

**Conseil de sécurité**

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Lettre datée du 22 juin 2021, adressée au Président du Conseil de sécurité par le Chargé d'affaires par intérim de la Mission permanente du Soudan auprès de l'Organisation des Nations Unies

D'ordre de mon gouvernement, j'ai l'honneur de vous faire tenir ci-joint une lettre du 21 juin 2021, accompagnée d'une annexe, que vous adresse la Ministre des affaires étrangères de la République du Soudan, Mariam Elsadig ElMahdi, pour vous informer des derniers faits survenus en ce qui concerne le Grand barrage éthiopien de la Renaissance (voir annexe).

Je vous serais reconnaissant de bien vouloir faire distribuer le texte de la présente lettre et de son annexe comme document du Conseil de sécurité.

Le Chargé d'affaires par intérim
(*Signé*) Mohamed Ibrahim Mohamed **Elbahi**



**Annexe à la lettre datée du 22 juin 2021 adressée au Président
du Conseil de sécurité par le Chargé d'affaires par intérim
de la Mission permanente du Soudan auprès de l'Organisation
des Nations Unies**

Republic of the Sudan
Ministry of Foreign Affairs
The Ministers



جمهورية السودان
وزارة الخارجية
الدولة

June 21, 2021

Excellency,

Allow me at the outset to extend my warmest greetings to you and the honorable members of the Security Council.

Following my letter of April 12, 2021 and the previous two letters from my predecessor to the Security Council dated June 2 and 24, 2020 on the Grand Ethiopian Renaissance Dam (GERD), I write to you regarding the latest developments concerning the GERD dispute and the serious harm facing Sudan as it confronts the second unilateral filling of the GERD which Ethiopia intends to carry out starting this coming month of July.

It is with regret that I inform you that one year after the first unilateral filling, Ethiopia is proceeding with a second unilateral filling and operation of the largest dam in sub-Saharan Africa without an agreement with the downstream riparian countries on the rules governing filling and operation, and without proper cross-border environmental management and social management assessments and plans to mitigate harms and risks to people and the environment, contrary to international practice and principles of international law and the specific recommendations of the International Panel of Experts on GERD which issued its report in 2013. This represents a clear threat to Sudan's security and an additional factor contributing to regional insecurity in light of the current conflict in Ethiopia. As detailed in the attached Annex, the AU-led Process has been exhausted and is no longer a viable forum for this dispute in its current format. However, Sudan reiterates its position that, with the requisite political will, the GERD should be a source of cooperation, regional development and security. In that spirit, and weighing the gravity of the situation, Sudan calls upon the Security Council, as the body with the primary responsibility for international peace and security, to seize itself of the matter under Chapter VI of the United Nations Charter.

Excellency,

The AU-led Process, as demonstrated in the AU Bureau of the Assembly of Heads of State Communique of June 26, 2020, was predicated on the good faith of Sudan, Egypt and Ethiopia to build on the 90 percent of issues already agreed upon in previous rounds, and resolve the outstanding legal and technical matters. However, Ethiopia has refused repeatedly to engage with the AU Bureau's chosen "augmented committee" negotiation method, which stipulated an active role for observers and AU-appointed independent experts to support the three Parties in reaching a comprehensive agreement. By imposing a gag rule on the observers and experts early on in the process, Ethiopia set the tone for circular, ineffective talks, while at the same time proceeding

with the GERD's construction and its first unilateral filling in July 2020 without prior notification or coordination with Sudan, and without following the international practices and norms of filling of dams in gradual stages.

Confronted with this intransigence, Sudan, in good faith, has made repeated requests over the past months for conciliation/facilitation/mediation with international partners under an AU-led Process to conclude a comprehensive agreement on the filling and operation of the GERD, which Ethiopia also rejected. Instead, Ethiopia has sought to introduce new negotiating positions and concepts such as a time-bound "partial agreement" on filling and operation in order to link any comprehensive agreement to a concomitant "water allocation" agreement. This proposal does not address Sudan's concerns, which relate not only to filling, but also to normal operation and dam safety. A piecemeal agreement used to introduce issues unrelated to the GERD is the ultimate form of bad faith, as it diverges completely from the subject matter and the purpose of the Declaration of the Principles signed by Sudan, Ethiopia and Egypt on March 23, 2015 (DoP). This, in addition to its unilateral actions in July 2020, seriously undermines Ethiopia's credibility as a serious negotiating partner. Ethiopia's rejection of Sudan's latest invocation of Article 10 of the DoP to refer the matter to the Heads of State is yet another demonstration of Ethiopia's bad faith.

Excellency,

Sudan takes this opportunity to reiterate the significant harms and serious risks faced by more than twenty (20) million Sudanese citizens who live directly downstream from the GERD as a result of the continued unilateral filling and operation of the GERD without detailed, enforceable provisions governing the necessary close coordination with Sudan. The procedural and substantive requirements enshrined in international practice and law on transboundary water management sharing, particularly with respect to large dams such as the GERD, are essential to preventing the type of harm Sudan faces today. The threat posed to Sudan ranges from the operational safety of Sudanese dams and water infrastructure (e.g. our Roseires Dam is located only 100 km downstream of the GERD), to hydropower dams (over 50% of Sudan's electricity), domestic water use, over 70 % of irrigated agriculture, the loss of over half of its agricultural flood plain agriculture, and other harmful concomitant social, economic and environmental impacts which are summarized in the attached Annex.

Excellency,

The fair and legitimate request of Sudan is to have its rights and interests as a downstream riparian country protected. The level of political will, commitment and cooperation required for benefit-sharing on a transboundary watercourse has been demonstrated in other regional experiences, such as the Senegal River basin and the Niger River basin, among many other river basins worldwide. This matter of development and benefit-sharing is therefore not unique to the Nile. However, the unilateral behavior of Ethiopia threatens to establish an unacceptable precedent in Africa. Sudan will not accept this as the *status quo*, and will seek to protect its population's current and future interests.

Having exhausted the aforementioned processes, Sudan now seeks recourse to the Security Council and, requests the Council to take action to preserve peace and security in the region by:

- (1) convening a session on the GERD dispute to discuss its impact on the peace and security of millions of people who live and survive along the Blue and main Nile in Sudan, Egypt and Ethiopia;
- (2) recommending that each of the Parties abide by its obligations under international law and to refrain from taking unilateral measures, in particular calling upon Ethiopia to refrain from further unilaterally filling the GERD, which is likely to further aggravate the dispute, endangering regional or international peace and security;
- (3) calling upon the Parties to seek mediation or other appropriate forms of peaceful dispute settlement to resolve the remaining outstanding issues in the GERD negotiations; and
- (4) calling upon the United Nations, the African Union and other regional and international entities to assist in moving the GERD negotiations forward by offering their good offices and services as mediators.

Excellency,

It is the ultimate objective of Sudan to engage in an effective dispute resolution process to resolve the outstanding matters, and conclude a binding, equitable, and sustainable agreement acceptable to all three Parties.

Please accept, Excellency, the assurances of my highest consideration.



Dr. Mariam El Sadig El Mahadi
Minister of Foreign Affairs
Republic of the Sudan

To:

H.E Ambassador Sven Jurgenson Permanent
Representative of Estonia to the United Nations
President of the United Nations Security Council for June 2021

June 21, 2021

Annex
Grand Ethiopian Renaissance Dam
Ethiopia's Unilateralism and Impact on Sudan

I. Background:

1. Sudan is submitting this letter to the United Nations Security Council (hereinafter referred to as the "UNSC") pursuant to Chapter VI of the United Nations Charter in particular Article 35 **(1) which states that** *"Any member of the United Nations may bring any dispute, or any situation of the nature referred to in Articles 34, to the attention to the Security Council, or the General Assembly"*. **Ethiopia's unilateral actions in filling and operating the Grand Ethiopian Renaissance Dam (herein after referred to as the "GERD") without an agreement with Sudan as a downstream riparian heavily impacted by the GERD constitutes a threat to the peace and security of Sudan and the broader region.**

2. Ethiopia is currently in the final phases of constructing the GERD. It is being built across the Blue Nile 5 to 15 kilometers from the Sudanese-Ethiopian border; with a storage capacity of 74 billion cubic meters and installed capacity 6000 MW of electrical power. Once completed, the GERD will be the largest dam in sub-Saharan Africa, the 10th largest dam in the world, as well as among the largest 15 hydroelectric power plants in the world. It is located just 100 kilometers upstream of our Roseries dam which is 1/10th the size of the GERD.

3. On June 2 and 24, 2020 Sudan wrote to the UNSC, bringing to the attention of the Council the risks that the GERD poses to the environment, to Sudan and to its population (attached as Attachments 1 and 2, respectively). In these two letters, Sudan highlighted the following points:

- **The Blue Nile is the lifeline for most of Sudan's 40 million people; it serves 70% of the irrigated land in Sudan, and as such represents the heart of the agricultural activities on which Sudan's population and economy are largely dependent.**
- The GERD has the potential of having both positive and negative impacts on Sudan. However, for the positive impacts to be realized (and for the negative impacts to be mitigated), there must be an agreement with Ethiopia on how it intends to fill and operate the GERD. Without this, the GERD stands to cause significant harm to Sudan.
- On the environmental and social impacts, the GERD will completely change the flow regime of the Blue Nile by flattening its hydrograph. Because of its size, the GERD stands to have significant potential negative impacts on Sudan if not properly designed, constructed, filled and operated. These impacts range from threatening the lives and safety of over twenty (20) million Sudanese citizens living directly downstream the GERD, to the operational safety of the Sudanese dams, to the agricultural system of Sudan, and to the

socioeconomic and environmental impacts along the Blue Nile and downstream in the main Nile.

