁶ The EAC countries have also come up with the East African Power Master Plan (EAPMP) to stem the crippling electricity shortage across the region, which is undermining economic growth. But implementation of the plan, estimated to cost \$1.6 million, has been painfully slow.⁷⁷

Wider regional initiatives have also had a role to play. Considered one of the regional pillars of the refurbished African Union, the EAC is also informed by the cumulative policy frameworks of the OAU and AU. Both the OAU and now the AU have had success in providing instruments to guide the use and management of natural resources. In 1968, the OAU promulgated the African Convention on the Conservation of Nature and Natural Resources (ACCNNR), with far-reaching implications for water use. The Convention committed OAU members to 'endeavour to guarantee for their populations a sufficient and continuous supply of suitable water'.⁷⁸ It also insisted on inclusive consultations to prevent and resolve disputes arising from shared water resources:

[w]here . . . water resources are shared by two or more of the Contracting States, the latter shall act in consultation, and if the need arises, set up inter-State Commissions to study and resolve problems arising from the joint use of these resources, and for the joint development and conservation thereof.⁷⁹

The African Union revised the Convention in 2003 to commit party states to 'take measures designed to prevent excessive abstraction, to the benefit of downstream communities and States'.⁸⁰ The revised Convention also enjoins State parties to implement water policies with due regard to 'the integrated management of water resources' and 'the inventory and management of all water resources, including the administration and control of all water utilization'.⁸¹ Moreover, like its predecessor, the 2003 Convention provides for collective mechanisms of resolving resource-based disputes. It commits states, where necessary, to set up inter-State Commissions to resolve conflicts over water resources, with such bodies ensuring the 'rational management and *equitable utilization*' of such resources.⁸² This amendment clearly departs from the 1929 Nile Treaty that favours Egypt – a reflection of the collective position and influence of other Nile Basin riparian states.

The 1980, the OAU Lagos Plan of Action (LPA) for the Economic Development of Africa (EDA) also provided for the strengthening of existing sub-regional river and lake basin commissions and the establishment of an Inter-governmental Committee on Water (IGCW) for the African Region.⁸³ It also calls for the establishment of joint river-lake basins organizations to 'promote intergovernmental co-operation in the development of shared water resources'.⁸⁴ Both the OAU 1968 Convention and the 1980 Lagos Plan of Action find expression in the new AU Peace and Security Council (PSC), which has committed itself to establishment guidelines regarding the use and management of natural resources in ways that ameliorate rather than fuel conflicts.

The policy elements of most of these the OAU/AU resource management and security frameworks are reflected in the main documents of the EAC relating to the Lake Victoria and the Nile Basins. One of the problems involved involving the AU and regional

organization is replication and overlaps of instruments and mandates. There is, however, need to explicitly harmonize and rationalize them in regard to the Nile question.

The EAC has recognized the centrality of intensive engagement with the international community on the Nile question. As noted, fear of international sanctions if the three countries rescind from existing treaties has been a major factor in influencing the peaceful approach taken to deal with the potential conflict relating to the Nile water resources. The Nile Basin Initiative has thus emerged as a meeting point between regionalism and internationalism on this issue.

The international community has played, and continues to play, an important supportive role to the NBI. In 1997, the Council of Ministers of Water Affairs of the Nile Basin States (Nile-Com) asked the World Bank to lead and coordinate donor support for their activities. The Bank, the UNDP and Canadian International Development Agency (CIDA) became NBI partners, facilitating dialogue among basin countries. In 2001, the Bank chaired a meeting for international donors at the request of the Nile-COM, to raise financing for NBI projects. The Bank is driven by the belief that the NBI provides a unique forum for the riparian states to cooperate on economic development. Economic cooperation has direct implication for stability and conflict prevention. Donors have contributed to the Nile Basin Trust Fund (NRTF), created in 2003 at the request of the Nile Basin Council of Ministers. Canada, Denmark, Norway, Sweden and the United Kingdom are among the donors contributing to the NRTF. The three EAC countries took part in the 2002 World Summit on Sustainable Development (WSSD) held in Johannesburg, South Africa where the governments of Africa and the European Union launched water initiatives as a means of contributing to the Millennium Development Goals (MDGs) to support an integrated approach to water resources. EAC countries will also benefit from an amount of 18 million Euros provided by the European Union Commission (EC) to support the Nile Basin Initiative (now NRBC).⁸⁵ The Norwegian and Swedish governments are providing \$13 million budget in support of a proposed project to develop and promote the regional power market discussed earlier within the framework of NELSAP.⁸⁶ These initiatives answer to the desire by the EAC countries to turn the Lake Victoria Basin into an economic growth zone. An example of this is the proposed United Nations' 'Growth Triangle' for sustainable utilization of the Lake Victoria region. This initiative comes amid wrangles over the use of the lake's resources and increased cases of harvesting of immature fish. The initiative is projected to increase fish harvest and processing by up to 100,000 tons and to create 20,000 jobs within the Lake Victoria Basin.⁸⁷

Conclusion: A Shared Future

The Nile River Basin has witnessed a shift from antagonism to cooperation among riparian states in the utilization of resources. However, the lingering question is whether the radical shift in the Egyptian approach reflects a genuine change of heart or simply a strategic retreat as it ponders alternative ways of retaining its firm grip on the Nile. What is certain, though, is that regional structures now have the capacity to resolve disputes and work to avert any potential 'water wars'. This marks a triumph of regionalism over stateism, and multilateralism over unilateralism.

