

Kenya

Institutional Arrangements

The responsibility for managing the water resources of the country lies with the Ministry of Water And Irrigation (MW&I). Following the adoption of the National Water Policy in 1999, the ministry embarked on a legal and institutional reform process that aimed for a separation of the constitutional, organizational and operational functions in water resources management and water services provision. The MW&I mandate formed the constitutional function for the water sector.

The Water Resources Management Authority (WRMA) obtained the mandate for the organizational function in water resources management, which covered also the administration of water use rights. The Water Services Regulatory Board (WASREB) obtained the mandate for the organizational function in the provision of water services. Both organizations have national headquarters and seven regional offices that have administrative areas within river basins as their working areas. Two of these regional Water Services Board regions are situated in the Nile Basin: Lake Victoria South and Lake Victoria North. Jointly these two regions are known as the Lake Basin Region, where the Lake Basin Development Authority is responsible for regional development planning under the mandate of the Ministry of Regional Development.

Table 1.1 Key institutions involved in the water sector of Kenya

Constitutional function	Organisational function	Operational function
Ministry of Water and Irrigation (MW&I)	Water Resources Management Authority (WRMA) (national and regional)	Water Resource Users Associations
	Water Services Regulatory Board (national) and Water Service Boards (regional)	Water Service Provider
	Water Services Trust Fund	National Irrigation Board (NIB)
	National Water Appeals Board	
	Catchment Area Advisory Committees (CAAC)	Water Resource Users Associations
Ministry of Agriculture	Kenya Agricultural Research Institute	*Agricultural Companies *Water Users Associations
Ministry of Energy (MOE)	Kenya Power and Lightning Company	Kenya Electricity Generating Company
		Kenya Power and Lightning Company
Ministry of Environment and Natural Resources	National Environmental Management Authority (NEMA)	Lake Victoria Environmental Management Program
Ministry of Regional Development	Lake Basin Development Authority	Private investors

The WRMA regional offices are responsible for water resource management and administration in the river basins. The authorities are responsible for water allocation and apportionment, the monitoring and issuing of licences for the use of surface and ground water. If the Water Services boards want to develop a service provision agreement with a service provider, they need a prior licence from the WRMA to pump surface or groundwater or to discharge wastewater.

The Water Services Boards are responsible for the efficient and economic provision of water and sewerage services within their administrative areas. However, the boards cannot provide these services themselves; they have to enter into services provision agreements with water services providers from the private or voluntary sector.

The National Water Appeal Board (NWAB) is the principal body at national level for resolving disputes about conflicting water resources uses or water use rights. In case the WRMA or the WSRB fail to resolve a dispute between stakeholders in the water sector, the parties can make an appeal to NWAB. The NWAB has a mediating function and its decisions are binding for the disputing parties.

The Water Services Trust Fund (WSTF) is a corporate body with the mandate to provide financial assistance to organizations engaged in the provision of water services to areas without adequate level of services. The fund channels funds of the national government and of international donors towards local level organizations that provide drinking water supply and sanitation services.

The Catchment Area Advisory Committees (CAACs) are established as consultation platform between the WRMA regional offices and the users organizations in specific catchment areas. Through this platform the private and voluntary organizations, which are active in the water and environment sector, participate in decisions concerning water resources conservation, use and apportionment.

The Water Resource Users Associations (WRUA) and the private services providers are responsible for the operational function in water resources management and water service provision at local level. The WRUAs involve in the management of common pool resources, awareness raising and dispute settlement among water users, and catchment conservation measures to improve water quality and quantity.

The National Irrigation Board is placed under the MW&I and it is responsible for the management of six larger irrigation schemes of which three (Ahera, West Kano and Bunyala) are in the Lake Basin Region. These schemes have a total irrigated area of 2,200 has and there are plans to expand the irrigated area in the region.

The Ministry of Agriculture is responsible for agricultural and national food policies, and for research, extension and phyto-sanitary services. The ministry supervises many semi-public organizations that are active in research, extension, primary production marketing and advocacy for the sector in general or specific crops.

The Ministry of Energy is responsible for the constitutional and organizational function in the electricity sector. The Kenya Electricity Generating Company (Kengen) has as mandate the planning and management of thermal and hydropower plants. The Kenya Power and Lighting Company (KPLC) has the transmission, distribution and billing of electricity as its mandate.

The Ministry of Regional Development has the constitutional and organizational function for regional development as its mandate. The Ministry supervises the Lake Basin Development Authority, which has the planning, co-ordination and implementation of development projects in the Lake Victoria basin as its mandate. Water resources planning and management forms a crucial component of regional development planning.

The Ministry of Environment and Natural Resources has the constitutional and organizational function for environment, mining and forestry as its mandate. The Ministry supervises the Lake Victoria Environmental Management Project (LVEMP), the National Environmental Management Authority and the Kenya Forestry Research Institute.

The National Environment Management Authority (NEMA) has been established to supervise the implementation of the National Environmental Management and Coordination Act (EMCA) No. 8 of 1999. The act made it mandatory to conduct environmental impact assessments during the

planning of public and private sector economic development projects. NEMA is also responsible for the supervision of the mitigating measures that formed a pre-condition to issuing the letter of no-objection.

Trans-boundary treaties and agreements

There have been several colonial and post-colonial bi-lateral and multi-lateral transboundary treaties and agreements related to the use and management of the waters of the Nile Basin. The following table provides a list of these treaties and agreements.