- While Sudan acknowledges the right of Ethiopia to develop its water resources for the benefit and well-being of its citizens, it is essential that Ethiopia does so while ensuring that any potential negative impact is properly mitigated in close consultation and coordination with the downstream riparians.
- The letters concluded by requesting the UNSC to: (a) encourage all parties to refrain from taking unilateral action including filling the GERD prior to reaching an agreement, or taking any other action that might affect the regional and international peace and security; **and (b) support Sudan's efforts and call upon all Parties to resume negotiations immediately in good faith and with the objective of resolving pending issues and concluding a final agreement.**

4. On June 26, 2020, and prior to the planned meeting of the UNSC, the African Union Bureau of the Assembly of the Heads of State and Government held a summit to launch an initiative **(hereinafter referred to as the "AU-led Process") to support the tripartite negotiations by augmenting the negotiations with observers and experts.**

5. On June 28, 2020 the UNSC discussed the GERD issues. While there was no decision or statement made following the meeting, UNSC members called for peaceful resolution of the matter and several members called on the parties to refrain from taking any unilateral actions. Since the AU-led Process had been declared by the time the UNSC met, members of the UNSC hoped the AU-led Process would succeed in helping the three States reach an agreement on the GERD.

6. Unfortunately, the AU-led Process has failed to bridge the gap between the parties as discussed in further detail below. Furthermore, in July 2020 Ethiopia embarked on the first filling of the reservoir of the GERD in a unilateral manner without an agreement with other riparian States, causing significant damage and harm to Sudan. In addition, Ethiopia refused to adhere to the dispute resolution mechanism set forth in the Agreement on the Declaration of Principles (hereinafter referred to as the DoP) on the GERD which was signed by the leaders of Sudan, Egypt and Ethiopia on March 23, 2015. Finally, Ethiopia has declared that it will proceed with the second filling without concluding an agreement which Sudan considers as a direct threat to its safety and security and to the safety and security of over twenty (20) million Sudanese living along the Nile banks.

II. Failure of the AU-led Process:

7. **Shortly following Sudan's letter to the UNSC on June 2, 2020, the AU proposed itself as a mediator between the three Parties, which Sudan accepted. The AU issued a communiqué on June 26, setting out an expectation to resolve the remaining technical and legal issues on the filling and operation of the GERD in a timely manner (Attachment 3).**

8. The AU Chair proposed a negotiation modality at its summit on June 26, 2020 consisting of the tripartite committee, Egypt, Sudan and Ethiopia, in the format of an **“augmented committee”** which would work to resolve the few remaining technical and legal matters with the participation of observers and experts. The GERD negotiations were characterized by their highly technical nature. The negotiations were **therefore consistently led by the three Parties’ technical teams who** agreed, down to the specific text, on the vast majority of the detail on the filling and operation of the GERD - finalizing 90% of a draft agreement. However, the negotiations under the new AU-led process took a distinctly political turn, with a reversal of the gains already made in previous rounds of negotiations, namely in Washington (November 2018-February 2020) and under **Sudanese Prime Minister Hamdok’s Initiative (April-June 2020)**.

9. Ethiopia refused to allow a participatory role for the observers. It imposed a gag rule whereby observers were not allowed to speak, present comments, table proposals, or otherwise participate in any meaningful way as intended by the AU Chair. The same approach was taken to the AU experts. This was the first failure of the AU-led process, namely, the gutting of the **“augmented committee” structure by denying the participation of the observers and sidelining the** experts. Nevertheless, the AU experts presented a report on July 14, 2020 (Attachment 4) which, **in Sudan’s perspective, tabled reasonable recommendations** to resolve the outstanding issues. This report was then gagged, until Sudan insisted upon its publication. However, its recommendations were neither considered nor introduced to the process by the AU. This was the second failure of the AU-led process.

10. In January 2021, the AU experts proposed a draft Memorandum of Agreement on which the three Parties could build to move the negotiations forward. Sudan agreed, and proposed that the AU experts continue subsequent facilitation, however, the proposal was rejected once more. The AU Chair was not able to bring the Parties on board or make an alternative proposal. This was the third failure of the AU-led process.

11. Upon assuming the presidency of the AU, President Tshisekedi called for talks in Kinshasa. The Kinshasa talks on April 4-6, 2021, which we referred to in detail in our letter to the UNSC dated April 12, 2021 (Attachment 5), **ended at an impasse, with Ethiopia’s refusal to consider** mediation efforts in an enhanced, AU-led process. Largely left with no input or any meaningful mediation framework, Sudan and Egypt were left to propose and counter-propose terms of **reference for the observers who would mediate/facilitate in an “enhanced AU process”**. Ethiopia repeatedly tabled the same exact terms of reference for the observers as in the previous South Africa-led rounds, namely, a gag rule whereby the observers could not speak or participate except by consensus of the three Parties.

12. This is effectively a unilateral veto power and, as Sudan expressed in its refusal, would **simply lead to another redundant process**. Ethiopia’s **professed reasons for rejecting the** participation of observers - **to find “African solutions to African problems”** - are hollow in the **wake of its disregard of the AU augmented committee structure, the AU Experts’ July 14, 2020**

Report, the AU's proposal in January 2021 of a Memorandum of Agreement, and Sudan's proposal for an effective mediation by international partners under an AU-led process.

13. **These actions by Ethiopia have led to a hollowing out of the AU's role while claiming that Sudan and Egypt's attempts at "internationalizing" the issue are unhelpful.** The Blue Nile is an international river, its sources and tributaries cover different countries. Thus, it is an international issue and must be seen as such. Sudan is highly concerned that Ethiopia's actions constitute a harmful precedent for all downstream riparian countries in Africa and beyond. Having built tens of dams without any protest from Sudan, including several large dams, Ethiopia should engage in good faith with the same cooperative spirit and respect Sudan's concerns regarding the harms already caused and the risks posed by the GERD in the absence of a legally binding agreement on filling and operation.

14. The AU-led process' inability, for one year, to exert the political clout required has resulted in a tangible regression in real terms on the negotiation achievements of previous years. Ethiopia has changed its negotiation position and introduced new matters unrelated to the GERD, such as the allocation of Nile waters, and repeated proposals for a partial agreement, consistently rejected by Sudan.

15. Ethiopia proposed a partial agreement in April 2020, then on August 2 2020, and again after the failed Kinshasa talks. This is another contravention of its commitment to the DoP Ethiopia signed with Sudan and Egypt. The proposed agreement was rejected at each instance by Sudan on the grounds that the same provisions that would govern a first filling, also apply to a second, a third and a fourth, *ad infinitum.*; in addition, Sudan's concerns regarding environmental and social impacts and dame safety are not limited to filling, but also apply to normal operations, therefore, a piecemeal approach cannot be accepted (Attachment 6).

16. **The purpose of a partial agreement is Ethiopia's expressed intent to link a comprehensive agreement with a "water allocation" agreement, in a *quid pro quo*.** As the very concept is now practically obsolete in international approaches to transboundary waters, along with absolute territorial sovereignty and integrity, Sudan has dismissed it out of hand. It is unrelated to the purpose of the negotiations, which were clearly set out in the title and preamble of the DoP. Further, there already exist regional initiatives concerned with the benefit-sharing of the Nile waters for all 11 riparians which serve as fora for these discussions.

17. The AU-led process is therefore no longer viable in its present form as detailed in the above paragraphs. Faced with a second unilateral filling in the coming few weeks, Sudan sees the Security Council as the last resort for a peaceful resolution of this matter.

III. Ethiopia Unilateral Actions and Harm to Sudan

18. On July 21st, 2020 Ethiopia declared that it had indeed commenced and completed the first stage filling of GERD, in the span of only few days Ethiopia withheld about 4.9 billion cubic

meters of waters, all of this without reaching an agreement with Sudan on the rules and guidelines for the filling and operation of the GERD. The impacts on Sudan were immediate and significant. With a sudden and unexpected drop in water levels, a total of 7 drinking water supply stations went out of service for almost one week; tens of thousands of Sudanese citizens in Khartoum and other cities struggled without water for domestic use, this led to quantifiable and non-quantifiable losses, *see* letter from the Sudan's Minister of Irrigation and Water Resources and the Technical Report on the Impact of the First Filling of July 2020 (Attachment 7).

19. Ethiopia was made fully aware of the harmful consequences its first unilateral filling had on Sudan. Although the ultimate amount of water withheld was not the issue, the unilateral manner on which Ethiopia acted led to harm to Sudan and its people because Sudan was unable to prepare for or mitigate the impacts of the filling and because Ethiopia proceeded to fill quickly in a period of days, without prior notification and coordination, when according to international practice it should have filled gradually over a period of weeks.

20. Furthermore, Ethiopia has declared that it is proceeding to the unilateral second filling of the GERD which will take place at the start of July 2021, in the absence of a binding agreement on the filling and operation of the GERD. The first and second fillings are unilateral actions in direct contravention of international law on transboundary watercourses, regional and international practice, and the expertise of bodies such as the International Commission on Large Dams. **This action is despite numerous calls from Ethiopia's riparian neighbors to respect the principles it committed to in the DoP and the urging by Members of this Council in June 2020, and the AU in its aforementioned communiqué, to all three Parties to not engage in unilateral actions and to work together to reach a solution. All of these unilateral actions are taking place in the absence of an environmental impact assessment (EIA), a cornerstone of international practice in the construction and operation of dams.**

21. Given the failure of the AU-led process, Sudan was obliged to revert to the DoP to resolve the deadlock with a call for a summit of Heads of State (Exchange of letters between Prime Minister Hamdok and Prime Minister Abiy Ahmed (Attachment 8), as provided for in Article 10 **of the DoP, which states that** *"If the Parties are unable to resolve the dispute through consultation or negotiation, they may jointly request for conciliation, mediation or refer the matter for the consideration of the Heads of State/Head of Government"*. **Ethiopia has vetoed all these options.** This call to refer the matter to the Heads of State was also rejected by Ethiopia.

22. Following the failure of the Kinshasa meeting, Ethiopia made a watered-down offer to provide data in a format lacking a consultative and enforcement framework, or any of the procedural requirements which are needed to ensure data is operationalized safely in coordination with downstream riparians. This offer contradicted a previous letter from **Ethiopia' Minister of Irrigation and Water** on December 08th, 2020 when in a response to an inquiry from Sudan on a sudden change of water turbidity in late November 2020 he emphasized that reaching an agreement among sovereign states is a requirement before data can be exchanged (Attachment 9).