While there is a great deal of concern over the ability of the Nile to sustain the growing number of those dependent on its waters and resources, this issue can only be addressed through effective and equitable utilization of these resources. Exploiting the Nile's

resources requires new and imaginative approaches by the ten riparian states. An integrated approach is required to bring about studies of the environment as well as of appropriate institutional, political and legislative arrangements, to aid the implementation of water management policies agreed upon by states. The need to establish new and to strengthen existing trans-boundary basin agencies speaks for itself; but unchecked proliferation of agencies might itself become a source of regional disputes. The EAC needs to ensure a high degree of harmony and rationalization in its structures, objectives, programmes and projects for the Nile Basin, and it also needs to co-ordinate its policies with those of the New Partnership for Africa's Development (NEPAD) and the African Union. For its part, the African Union and other African regional economic communities might consider the formal elaboration of an international African Charter of waters that could override colonial-based laws and reduce the threat of water conflicts between states.

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Notes

- ¹ This characterization was made by Tesfaye Tefesse, *Nile Question*.
- ² Raphaeli, 'Rising Tensions'.
- ³ Wright, *Conflict on the Nile*, 44; Tesfaye Tefesse, *Nile Question*, 59.
- ⁴ Mulama, 'Calmer Waters'.
- ⁵ Thomson, 'Ex-UN Chief Warns of Water Wars'.
- ⁶ Quoted in Wolf, 'Water and Human Security'.
- ⁷ Westing (ed.), *Global Resources and International Conflict*.
- ⁸ Homer-Dixon, 'Environmental Scarcities and Violent Conflict'.
- ⁹ Wolf, 'Water and Human Security'.
- ¹⁰ BBC, 'Africa's Potential Water Wars', *BBC News*, 11 October 1999.
- ¹¹ Hobbs, 'Do "Water Wars" still Loom in Africa?'
- ¹² Halford, 'The Suez Canal', 101.
- ¹³ Majyambere, 'NBI Can Promote Regional Cooperation'.
- ¹⁴ Tefesse, *Nile Question*, 23–28.
- ¹⁵ *Ibid.*, 74.
- ¹⁶ Godana, *Africa's Shared Water Resources*, 106–117.
- ¹⁷ Tefesse, *Nile Question*, 75.
- ¹⁸ *Ibid.*, 74–75.
- ¹⁹ Despite twelve bilateral Nile Water agreements that have been signed, these have failed to provide a binding and inclusive international framework. These include: the Protocol between Britain and Italy in 1891; Treaty between Britain and Ethiopia in 1902; Agreement between Britain and Congo in 1906 (Modifying the Agreement of Brussels signed in 1894); Agreement between Britain, Italy and Ethiopia in 1906; Exchange of notes between Britain and Italy in 1925; Nile water agreement in 1929; Convention between Britain and Belgium in 1934; Exchange of memoranda between Egypt and Great Britain (on behalf of Uganda) in 1949–1953; Egypt and the Sudan Nile Agreement in 1959; Exchange of memoranda between Egypt and Uganda in 1991; Framework for General Cooperation between Egypt and Ethiopia in 1993; and Agreement between Egypt and Uganda for controlling water hyacinth in 1998.
- ²⁰ Raphaeli, 'Rising Tensions'.
- ²¹ *Ibid.*
- ²² Kendie, 'Egypt and the Hydro-Politics', 151.
- ²³ *Ibid.*, 157.
- ²⁴ *Ibid.*, 156.