Table 1.2 Trans-boundary treaties in Nile Basin

Date	Treaty basin	Signatories	Treaty Name
August 5, 1994	Lake Victoria	Kenya, Tanzania, Uganda	Agreement to initiate program to strengthen regional coordination in management of resources of Lake Victoria
July 1, 1993	Nile	Egypt, Ethiopia	Framework for general co-operation between the Arab republic of Egypt and Ethiopia
May 18, 1981	Kagera	Burundi, Rwanda, Tanzania, Uganda	Accession of Uganda to the agreement for pertaining to the creation of the organization for the management and development of the Kagera river basin
August 24, 1977	Kagera	Burundi, Rwanda, Tanzania, Uganda	Agreement for the establishment of the organization for the management and development of the Kagera river basin
November 8, 1995	Nile	Sudan, Egypt	Agreement between Egypt and Sudan the government of the united Arab Republic and the government of Sudan
July 16, 1952	Nile	Egypt, Great Britain and Northern Ireland	Exchange of notes constituting an agreement between the government of the United Kingdom of Great Britain and Northern Ireland and the government of Egypt regarding the construction of the Owen Falls dam in Uganda
January 19, 1950	Nile	Egypt, Great Britain on behalf of Uganda	Exchange of notes constituting an agreement between the government of the united Kingdom of Great Britain and Northern Ireland on behalf of the government of Uganda and the government Egypt regarding cooperation in meteorological and hydrological surveys in certain area of the Nile basin
December 5 1949	Nile	Egypt, Great Britain on behalf of Uganda	Exchange of notes constituting an agreement between the government of the United Kingdom of Great Britain and Northern Ireland and government of Egypt regarding the construction of the Owen Falls dam, Uganda
May 31, 1949	Nile	Egypt, Great Britain	Exchange of notes constituting an agreement between the government of the United Kingdom of Great Britain and Northern Ireland and the government of Egypt regarding the construction of the Owen Falls dam, Uganda

Date	Treaty basin	Signatories	Treaty Name
December 7, 1946	Nile	Egypt, Great Britain	Exchange of notes constituting an agreement between the government of the United Kingdom of Great Britain and Northern Ireland and Egypt regarding the utilization of profits from the 1940 British government cotton buying commission to finance schemes for village water supplies
November 22, 1934		Belgium; Great Britain	Agreement between the United Kingdom and Belgium regarding water rights on the boundary between Tanganyika and Ruanda - Urundi
May 7, 1929	Nile	Egypt; Great Britain	Exchange of notes between his Majesty's government in the United Kingdom and the Egyptian government in regard to the use of the waters of the river Nile for irrigation purposes
December 20, 1925	Lake Tana	Great Britain, Italy	Exchange of notes between United Kingdom and Italy respecting concessions for a barrage at Lake Tana and a railway across Abyssinia from Eritrea to Italian Somaliland
December 13, 1906	Nile	France, Great Britain, Italy	Agreement between Great Britain, France and Italy respecting Abyssinia
May 9, 1906	Nile	DR Congo, Great Britain	Agreement between Great Britain and the independent state of the DR Congo, modifying the agreement signed at Brussels 12 May 1894, relating to the spheres of influence of Great Britain and the Independent State of the DR Congo in East and Central Africa
May 15, 1902	Nile	Ethiopia, Great Britain	Treaties between Great Britain and Ethiopia, relative to the frontiers between Anglo-Egyptian Sudan, Ethiopia, and Eritrea
March 18, 1902	Nile	Ethiopia, Great Britain	Exchange of notes between Great Britain and Ethiopia
April 15, 1891	Nile	Great Britain, Italy	Protocol between Great Britain and Italy for the demarcation of their respective spheres of influence in Eastern Africa

Source: UNEP (2002), Atlas of International Freshwater Agreements

There are two other on-going multi-lateral agreements being negotiated by the Nile basin countries which are of major importance to the NBI-DSS. These are:

- Agreement on the Nile River Basin Cooperative Framework; and
- Protocol for Data Sharing.

Issues identified by key stakeholders

The following are some of the key water resources related issues that were identified by the stakeholders in the respective countries of the Nile Basin. These issues were categorized into structural and institutional issues.

- Structural issues
 1. Water availability under changing climate condition

2. Proper planning and management of resources for times of shortage
 3. Water conflicts in pastoral areas, and where land use and water allocation may be a driving force
 4. Water pollution (siltation, point and non-point)
 5. Climate variability and impact on floods, droughts, and food security
 6. Deforestation, incision of forest land for settlement and agriculture)
 7. Logging, wood fuel
 8. Water resources assessment and monitoring
 9. Groundwater resources under-development
 10. Salinization of lake Victoria
 11. Effect of upstream pollution and industrial effluent and wastewater disposal on rivers and Lake Victoria
 12. Encroachment on wetlands & riparian land
 13. High silt loads and sediment plumes due to poor farming methods
 14. Lake Victoria level fluctuation
 15. Invasive weeds (water hyacinth), algae, and Eutrophication
 16. Need for flood early warning systems
 17. Capacities in terms of resources and infrastructure
 18. Rehabilitation and upgrading of monitoring network
 19. Land use practices that increase the rate of floods
 20. Water resources distribution is a problem
- Institutional Issues
 1. Lack of knowledge at community and household level on water storage
 2. Illegal water abstractions
 3. Inadequate financial resources for the water sector
 4. Synergies with international bodies such as IGAD and African Ministers Council on Water (AMCOW).