22. In brief, this offer amounted to a request that Sudan ignore its rights and interests as a downstream riparian with a population of over forty (40) million, of which half live and survive along the Nile banks. To give one example, the GERD, by its very existence and without taking into account the risky behavior previously demonstrated by Ethiopia, will eliminate over 50% of flood plain agriculture relied on by tens of thousands of farmers. Worryingly, the lack of resolution **and Ethiopia's rhetoric that it will "fill with or without a binding agreement", has led the Sudanese public to increasingly perceive the GERD as a threat.** Therefore, proceeding to a second unilateral filling is, to Sudan, another threatening action which undermines both trust and limits the opportunities to find a peaceful resolution.

VI. Current Status and Ethiopia Proceeding to Second Filling:

23. In a diligent effort to surpass the impasse prompted by months of futile negotiations, brought about by the inadequate modality for negotiations that had been in place, Sudan proposed that all three riparian countries consent to the facilitation and mediation of the process by the United States, European Union and the United Nations, under the leadership of the African Union. The United States and the European Union have been seized of the matter as observers to the process and the United Nations would bring about global experience in dealing with issues of equitable and reasonable utilization of shared water resources. The aforementioned partners were **termed the "Quartet" and Sudan profoundly believes in their capability of advancing the negotiations through their reputation and political weight which would be constructive in bridging the gap between the parties.**

24. A constructive letter detailing the proposal for the Quartet on the GERD dispute was sent by the Prime Minister of Sudan, Abdallah Hamdok on March 13, 2021 to the UN Secretary General, Antonio Guterres, the European Commission, the Chairman of the African Union and the United States. We received a letter from the Office of the High Representative of the European Commission on the March 15, 2021 expressing his willingness to participate in the Quartet if supported by all parties involved (Attached 10). The UN Secretary General and the United States also expressed their willingness to participate if all parties involved support the process. Egypt as **a main party to the dispute fervently advocated for Sudan's proposal, however, it was with equal resoluteness rejected by Ethiopia in the Kinshasa talks as detailed above.**

25. Sudan is therefore caught in a difficult predicament, which has forced it to reject futile and ineffective negotiations that lead to hollow results, its efforts for improving the modality of the negotiations through a mediation process had been entirely rejected by Ethiopia and the last dispute resolution option under the DoP for a Presidential Summit was rejected as well. Sudan has made every possible effort to resolve the GERD dispute peacefully.

26. The uncoordinated second filling of the GERD, which would impound 13.5 billion cubic meters of water, without an agreement on the filling and operation of the dam which provides for the exchange of data with Sudan and coordination with the Roseires Dam (one tenth size compared to that of the GERD), and just a few kilometers downstream, could have a significantly adverse

effect on all water related uses in Sudan, from irrigation to electricity generation and drinking **water plant's supply**.

27. Assessments conducted by our technical experts of the deleterious effects which are imminent as a result of the second filling forecast a distressing reality for Sudan. The risks go as far as:

- a 47% decrease in the hydropower generation at the Roseires Dam expected in July and August and a 45% decrease in hydropower generation at the Merowe Dam in July and 36% in August.
- Furthermore, the deficit incurred in the satisfaction of the irrigation demand of the Gezira scheme is at an estimated 20% during the months of July and August.
- There is also a significant change in the flow pattern in the Khartoum-Atbara reach during the months of July and August coinciding with the filling of the GERD.

28. As a response to this **threat to Sudan's water security**, a quantity of 900 million cubic meters was reserved at the Roseires reservoir as a precautionary measure by the end of March 2021 in order to ensure that irrigation needs are met. The detrimental result of reserving this quantity of water has been the decrease in hydropower generation at our dams from the time of enacting this policy, during a period where Sudan faces severe challenges in the provision of electricity nationwide. Sudan totally and categorically rejects this zero-sum game where, in order for Ethiopia to make its political gains, we must face the total brunt of this harm and disruption to our water security.

29. Furthermore, the adverse accumulative effects of the second unilateral filling have been carefully studied and all concerns were raised with Ethiopia. Any sudden and significant changes in water level and speed of flow affect the hydrology of the river and impact dam safety. Regarding hydrology, changes in turbidity, depth and speed affect oxygenation and the PH of the water. This **has an immediate negative impact on aquatic life and the river's ecosystems**. In addition, Ethiopia is supposed to clear vegetation cover from the reservoir before filling, so far there is no proof or confirmation to Sudan that this requirement has been complied with.

30. Regarding dam safety, the impacts cannot be understated. The Roseires Dam, 1/10th the size of the GERD and 100 km downstream of it, is constructed with earth embankments. Sudden, large decreases and increases in in-flow are dangerous to this type of structure. Further, quick filling is a high-risk factor for **the GERD itself which, relying on last year's precedent, calls into question Ethiopia's ability to operate the dam safely and, underscores the importance of a binding agreement on filling and operation**. As Ethiopia prioritizes short-term political gains over dam safety, **Sudan's serious concerns about the harms and risks of a unilateral second filling are justified**. These harms and risks are set out in the Summary of Environmental and Social Impacts of Unilateral Filling in Sudan.

V. Conclusion and Request:

31. Sudan considers that the basic principles of customary international water law must be adhered to, during the negotiations, to resolve the remaining differences on the GERD. An overarching principle of international water law is cooperation of the riparian countries of the shared watercourse; and four main principles to which Sudan fully subscribes are: the principle of equitable and reasonable utilization; the obligation not to cause significant harm; notification and exchange of data and information; and the peaceful settlement of disputes.

32. Sudan requests that the UNSC take urgent measures under its mandate to ensure that Ethiopia respects its international obligations to use all peaceful means, including mediation, to reach a binding agreement over the GERD. Sudan has provided compelling evidence in previous submissions of the risks that the filling and operation of the GERD will have for its own dams, reservoirs and riverine populations in the absence of reliable, enforceable agreement built on close cooperation and coordination between the two riparians. The UNSC intervention is needed to avoid any further escalations that could jeopardize the peace and security of the region

33. Ethiopian intransigence in the face of urgent calls from its sister countries to respect their concerns and common interests, demonstrates its reckless disregard for the peace and security of **the region. It has been Sudan's position that the negotiations** over the GERD only concern the filling and operation as long as the GERD is operational, and should be read in isolation from other unfortunate events in the region.

34. Sudan is facing a multitude of challenges in this transitional period to democracy after 30 years of mismanagement and war. Like Ethiopia, it counts a significant percentage of the population living under the poverty line. Therefore, it is in the interest of the three countries to share the benefits of the Nile equitably, reasonably, and without causing each other significant harm. The UNSC must agree that the provisions of the UN Charter under Chapter VI are designed to preserve the peace between nations. Sudan urgently calls for the implementation of these measures to restore confidence and trust to what has become a mutually distrustful and potentially unstable situation.

35. Accordingly, Sudan requests the UNSC, pursuant to its powers under Articles 33 (2) and 36 of the United Nations Charter to:

- (a) convene a session on the GERD dispute to discuss its impact on the peace and security of millions of people who live and survive along the Blue and main Nile in Sudan, Egypt and Ethiopia;
- (b) recommend that each of the Parties abide by its obligations under international law and to refrain from taking unilateral measures, in particular calling upon Ethiopia to refrain from further unilaterally filling the GERD, which is likely to further aggravate the dispute, endangering regional or international peace and security;

- (c) call upon the Parties to seek mediation or other appropriate forms of peaceful dispute settlement to resolve the remaining outstanding issues in the GERD negotiations;
and
- (d) call upon the United Nations, the African Union and other regional and international entities to assist in moving the GERD negotiations forward by offering their good offices and services as mediators.

Attachment 1

Sudan's Letter to the Security Council dated June 2, 2020

If there is political will and commitment on the part of all parties to negotiate in good faith, there is no reason for us not to overcome our differences on the remaining outstanding issues and achieve this objective. It befits us to honor our solemn pledge to find solutions in the spirit of African solidarity. Anything less will be a disservice to our people and to this important Pan-African ideal.

Please accept, Excellency, the assurances of my highest consideration.



Abiy Ahmed Ali (PhD)
Prime Minister of the Federal Democratic Republic of Ethiopia

H.E Mr. Abdalla Hamdok
Prime Minister of the Republic of the Sudan
Khartoum

CC:
H.E Mr. Mostafa Kamal Madbouly
Prime Minister of the Arab Republic of Egypt
Cairo

H.E Mr. Felix Tshisekedi
President of the Democratic Republic of Congo
Kinshasa

H.E Mr. Moussa Faki Mahamat
Chairperson of the Africa Union Commission
Addis Ababa

Attachment 9

Exchange of Letters between Sudan and Ethiopia on Data Exchange



جمهورية السودان
 REPUBLIC OF THE SUDAN
 وزارة الري والموارد المائية
 MINISTRY OF IRRIGATION and WATER RESOURCES
 مكتب الوزير



Date: 6th December, 2020

Ref.: MoIWR/MO/59/A/3/21.51//

H.E Dr. Seleshi Bekele
Minister of Water, Irrigation and Energy
Federal Democratic Republic of Ethiopia

Subject: The abrupt Change of the water quality downstream the GERD

Dear Excellency, Dear Brother,

I hope this letter finds you well.

I am writing to you to raise the concern of Sudan on the observed abrupt water quality change (sediment concentration) of the inflows to Roseires dam that has occurred at the end of November, 2020. At this time of the year, the sediment concentration of the Blue Nile water is very low. However, suddenly, our measurements at El Diem gauging station, located shortly downstream of the GERD, showed a sudden rise of the sediment concentration by the end of November, 2020, before it drops to normal level in few days later.

In the absence of data exchange between the GERD, and Roseires dam, such an abrupt change of water quality or quantity raises the concern for the safe operation of Roseires dam. Therefore, I appreciate if you could kindly explain what had happened on the GERD to cause this abrupt change.