- ²⁵ Stanford's Global Intelligence Update, 21 April 1999.
- ²⁶ Swain, 'Ethiopia, the Sudan and Egypt', 675–694.
- ²⁷ *The Washington Post*, 10 September 1977.
- ²⁸ Adar, 'New Regionalism and Regional Reconstruction'.
- ²⁹ Political differences between its members over ideological and sharing of costs and benefits of regional integration led to the collapse of the EAC.
- ³⁰ EAC Secretariat, *East African Community*; Nyakwaka, 'Globalization and Regional Integration', 313.
- ³¹ Ajulu, 'The New EAC', 22.
- ³² EAC Secretariat, *Treaty for the Establishment of the EAC*, Article 5(1).
- ³³ Nyanjom, 'Can the EAC Help', 197.
- ³⁴ EAC Secretariat, *The Second EAC Development Strategy*, 20.
- ³⁵ Nyanjom, 'Can the EAC Help', 197.
- ³⁶ EAC Secretariat, *Treaty for the Establishment of the EAC*, Article 114(2)(b)(vi).
- ³⁷ Nyanjom, 'Can the EAC help', 193.
- ³⁸ Collins, 'Smoothing the Water', 3.
- ³⁹ Tesfaye, *Nile Question*, 99.
- ⁴⁰ 'Egypt Reacts Strongly', www.warmafrica.com.
- ⁴¹ *Ibid.*
- ⁴² 'Tanzania Ignores Nile Treaty', *The East African*, 9 February 2004.
- ⁴³ SADCC, 'Victoria Water Project Started'.
- ⁴⁴ IRIN, 'Drought, Insecurity', *IRINnews* 3 April 2006; IRIN, 'Red Cross Federation Appeals', *IRINnews* 27 March 2006.
- ⁴⁵ *World Bank Statement on Lake Victoria Water Level*, 16 March 2006.
- ⁴⁶ *Ibid.*
- ⁴⁷ 'Uganda Limits R. Nile Outflow', *New Vision* (Kampala), 7 March 2006.
- ⁴⁸ IRIN, 'Government Struggles', *IRINnews*, 6 March 2006.
- ⁴⁹ *World Bank Statement on Lake Victoria Water Level*, 16 March 2006.
- ⁵⁰ 'African Countries to Protect River Nile', *The Monitor* (Kampala), 8 March 2006.
- ⁵¹ 'Race for Water Security Begins', *Mail & Guardian*, 26 May 1999.
- ⁵² Badr, 'Egypt and the Horn of Africa'.
- ⁵³ Kendie, 'Egypt and the Hydro-politics', 162.
- ⁵⁴ 'East Africa: Region to Benefit', *The Daily Nation* (Nairobi), 21 May 2006.
- ⁵⁵ United Nations, *Official Record*, 21 September 2005 (A/60/PV.8), 9.
- ⁵⁶ *Ibid.*
- ⁵⁷ Metawi, 'Lessons Learnt', 6. See also, Tafesse, *Nile Question*, 104.
- ⁵⁸ Tafesse, *Nile Question*, 105.
- ⁵⁹ *Ibid.*, 106
- ⁶⁰ Collins, 'The Inscrutable Nile', 5.
- ⁶¹ Metawi, 'Lessons Learnt', 10–11.
- ⁶² *Ibid.*, 11.
- ⁶³ *Ibid.*
- ⁶⁴ EAC Secretariat, *East African Community*, 1.
- ⁶⁵ EAC Secretariat, *Protocol for Sustainable Development of Lake Victoria*.
- ⁶⁶ See EAC Secretariat, The East African Legislative Assembly Debates, 14 February 2002.
- ⁶⁷ *Ibid.*
- ⁶⁸ *Ibid.*
- ⁶⁹ The Nile Basin Initiative, www.nbi.org.
- ⁷⁰ Plaut, 'Nile States Hold "Crisis Talks"; "Secret Meetings Held to Avert Water War', *Christian Science Monitor*, 16 March 2004.
- ⁷¹ 'East African States Negotiate with Sudan, Egypt on River Nile', *Sudan Tribune* 9 April 2005.
- ⁷² 'Countries to Formulate Fresh Laws on Nile Use', *The Standard*, 23 January 2006.
- ⁷³ 'Nile Basin Countries Form Commission', *Angola Press* (Luanda), 16 April 2006.
- ⁷⁴ 'African Countries to Protect River Nile', *The Monitor* (Kampala), 8 March 2006.
- ⁷⁵ Doya, 'Nile Basin Countries'.
- ⁷⁶ *Ibid.*
- ⁷⁷ Biryabarema, 'Implement Power Master Plan'.

- ⁷⁸ OAU, *African Convention on the Conservation of Nature and Natural Resources*, Article V(1).
- ⁷⁹ *Ibid.*, Article V(2).
- ⁸⁰ *Ibid.*, Article VII(1)(c).
- ⁸¹ *Ibid.*, Articles VII(2)(b) and (d).
- ⁸² *Ibid.*, Article VII(3).
- ⁸³ OAU, *Lagos Plan of Action*, Article 82.
- ⁸⁴ *Ibid.*, Article 85.
- ⁸⁵ The European Commission has also expressed its willingness to consider using the European Union (EU) Infrastructure Partnership Fund (IPF) – an element of the EU’s Strategy for Africa – to develop hydroelectric facilities in the Eastern Nile, See ‘EU Commissioner Louis Michel Proposes a Strategy for Peace, Security and Development in the Horn of Africa’ *The Report (Addis Ababa)* 25 March 2006; Majyambere, ‘NBI can promote’.
- ⁸⁶ Doya, ‘Nile Basin Countries’.
- ⁸⁷ Wakabi, ‘Proposed Growth Triangle’.

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