Excellency, please accept the assurances of my highest consideration.

Prof. Yasir Abbas Mohamed
Minister of Irrigation and Water Resources
The Republic of Sudan





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የውሃ፣ መስኖና ኢነርጂ ሚኒስቴር
The Federal Democratic Republic of Ethiopia
Ministry of Water, Irrigation and Energy

ቁጥር MoWIE/01/01/622
Ref. No 07 DEC 2020
ቀን
Date

Professor Yasar Abbas Mohamed
Minister of Irrigation and Water Resources
The Republic of Sudan

Excellency, Dear brother,

I hope this message finds you well.

I have noted your request stated in your letter of 6th December 2020.

To respond directly to your question; on 26 November 2020, one of the lower culverts was opened at 15:18 and closed back 16:00 (operated just for 42minutes flushing), with additional discharge of 1200m³/s and total additional volume of 3MCM. I am sure that this flushing operation through the GERD culvert had no impact on your reservoir capacity or water quality, given that Roseires has 7BCM capacity. It is obvious that sedimentation is the least of all concerns for Roseires given GERD's almost 90% sediment trap capacity, and helped significant reduction of sediment during the last rainy season.

If your letter is aimed to make the point that data exchange is important, you will agree with me that agreement needs to be concluded in order to exchange information between sovereign countries. I would like to recall our repeated proposal to conclude an agreement on the first filling and related operation during filling which would have addressed such issues. Please also note that flushing the GERD reservoir from time to time is part of the normal operation procedure which the dam owner conducts on a regular basis.

Excellency, please accept the assurances of my highest consideration.

Sincerely,


Dr. Eng. Seleshi Bekele
Minister



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Tel. 011-663-72-22

ቴሌፋክስ 011-661-08-85
Tele fax 011-661-07-10

ፓ.ሰ.ቁ 5744
P.O. Box. 5744

አዲስ አበባ ኢትዮጵያ
Addis Ababa- Ethiopia



የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ
የውሃ፣ መስኖና ኢነርጂ ሚኒስቴር
The Federal Democratic Republic of Ethiopia
Ministry of Water, Irrigation and Energy

ቁጥር *moist/01/01/7/18*
Ref. No
ቀን
Date **08 APR 2021**

Dear Excellency,

Please accept my compliments and best wishes to Your Excellency and people and government of the Republic of the Sudan during this unprecedented time of global health challenges.

As you are well aware there is consensus on the filling schedule formulated by the National Independent Scientific Research Group (NISRG) along with the period of the filling to be carried out in July and August and continue in September depending on the hydrology.

In the meantime, as you know, GERD construction has progressed and approaching the second-year filling this coming rainy season or the summer of 2021. As a result, it is high time for our three sisterly countries to work together on the practical and important communication arrangements that will enable us to establish relevant information exchange and confidence building measures on GERD until the conclusion of our negotiation, under the auspices of African Union.

In order to expedite this, I would like to invite you to nominate focal persons to exchange data among the three countries with regards to the second-year filling which will take place in July and August, 2021.

I would appreciate receiving the nomination of the members of the focal persons at the soonest possible time so that appropriate information exchange arrangements are made. In the meantime, we will continue with our trilateral negotiation on the expected delivery of rules and guidelines on first filling and annual operation as stipulated in the DoP. However, realistically speaking, an immediate conclusion of agreement on the rules and guidelines of the first filling according to Article 5a of the DoP will offer a good opportunity to build confidence and trust among our three sisterly countries.

I hope these suggestions are acceptable to your Excellency and we are ready to respond to any query you may have on the information provided in this letter and the attached enclosure with regards to information on bottom outlet testing of the GERD.

In this regard, Ethiopia is happy to host the first focal persons/ dam operators meeting physically in Addis Ababa or virtually

Excellency, looking forward to hearing from you, kindly accepts the assurances of my highest consideration.

Prof. Yasir Abas Mohamed
Minister of Irrigation and Water Resources
The Republic of Sudan

Enclosure

Sincerely
[Signature]
Dr. Eng. Seleshi Bekele
Minister

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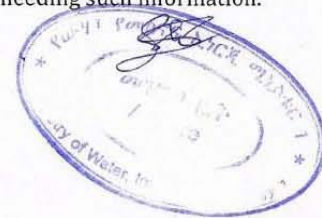
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Addis Ababa-Ethiopia

Encl: Note 1- information on bottom outlet testing of the GERD

1. Bottom outlet testing will take place during 10th of April 2021 on wards
2. During this testing period the water level in the GERD reservoir will be reduced by up to 3 meters from the current 560 masl plus surcharge
3. The testing will enable the release of more water from the reservoir and hence, it is expected the Inflow to Rosaries Reservoir to be higher than historical water inflow for this period of the year. The magnitude could be in the range of total 0.6BCM to 1 BCM.
4. The outflow to the downstream will be stabilized through the bottom outlet once the testing of the bottom outlets is complete
5. The actual 2nd year filling of the dam will take place when the inflow at GERD exceeds the stable outflow volume that takes place in May and June, 2021.
6. The subsequent filling in the months of July and August will be distributed according to the inflow hydrograph and managed release through the bottom outlets.
7. In order to coordinate better it is particularly important to exchange data between GERD , Roseries and any other dams downstream reservoirs needing such information.






 REPUBLIC OF THE SUDAN
 وزارة الري والموارد المائية
 MINISTRY OF IRRIGATION and WATER RESOURCES
 MINISTER'S OFFICE مكتب الوزير

Date: 10th April, 2021

Ref.: MoIWR/MO/59/A/3/.22.15//

H.E Dr. Seleshi Bekele
Minister of Water, Irrigation and Energy
Federal Democratic of Ethiopia

Dear Excellency, Dear Brother,

Greetings and best compliments to you and to our brothers and sisters in Ethiopia, wishing you all good health, safety and prosperity in these trying times at the global and regional levels.

Thank you for your letter dated April 8, 2021 which brought both positive and negative news. On the positive side, you invited Sudan to nominate a focal point for data exchange. Indeed, this is a positive development and a step in the right direction to recognize the need for coordination and exchange of information and data with Sudan to avoid and mitigate the negative impacts of GERD on Sudan and its population. However, as you are aware data exchange is only one inseparable element from the other elements which constitute the guidelines and rules for filling and operation of GERD. The other elements include among other things the technical aspects of the filling and operation of GERD, dam safety aspects, management and environmental and social impact aspects. It is on these other elements data will be exchanged. Therefore, unless we reach an agreement on the complete set of rules and guidelines of the filling and operation of GERD it is not clear what data exactly these focal points will be exchanging.

In this regard, I would like to recall your letter to me dated December 7, 2020 on which you stated: *"If your letter is aimed to make the point that data exchange is important you will agree with me that agreement need to be concluded in order to exchange information between sovereign countries"*. Because of these reasons the 2015 Declaration of the Principles signed among the three parties called (in paragraphs 5 (a) and (b)) for reaching an agreement on the filling and operation of GERD. Moreover, the DoP did set 15 months of signing the DoP as the deadline for reaching this agreement, we are past due the deadline by 6 years now. That is why Sudan has been calling for reaching a binding agreement on the filling and operation of GERD before the commencement of filling.






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 وزارة الري والموارد المائية
 MINISTRY OF IRRIGATION AND WATER RESOURCES
 مكتب الوزير

Accordingly, we believe that the right thing to do at this stage is to resume immediately the trilateral negotiations under an enhanced and more effective negotiations format with the mediation/facilitation support of our regional and international partners to conclude the remaining outstanding issues on the rules and guidelines for filling and operation of GERD. As you know, at the start of the AU process it was acknowledged by the three parties and as expressed in the AU Communique dated June 26, 2020, that 90% of the issues have been resolved and only few outstanding issues remained to be ironed out. Therefore, we strongly believe that with a renewed and sincere political commitment from all parties coupled with an enhanced negotiations format there is a real opportunity to reach an agreement in few weeks paving the way for an orderly second-stage filling consistent with international law, allowing Ethiopia to fully achieve its second-stage filling target while sparing Sudan unnecessary harm to its population and assets.

Excellency,

Let me now turn to the few negative news brought by your letter. Top on the list is that the letter serves as a notification that Ethiopia intends to proceed with the second-stage filling with or without an agreement. We consider that a unilateral filling without an agreement on the rules and guidelines as stipulated in the DoP is a violation of international law. Therefore, we once again call upon Ethiopia to refrain from repeating the unilateral actions of last year which caused significant harm to Sudan by disrupting water supply to millions of people as a result of the sudden and uncoordinated drop in water levels. If you proceed with the planned second-stage filling without an agreement that will cause even more harm to Sudan since the second-stage filling will retain 13.5 BMC which is about more than 3 times last year's filling.

I would like to also reflect on the Annex to your letter on the "bottom outlet testing" planned to take place as you indicated on April 10, 2021 (i.e., today) which means you conveyed this important information less than 48 hours of the start of the planned tests. This is a perfect example of why an advance agreement on the rules is important, it is also an excellent demonstration of why data exchange is not simply a matter of advance "notification" of intended unilateral actions.





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Any reasonable dam expert or operator would agree that giving only 48-hour advance notice of such an important testing exercise is not consistent with normal practice, especially when such testing will result in an unexpected 1 billion cubic meter (BMC) of additional water into Rosereis Reservoir which has a total capacity of only 7 BMC. This testing will definitely have an impact on our dam management and water resources planning for irrigation and electricity generation during the testing period and beyond requiring adjustments from our side, therefore, we should have been given not only adequate advance notification but also an opportunity to discuss our own plans so that you can reach at a formula that will allow you to conduct the testing taking into account Sudan's downstream consideration; but also allow us the opportunity to adjust our own plans.

Excellency,

I conclude by, once again, thanking you for the initiative and calling upon you to seize this opportunity of good will to agree to Sudan's proposal to resume negotiations under an enhanced negotiations format taking into consideration the lessons learnt in previous rounds. A mediation/facilitation process involving the international partners who have been supporting the three countries will help bring us closer in the remaining outstanding issues.

Excellency, please accept the assurances of my highest consideration.

Prof. Yasir Abbas Mohamed
Minister of Irrigation and Water Resources
The Republic of Sudan



Cc:

- H.E Dr. Mohamed Abd El-Aty; Minister of Water Resources, and Irrigation Arab Republic of Egypt
- Minister of Foreign Affairs, Democratic Republic of Congo
- H.E. Mousa Faki; Chairperson of the African Union Commission, Addis Ababa
- Observers and experts of the trilateral negotiations on the GERD
- Secretary General of the United Nations

Attachment 10

Prime Minister of Sudan Letter on Quartet Proposal

Written Response from the EU and the Public Statement by the UN Secretary General

باسم الرحمن الرحيم

Republic of the Sudan
Presidency of the Cabinet
Prime Minister



جمهورية السودان
رئاسة مجلس الوزراء
رئيس الوزراء

13 March 2021

Excellency, *Dear brother,*

I have the honour to solicit your support in resolving the outstanding issues in the tripartite negotiations between Sudan, Ethiopia and Egypt concerning the Great Ethiopian Renaissance Dam (GERD).

The Government of Sudan would like to reiterate its principled commitment to a peaceful and prosperous region. A region, where neighbouring countries connected for millennia through shared history, geography, culture and livelihoods, engage equally in strategic partnerships that aim to provide their citizens with a peaceful and prosperous life. Sudan's views the GERD as an important pan-African project that can turbo-charge prosperity in the region.

Following the signing of the Agreement on the Declaration of Principles on 15 March 2015, the subsequent negotiations on a binding agreement to govern the filling and annual operation of the GERD have reached an impasse. Multilateral efforts in Washington, D.C. led by the USA and other partners from November to 2019 to March 2020; and Sudan's initiative of May-June 2020 have made significant progress in resolving outstanding issues. These initiatives have demonstrated that with good faith and political will, the remaining issues, which are now considerably less; are resolvable. They require a serious and concerted effort by all key stakeholders, and international and regional support.

The Government of Sudan is gravely concerned by Ethiopia's recent public statements declaring its intent to proceed with a second filling of the GERD in July 2021, with or without a binding agreement. Without a binding agreement, one that includes environmental and social management safeguards, and an obligatory protocol on the exchange of information, these unilateral actions will pose significant harm to Sudan. This includes negatively impacting the lives and livelihoods of an estimated 20 million Sudanese citizens, the functioning of the country's dams, in addition to damaging the unique and delicate ecosystems that rely on the Nile's ebb and flow.

H. E. Mr. Félix Antoine Tshisekedi
President of the Democratic Republic of the Congo
Kinshasa



باسم الرحمن الرحيم

Republic of the Sudan
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Consistent with its commitment to a consultative process, the Government of Sudan is urgently calling for reviving the negotiations with Ethiopia and Egypt. Sudan would like to propose that the three riparian neighbours, under the leadership of the African Union (AU), consent to the facilitation and mediation efforts of the Quartet Group. The Quartet is comprised of the AU, the European Union (EU), the United Nations (UN) and the United States of America (USA), who will engage as mediators in the negotiations process.

This effort will complement the current AU-led process, as the AU will retain its privileged status as the pan-African organization with a special relationship with all three riparian states, in addition to its experiences arbitrating issues related to shared water resources. This leadership role will continue under the presidency of the Democratic Republic of Congo and your personal efforts. It will build on South Africa's laudable efforts during their role as the Presidency of the AU. The United Nations will represent the global community and provide advice on the respect of the equitable and reasonable utilization of shared water resources, without causing significant harm, under international law. The European Union and the United States were already seized of the matter. *(A detailed explanation of the proposed Quartet mediation mechanism is attached as an Annex to this letter.)*

With the Quartet mechanism, Egypt, Ethiopia and Sudan can be assured of an equitable and effective process which will lead to resolve the outstanding issues before July. Additionally, the GERD negotiations will benefit from the considerable international and regional expertise that will be made available.

In conclusion, Sudan considers any further Ethiopian actions in the absence of a mutually satisfactory and binding agreement to be a grave threat to its hard-won peace and security, and to that of the region as a whole. If such a situation were to transpire, Sudan would consider all the options available under international law, including referring the matter to the Security Council.

Sudan's utmost desire remains to reach an equitable and effective deal governing filling and annual operations of the dam, that provides all the citizens of the region prosperity and development.

Please accept, Your Excellency, the assurances of my highest considerations and regards.




Abdalla Hamdok
Prime Minister

Concept Note on the Proposed Quartet for the Grand Ethiopian Renaissance Dam

Context

Following the signing of the Agreement on the Declaration of Principles on 15 March 2015, the subsequent negotiations on a binding agreement to govern the filling and annual operation of the GERD have reached an impasse. Multilateral efforts in Washington, D.C. led by the USA and other partners from November 2019 to March 2020; and Sudan's initiative of May-June 2020 have made significant progress in resolving outstanding issues.

Since June 2020, the trilateral negotiations between Egypt, Ethiopia and Sudan were conducted under the auspices of the African Union (AU). Prior to the AU led process, the negotiations went through various formats and forums since 2011. The direct negotiations format adopted under the AU-led process which was inconclusive. There is also a need to strengthen the role of observers and independent technical experts engaged by the AU.

Based on the above considerations, the Government of Sudan has proposed to change the approach to further engage key international partners and expertise through a Quartet modality. This approach builds upon important lessons learnt from previous negotiations rounds, where significant progress was achieved with the support of third parties.

The Quartet, what is it?

The Quartet consists of the African Union, the European Union, United Nations, and the United States play a role as facilitators/mediators with an active role in negotiations process to support the negotiations process.

The Quartet is an enhancement of the AU-led process rather than a replacement, therefore, the Democratic Republic of Congo in its capacity as chair of the Africa Union continues to coordinate and lead the Quartet.

What is the Strength of the Quartet?

The strength of the proposed Quartet could be summarized in the following:

1. The Quartet brings considerable international and regional support, including political will, which will help bridge the gap between the three concerned Governments.
2. The Quartet will provide assurances and guarantees required to further support trust building among the parties (similar to the Indus Water Treaty between India-Pakistan).
3. The Quartet brings experience in transboundary water issues, dam safety, operational and environmental concerns and other related matters which could help solve with providing win-win technical solutions to the outstanding issues.
4. The AU, EU, and USA have already been part of the negotiations as observers and therefore are well versed in the issues and can provide ideas for the way forward.

How does the Quartet engage?

The Quartet will be a neutral, independent and impartial entity to support the parties reach an agreement. They will play a facilitation and mediation role.

Each participant of the Quartet should designate a high-level representative, they should also provide their technical and legal experts to support the process.

The Quartet process will build on the progress achieved in previous negotiations phases, with focus on resolving the outstanding issues.

The Quartet should submit proposals and solutions collectively as one entity to ensure a streamlined process. The three countries will decide on whether to accept or reject the proposals.

What are the next steps?

The Quartet process should be endorsed by the three countries as well the four members of the Quartet. This could be done through multiple options, for example through: (1) the Bureau of The Assembly of Heads of State and Government; or (2) an AU declaration following consultations with all parties concerned.

There should be a clear timeline established and agreed in advance for the Quartet process, which includes the number of rounds, the objectives and deliverables of each round. The modality of the negotiations, and the above considerations should be developed by the Quartet in consultation with the three parties.

The final agreement on the proposed filling and annual operations of GERD shall be submitted to the Heads of State for endorsement before signing.

بِسْمِ الرَّحْمَنِ الرَّحِيمِ

Republic of the Sudan
Presidency of the Cabinet
Prime Minister



جمهورية السودان
رئاسة مجلس الوزراء
رئيس الوزراء

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The Government of Sudan is gravely concerned by Ethiopia's recent public statements declaring its intent to proceed with a second filling of the GERD in July 2021, with or without a binding agreement. Without a binding agreement, one that includes environmental and social management safeguards, and an obligatory protocol on the exchange of information, these unilateral actions will pose significant harm to Sudan. This includes negatively impacting the lives and livelihoods of an estimated 20 million Sudanese citizens, the functioning of the country's dams, in addition to damaging the unique and delicate ecosystems that rely on the Nile's ebb and flow.

H. E. Mr. Moussa Faki Mahamat
Chairperson of the African Union Commission
Addis Ababa



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H. E. Mr. Josep Borrell Fontelles
High Representative /Vice President, the European Commission
Brussels



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Following the signing of the Agreement on the Declaration of Principles on 15 March 2015, the subsequent negotiations on a binding agreement to govern the filling and annual operation of the GERD have reached an impasse. Multilateral efforts in Washington, D.C. led by the USA and other partners from November to 2019 to March 2020; and Sudan's initiative of May-June 2020 have made significant progress in resolving outstanding issues.

Since June 2020, the trilateral negotiations between Egypt, Ethiopia and Sudan were conducted under the auspices of the African Union (AU). Prior to the AU led process, the negotiations went through various formats and forums since 2011. The direct negotiations format adopted under the AU-led process which was inconclusive. There is also a need to strengthen the role of observers and independent technical experts engaged by the AU.

Based on the above considerations, the Government of Sudan has proposed to change the approach to further engage key international partners and expertise through a Quartet modality. This approach builds upon important lessons learnt from previous negotiations rounds, where significant progress was achieved with the support of third parties.

The Quartet, what is it?

The Quartet consists of the African Union, the European Union, United Nations, and the United States play a role as facilitators/mediators with an active role in negotiations process to support the negotiations process.

The Quartet is an enhancement of the AU-led process rather than a replacement, therefore, the Democratic Republic of Congo in its capacity as chair of the Africa Union continues to coordinate and lead the Quartet.

What is the Strength of the Quartet?

The strength of the proposed Quartet could be summarized in the following:

1. The Quartet brings considerable international and regional support, including political will, which will help bridge the gap between the three concerned Governments.
2. The Quartet will provide assurances and guarantees required to further support trust building among the parties (similar to the Indus Water Treaty between India-Pakistan).
3. The Quartet brings experience in transboundary water issues, dam safety, operational and environmental concerns and other related matters which could help solve with providing win-win technical solutions to the outstanding issues.
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How does the Quartet engage?

The Quartet will be a neutral, independent and impartial entity to support the parties reach an agreement. They will play a facilitation and mediation role.

Each participant of the Quartet should designate a high-level representative, they should also provide their technical and legal experts to support the process.

The Quartet process will build on the progress achieved in previous negotiations phases, with focus on resolving the outstanding issues.

The Quartet should submit proposals and solutions collectively as one entity to ensure a streamlined process. The three countries will decide on whether to accept or reject the proposals.

What are the next steps?

The Quartet process should be endorsed by the three countries as well the four members of the Quartet. This could be done through multiple options, for example through: (1) the Bureau of The Assembly of Heads of State and Government; or (2) an AU declaration following consultations with all parties concerned.

There should be a clear timeline established and agreed in advance for the Quartet process, which includes the number of rounds, the objectives and deliverables of each round. The modality of the negotiations, and the above considerations should be developed by the Quartet in consultation with the three parties.

The final agreement on the proposed filling and annual operations of GERD shall be submitted to the Heads of State for endorsement before signing.

باسم الرحمن الرحيم

Republic of the Sudan
Presidency of the Cabinet
Prime Minister



جمهورية السودان
رئاسة مجلس الوزراء
رئيس الوزراء

13 March 2021

Excellency,

I have the honour to solicit your support in resolving the outstanding issues in the tripartite negotiations between Sudan, Ethiopia and Egypt concerning the Great Ethiopian Renaissance Dam (GERD).

The Government of Sudan would like to reiterate its principled commitment to a peaceful and prosperous region. A region, where neighbouring countries connected for millennia through shared history, geography, culture and livelihoods, engage equally in strategic partnerships that aim to provide their citizens with a peaceful and prosperous life. Sudan's views the GERD as an important pan-African project that can turbo-charge prosperity in the region.

Following the signing of the Agreement on the Declaration of Principles on 15 March 2015, the subsequent negotiations on a binding agreement to govern the filling and annual operation of the GERD have reached an impasse. Multilateral efforts in Washington, D.C. led by the USA and other partners from November to 2019 to March 2020; and Sudan's initiative of May-June 2020 have made significant progress in resolving outstanding issues. These initiatives have demonstrated that with good faith and political will, the remaining issues, which are now considerably less; are resolvable. They require a serious and concerted effort by all key stakeholders, and international and regional support.

The Government of Sudan is gravely concerned by Ethiopia's recent public statements declaring its intent to proceed with a second filling of the GERD in July 2021, with or without a binding agreement. Without a binding agreement, one that includes environmental and social management safeguards, and an obligatory protocol on the exchange of information, these unilateral actions will pose significant harm to Sudan. This includes negatively impacting the lives and livelihoods of an estimated 20 million Sudanese citizens, the functioning of the country's dams, in addition to damaging the unique and delicate ecosystems that rely on the Nile's ebb and flow.

H. E. Mr. Anthony J. Blinken
Secretary State, United States of America
Washington, DC



Consistent with its commitment to a consultative process, the Government of Sudan is urgently calling for reviving the negotiations with Ethiopia and Egypt. Sudan would like to propose that the three riparian neighbours, under the leadership of the African Union (AU), consent to the facilitation and mediation efforts of the Quartet Group. The Quartet is comprised of the AU, the European Union (EU), the United Nations (UN) and the United States of America (USA), who will engage as mediators in the negotiations process.

This effort will complement the current AU-led process, as the AU will retain its privileged status as the pan-African organization with a special relationship with all three riparian states, in addition to its experiences arbitrating issues related to shared water resources. This leadership role will continue under the presidency of the Democratic Republic of Congo. It will build on South Africa's laudable efforts during their role as the Presidency of the AU. The United Nations will represent the global community and provide advice on the respect of the equitable and reasonable utilization of shared water resources, without causing significant harm, under international law. The European Union and the United States were already seized of the matter. *(A detailed explanation of the proposed Quartet mediation mechanism is attached as an Annex to this letter.)*

With the Quartet mechanism, Egypt, Ethiopia and Sudan can be assured of an equitable and effective process which will lead to resolve the outstanding issues before July. Additionally, the GERD negotiations will benefit from the considerable international and regional expertise that will be made available.

In conclusion, Sudan considers any further Ethiopian actions in the absence of a mutually satisfactory and binding agreement to be a grave threat to its hard-won peace and security, and to that of the region as a whole. If such a situation were to transpire, Sudan would consider all the options available under international law, including referring the matter to the Security Council.

Sudan's utmost desire remains to reach an equitable and effective deal governing filling and annual operations of the dam, that provides all the citizens of the region prosperity and development.

Please accept, Your Excellency, the assurances of my highest considerations and regards.




Abdalla Hamdok
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H. E. Mr. António Guterres
Secretary-General of the United Nations
New York



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JOSEP BORRELL FONTELLES

HIGH REPRESENTATIVE
VICE PRESIDENT OF THE EUROPEAN COMMISSION

Brussels, 15/03/2021
A(2021)1849245-2022864

H.E. Mr Abdalla Hamdok
Prime Minister
Republic of Sudan

Excellency,

Thank you for your letter of 13 March, soliciting the support of the European Union concerning the talks on the Grand Ethiopian Renaissance Dam (GERD).

Last week, I had the opportunity to discuss with you on a number of pertinent issues, including on the way forward regarding GERD negotiations. The EU has been engaged on the GERD discussions for a long time, including in the role of an observer, and remains in frequent contact with all parties, in particular through EU Special Representative for Horn of Africa, Alex Rondos. We share your sense of urgency in the need to find solutions and are acutely aware of the time pressure upon the talks process.

The AU-led efforts to bring the parties to a negotiated solution have received our full support. As you rightly suggest, it is important to build trust among parties and establish a solid framework to pursue negotiations with the Democratic Republic of Congo as the new AU Chair. The EU is an honest broker in these talks and we stand ready to take a more active role, if supported by all the parties.

Allow me to further underline **the EU's continued commitment to support a positive outcome on the GERD talks** for all countries involved. We believe a solution is within the reach of Ethiopia, Sudan and Egypt. With political courage and support from the international community, this dispute could be turned into an opportunity for many people. Over 250 million citizens of the Blue Nile Basin stand to benefit from a predictable arrangement based on a negotiated solution for the filling of the GERD and attendant investments in water security, irrigation, agricultural production and electricity generation. This should be part of any talks and the EU stands ready to help steer such efforts.

Please rest assured that the EU, and myself at personal level, will remain committed to assist further and allow me to reiterate how much we welcome Sudan's **continued** engagement on this file.

Yours faithfully,



Josep Borrell Fontelles

Attachment 1

Sudan's Letter to the Security Council dated June 2, 2020

Republic of the Sudan

Permanent Mission to the United Nations
New York
The Permanent Representative



جمهورية السودان
البعثة الدائمة لدى الأمم المتحدة
نيويورك
المندوب الدائم

NO: SUN/201/20

June 2, 2020

Excellency,

Upon instructions from my Government, I have the honor to convey to Your Excellency the attached letter from H.E. Ms. Asmaa Mohammed Abdalla, the Minister of Foreign Affairs of the Republic of the Sudan, dated June 2nd, 2020, with regard to issues pertaining to the Grand Ethiopian Renaissance Dam (GERD).

I would be grateful if you, kindly, circulate this letter and its attachments as a document of the Security Council.

Please accept, Excellency, the assurances of my highest consideration.

*Omer Mohamed Ahmed Siddig
Permanent Representative*

*H.E. Mr. Nicolas de Riviere
President of the Security Council
Secretariat Bldg. Room S-2472
United Nations, NY*

Republic of the Sudan

Ministry of Foreign Affairs

The Minister



جمهورية السودان
وزارة الخارجية
القاهرة

June 2, 2020 (v.1)

Excellency,

At the outset, please allow me to sincerely congratulate you on assuming your responsibilities as the President of the Security Council for the month of June. I do trust that with your illustrious leadership qualities and expertise, you will be able to competently steer the work of the Council and confidently navigate through these prodigious times of Covid-19 which represent a global health crisis. With our collective efforts we can succeed in defeating the virus and bringing life back to normalcy.

I am writing to you with regard to the issues pertaining to the Grand Ethiopian Renaissance Dam (GERD) which were raised in the letters sent to the Security Council by the Arab Republic of Egypt and the Federal Democratic Republic of Ethiopia on May 1st, 2020, and May 14th, 2020, respectively. The Republic of the Sudan is an important riparian country to the Blue Nile, the immediate downstream country to the GERD, and thus stands to be impacted the most by the GRED. Accordingly, Sudan feels obligated to inform the Security Council of its position, and views on the issues raised in these two letters, and the details of the initiative Sudan has taken to suggest the immediate resumption of the negotiation process.

Attached to this letter is an Annex containing Sudan's Position Paper which details the facts surrounding GERD as they pertain to Sudan and our positions on the issues at hand, as well as a detailed account of our efforts throughout the negotiations process. The Annex concludes with specific recommendations. However, in the following few paragraphs I will try to capture the main points and messages underlining our position.

Excellency,

The Blue Nile is a sacred river our region is blessed with. It is shared by the three countries of Egypt, Ethiopia, and Sudan, and serves as the lifeline for the 250 million people who live in these countries. Therefore, the Blue Nile is an inseparable part of the history, culture, economy, and conscience of the people of our region.

For Sudan, the Blue Nile is the lifeline for most of Sudan's 40 million people. It serves 70% of the irrigated land in the country, and as such represents the heart of the agricultural activities on which the country's population and economy are largely dependent.

Therefore, Sudan has always believed in and advocated regional cooperation and partnership over the Blue Nile as well as the Nile River as a whole. This is demonstrated by Sudan's positions and actions since its independence as a leader in all regional initiatives and programs around the Blue Nile and the Nile River as wholes.

Excellency,

Ethiopia is currently in the final phases of constructing the GERD which is being built across the Blue Nile merely few kilometers upstream from the Sudanese-Ethiopian border. With a storage capacity of 74 Billion Cubic meters (Bm³) and installed capacity 6450 MW of hydropower. Once completed, the GERD will be the largest in Africa, and among the largest 15 hydropower plants in the world. As such, this gigantic dam will be a towering permanent structure presence with the potential of bringing both positive and negative impacts to Sudan.

The potential positive impacts of the GERD on Sudan emanate from regulating the water flow of the Blue Nile. This regulation of flow will reduce the annual floods during the rainy season, and enable Sudan to better manage its irrigation system. It will increase the hydropower generation from existing hydropower plants. In addition the GERD will increase the navigation depth along the Blue Nile and main Nile rivers.

On the negative sides, the GERD will completely change the flow regime of the Blue Nile by flattening its hydrograph. With this gigantic size, the GERD risks causing significant negative impacts on Sudan if not properly designed, constructed, filled and operated. These impacts range from threatening the lives and safety of millions of Sudanese citizens living directly downstream the GERD, to the operational safety of the Sudanese dams, to the flood-plain agricultural system of the country, and to the socioeconomic and environmental impacts along the Blue Nile and downstream the main Nile River all the way up to the border with Egypt.

However, it is important to emphasize that for the positive impacts to be realized and for the negative impacts to be mitigated there has to be an agreement in place with Ethiopia on how to fill and operate the GERD, otherwise, the GERD stands to cause substantial risks to Sudan.

Therefore, while Sudan recognizes the right of Ethiopia to develop its water resources for the benefit and well-being of its citizens, it is vital that Ethiopia does so while ensuring that any potential negative impacts are properly addressed and mitigated in close consultation and coordination with the downstream riparian countries.

Excellency,

The discussions and negotiations with Ethiopia over the GERD started since 2011. Sudan has engaged - in good faith - in all the stages of the GERD negotiations including organizing the main trilateral negotiations rounds in Khartoum (2013-2015) that culminated in the successful conclusion of the Agreement on the Declaration of Principles on the GERD (DoP). The DoP was signed by the leaders of the three countries in Khartoum on 23rd March, 2015. The current round of negotiations has started in 2018, and in November 2019 the United States and the World Bank joined the negotiation process as observers to support the three riparian countries reaching a final comprehensive agreement on the filling and operation of the GERD. Despite the fact that major progress has been achieved throughout the negotiations process, up to until February 2020, it is unfortunately that negotiations have stalled since February 2020 with escalation in rhetoric statements from both Egypt and Ethiopia.

Sudan currently is leading an initiative to convince Egypt and Ethiopia to resume negotiations to reach a final and fair deal before starting the filling of the dam. Within this context, the Prime Minister of Sudan held bilateral (online) meetings with the Prime Ministers of Egypt and Ethiopia on May 19 and 21, 2020 respectively. All the three leaders confirmed their willingness to resume the negotiations with the objective of concluding a fair and comprehensive agreement. They also instructed the Ministers of Irrigation and Water Resources of the three countries to resume the technical discussions immediately. Since then, several bilateral meetings have taken place and we hope that the tripartite negotiations will resume soon.

Excellency,

Sudan believes that that the 1997 United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses (UN Convention) reflects and codifies the basic principles of customary international water law which must be adhered to in order to resolve the remaining differences on the GERD. The overarching principle of international water law is cooperation of the riparian states of the shared watercourse. The UN Convention lays down, in detail, four main principles to which Sudan fully subscribes: the principle of "equitable and reasonable utilization"; the "obligation not to cause significant harm"; "notification and exchange of data and information"; and the "peaceful settlement of disputes".

Sudan believes that the three countries are close to concluding a comprehensive deal. Accordingly, with the strong political will and commitment from the three parties we can address the few remaining differences.

Therefore, Sudan would like to request the Security Council to: (1) Encourage all the parties to refrain from taking unilateral actions including starting filling the GERD prior to reaching a comprehensive agreement, or taking any other action jeopardizes the regional and international peace and security; and (2) Support Sudan's efforts and call upon all the parties to resume immediate negotiations in good faith with the objective of resolving the pending issues and concluding a final comprehensive agreement.

Your Excellency,

Kindly accept my sincere and highest regards.

Sincerely,



Asmaa Mohammed Abdalla
Minister of Foreign Affairs
Republic of the Sudan

To: H.E. Mr. Nicolas De Riviere,
President of the Security Council,
New York.

Annex
Grand Ethiopian Renaissance Dam
Sudan's Position

Executive Summary:

Ethiopia is currently in the final phases of constructing the Grand Ethiopian Renaissance Dam (GERD) which is being built across the Blue Nile, at 5 to 15 kilometers from the Sudanese-Ethiopian border; with a storage capacity of 74 Bm³ and installed capacity 6450 MW of hydropower. Once completed, GERD will be the largest in Africa, and among the largest 15 hydroelectric plants in the world. The GERD located just 100 km upstream of our Roseires dam which is less than 10% the size of GERD.

The Blue Nile is the life line for most of Sudan's 40 million people; it serves 70% of the irrigated land in the country, and as such represents the heart of the agricultural activities on which the country's population and economy are largely dependent.

The GERD has the potential of causing both positive and negative impacts to Sudan as further explained below. However for the positive impacts to be realized and for the negative impacts to be mitigated there has to be an agreement in place with Ethiopia on how it intends to fill and operate GRED, otherwise the GERD stands to cause substantial risks to Sudan.

On the positive side, most the potential positive impacts will result from regulating the water flow of the Blue Nile which, in turn, will control the annual floods during the rainy season, and enable Sudan to better manage its irrigation system. Regulation of the flow will increase the hydropower generation capacity from the existing hydropower plants. Other positive impacts include longer life-time for Sudan's existing dams (with the decrease of sediment load), savings in pumping costs and increase of navigation depth.

On the negative sides, the GERD will completely change the flow regime of the Blue Nile by flattening its hydrograph. With its gigantic size, the GERD poses substantial negative impacts on Sudan if not properly designed, constructed, filled and operated. These impacts range from threatening the lives and safety of millions of Sudanese citizens living directly downstream of the GERD, to the operational safety of the Sudanese dams, to the flood-plain agricultural system of the country, and to the socioeconomic and environmental impacts along the Blue Nile and downstream in the main Nile.

Therefore, while Sudan recognizes the right of Ethiopia to develop its water resources for the benefit and well-being of its citizens, it is vital that Ethiopia does so while ensuring that any potential negative impacts are properly addressed and mitigated in close consultation and coordination with the downstream riparian countries.

Since 2011, Sudan has participated in all stages of negotiations on the GERD, including organizing the main negotiations rounds in Sudan that culminated in the successful conclusion of the Agreement on the Declaration of Principles on the GERD (DoP). The DoP was signed by the leaders of the three countries in Khartoum, on 23rd March, 2015. The current round of negotiations started in 2018, and in November 2019 the United States and the World Bank joined as observers to support the three riparian countries to reach a final agreement on the filling and operation of GERD. Unfortunately, negotiations have stalled since February 2020 with escalation in rhetoric statements. Sudan currently is leading an initiative to convince the parties to resume the negotiations for reaching a fair, comprehensive and final agreement. In this context, the Prime Minister of Sudan held bilateral meetings with the Prime Ministers of Egypt and Ethiopia on May 19 and 21, 2020 respectively.

Sudan believes that the 1997 United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses (UN Convention) reflects and codifies the basic principles of customary international water law which must be adhered to, during the negotiations, to resolve the remaining differences on the GERD. The overarching principle of international water law is cooperation of the riparian states of the shared watercourse. Under this umbrella, the UN Convention lays down, in detail, four main principles to which Sudan fully subscribes: the principle of equitable and reasonable utilization; the obligation not to cause significant harm; notification and exchange of data and information; and the peaceful settlement of disputes.

Based on the above principles, and throughout the process, Sudan negotiated in good faith and believed in and advocated for a comprehensive agreement inclusive of all three riparian countries. That's why Sudan refrained from conducting trilateral negotiations in Washington in the absence of Ethiopia, the owner of the Dam. For the benefit of the process, Sudan also refused to endorse an Arab League resolution criticizing Ethiopia. In the same vain, Sudan rejected a proposal by Ethiopia for a partial agreement covering only the first stage filling as we believe any agreement has to be comprehensive and should cover all related issues to the filling and operation of the GERD.

Furthermore, Sudan strongly believes that reaching a comprehensive agreement on the guidelines and rules prior to starting the filling of GERD is extremely necessary and important for all parties; any unilateral decisions on the timing and rules of filling GERD will put millions of lives and communities at risk.

Following the Washington phase of negotiations, Sudan believes that the three countries are very close to concluding a comprehensive deal. With a strong political will and commitment from the three parties they can address the few remaining differences. Therefore, Sudan would like to request the Security Council to:

- Encourage all parties to refrain from taking unilateral actions including filling of the GERD prior to reaching a comprehensive agreement, or taking any other action jeopardizes the regional and international peace and security.

- Support Sudan's efforts and call upon all parties to resume immediate negotiations in good faith with the objective of resolving pending issues and concluding a final comprehensive agreement.

I. Background

1. Ethiopia is currently in the final phases of constructing the Grand Ethiopian Renaissance Dam (GERD), built across the Blue Nile, very close to the Sudanese-Ethiopian border. The two parts of the GERD, the saddle and concrete dams are located at a mere of 5 km and 15 km, respectively from the border of Sudan. The GERD comprises a 155m high dam and will create a reservoir with a surface area of 1,874 km² and a total storage of 74 Bm³ (1.5 times the average annual flow of the Blue Nile); It has a total installed capacity of 6450 MW of electrical power. Once completed GERD will be the largest dam in Africa, and among largest 15 hydropower plants in the world.

2. The Blue Nile is the life line for most of Sudan's 40 million people; It serves 70% of the irrigated land in the country, and as such represents the heart of the agricultural activities on which the country's population and economy are largely dependent. About 70% of the Sudan's irrigation system is mainly supplied by two dams built across the Blue Nile; namely Roseires and Sennar dams. The Roseires dam, located just over 100 km downstream the GERD has a reservoir size of less than one tenth that of GERD, while Sennar dam, located at 210 km downstream Roseires, has a capacity of less than 1% of the GERD.

3. Located just by the border, with this gigantic size, the GERD poses substantial negative impacts on Sudan if not properly designed, constructed, filled and operated. These impacts range from threatening the lives and safety of about 20 million Sudanese citizens living just downstream the GERD, to the operation of the Sudanese dams, to the flood-plain agricultural system of the country, and to the socioeconomic and environmental systems along the Blue Nile, and downstream in the main Nile River, up to the border with Egypt. Therefore, while Sudan recognizes the right of Ethiopia to develop its water resources for the benefit and well-being of its citizens, it is vital that Ethiopia addresses and mitigates any potential negative impacts in close consultation and coordination with the downstream riparian countries.

4. Since notification of the GERD Project by Ethiopia, Sudan has been engaged - in good faith - in all stages of its negotiations. Sudan has been active in the International Panel of Experts (IPE) that reviewed the initial design documents; Sudan has played a pivotal role in the activities of the Tripartite National Committee (TNC) formed to follow-up the implementation of the IPE recommendations. Sudan has also actively participated in the trilateral negotiations rounds (2013-2015) that culminated in the successful conclusion of the Agreement on the Declaration of Principles on the Grand Ethiopian Renaissance Dam Project signed by the leaders of the three countries in Khartoum on 23rd March, 2015.

5. The current round of negotiations, actually started by the formation of the National Independent Scientific Research Group (NISRG) on May 2018, established by the nine-party committee (the ministers of foreign affairs, of water, and head of intelligence) from the three countries. While since November 2019 the United States and the World Bank joined the negotiation process as observers to support the three riparian countries reach a final comprehensive agreement on the filling and operation of GERD.

6. Despite the ups and downs during this long journey of the negotiations since notification of the GERD in 2011, major consensus has been reached among the three countries on a number of key issues, in particular during the last five meetings in the region, and the other six meetings in Washington.

II. Potential Impacts of the GERD on Sudan

6. Since the GERD is 1.5 times bigger than the annual flow of the Blue Nile, it will completely change the flow regime of the river by flattening its hydrograph. This will create large impacts on the river hydrology, water resources and sedimentation. In turns, these will have direct impacts, on infrastructure, land use, people and ecosystem along the Blue Nile and the main Nile. Some of these impacts are positive and some are negative, as briefly explained below.

7. The positive impacts of the GERD results mainly because of flow regulation of the Blue Nile, i.e., the flow of the Blue Nile will be more steady with much less seasonality compared to the condition without the GERD. The positive impacts include:

- **Electricity Supply:** An increase of the hydropower generation from the existing hydropower plants in Sudan (Roseires and Merowe), as well as expected future supplies from the GERD.
- **Irrigated Agriculture:** The reliability of water supply to the existing and future irrigation schemes will improve, enhancing irrigated agriculture in the country.
- **Other Positive Impacts:** these include longer lifespan of our dams (with the decrease of sediment bed load), reduction of damages caused by exceptionally high floods, saving in pumping cost, and increase of navigation depth along the main Nile.

8. However, for the above potential benefits to materialize, closer coordination and cooperation is a prerequisite in the way GERD is operated, otherwise, all the positive impacts will be jeopardized. In addition, GERD has the capacity of causing substantial negative impacts on Sudan which can be summarized in the following:

- **Dam Safety:** failure of a dam of such a huge size as the GERD will cause devastating damages to lives, properties and agriculture in Sudan. For this reason, all dam safety

measures during filling and operation stages of GERD must be in place, active, updated and followed up carefully. Emergency preparedness and planning for the GERD and the Sudanese dams should be well coordinated, jointly planned and checked, and continuously updated and tested.

- **Social Impacts:** millions of farmers rely mainly on the flood plain agriculture in the Blue and main Nile. However, the regulation of the flow of the Blue Nile will reduce the flood irrigated land by about 50%, thus affecting the farmers if this impact is not properly addressed and mitigated.
- **Sediment Reduction:** the annual sediment carried by the river flood is a good natural fertilizer, the quantity and quality of the sediment will be significantly reduced.
- **Environmental Impacts:** these include change in river water quality, morphological changes, fisheries, flood forests, and health issues.
- **Filling and Long-Term Operation of the GERD:** Sudan storage facilities are of small size, and depend entirely on the annual flow pattern of the Blue Nile. Therefore, the mode of the GERD operation during dry years, or prolong drought, greatly impacts the Sudanese storage facilities both on operation and maintenance to meet the needs of the agricultural and hydropower sectors.

9. It is important to note that the above socioeconomic and environmental impacts have not yet been fully studied and quantified by Ethiopia. Therefore, the Independent Panel of Experts recommended and the three countries agreed to as stated in the Declaration of the Principles to finalize these transboundary socio-environmental studies. Sudan believes that these negative impacts could be greatly minimized, if properly quantified, and a sound regional cooperation resulting in optimal management of the shared water resources is achieved.

III. International Law Principles Governing the GERD Issues

10. Although not yet a party to the United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses (UN 1997 Convention), Sudan accepts the view that the UN Convention reflects and codifies the basic principles of customary international water law. It is Sudan's firm belief that these principles must be adhered to, during the negotiations, to resolve the remaining differences on the GERD, in as much as they have been followed for resolving the earlier main differences.

11. The overarching of these principles of international water law is cooperation of the riparian states of the shared watercourse. The UN Convention affirms the importance of international cooperation and good neighborliness, and requires the riparian states to "*cooperate on the basis of*

sovereign equality, territorial integrity, mutual benefit and good faith in order to attain optimal utilization and adequate protection of an international watercourse.” Under this umbrella, the UN Convention lays down, in detail, four main principles to which Sudan fully subscribes: the principle of equitable and reasonable utilization; the obligation not to cause significant harm; notification and exchange of data and information; and the peaceful settlement of disputes.

12. During the negotiations to conclude an agreement on the GERD in 2015, Sudan worked closely and diligently with Egypt and Ethiopia to ensure that these basic and cardinal principles of international water law are incorporated and fully reflected in the “Agreement on Declaration of Principles between the Arab Republic of Egypt, the Federal Democratic Republic of Ethiopia and the Republic of the Sudan on the Grand Ethiopian Renaissance Dam Project, concluded in Khartoum on 23 March 2015. To underscore its importance, the DoP was signed by the Presidents of Egypt and Sudan, and the Prime Minister of Ethiopia, themselves.

13. Walking on the footsteps of the UN Convention, the DoP emphasizes the principle of cooperation in the first of its Articles, and requires the three states “*To cooperate based on common understanding, mutual benefit, good faith, win-win, and principles of international law.*” Furthermore, the same Article requires the three states “*To cooperate in understanding upstream and downstream water needs in its various aspects.*” The DoP then goes on to embrace and elaborate the four ensuing and basic principles of international water law, namely: (i) The Obligation not to cause significant harm, (ii) Equitable and reasonable utilization, (iii) Exchange of Information and Data, and (iv) Peaceful Settlement of Disputes.

14. With regards to the principle “*not to cause significant harm*”, and in line with the UN Convention, Article III of the DoP requires the three states to “*take all appropriate measures to prevent the causing of significant harm in utilizing the Blue/Main Nile.*” Where significant harm is nevertheless caused to one of the three states, Article III requires the state whose uses cause such harm, to take all appropriate measures “*to eliminate or mitigate such harm and, where appropriate, to discuss the question of compensation.*”

15. Article VII of the DoP deals with the “*Principle of Exchange of Information and Data*” and requires each of the three states to “*provide data and information needed for the conduct of the TNC joint studies in good faith and in a timely manner.*”

16. With regards to the Principle of Peaceful Settlement of Disputes, Article X of the DoP requires the three states to settle disputes arising out of the interpretation or implementation of the DoP “*amicably through consultation or negotiation in accordance with the principle of good faith.*” Failing that, the DoP states that the parties “*may jointly request for conciliation, mediation, or refer the matter for the consideration of the Heads of State/Heads of Government.*”

17. In addition to incorporating and elaborating these basic principles of international water law as codified in the UN Convention, the DoP sets forth in Article V the “*Principle to Cooperate in the First Filling and Operation of the Dam.*” This Article requires the three states to “*implement*

sovereign equality, territorial integrity, mutual benefit and good faith in order to attain optimal utilization and adequate protection of an international watercourse.” Under this umbrella, the UN Convention lays down, in detail, four main principles to which Sudan fully subscribes: the principle of equitable and reasonable utilization; the obligation not to cause significant harm; notification and exchange of data and information; and the peaceful settlement of disputes.

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the recommendations of the International Panel of Experts (IPoE), respect the final outcomes of the Tripartite National Committee (TNC) Final Report on the joint studies recommended in the IPoE Final Report throughout the different phases of the project.”

18. Moreover, Article V of the DoP requires that the three states “*in the spirit of cooperation, will utilize the final outcomes of the joint studies, to be conducted as per the recommendations of the IPoE Report and agreed upon by the TNC to: (i) Agree on guidelines and rules for the first filling of GERD which shall cover all different scenarios, in parallel with the construction of GERD; (ii) Agree on guidelines and rules for the annual operation of GERD, which the owner of the dam may adjust from time to time*”; and *(iii) Inform the downstream countries of any unforeseen or urgent circumstances requiring adjustments in the operation of GERD*”. Article V adds “*the time line for the above-mentioned process shall be 15 months from the inception of the two studies recommended by the IPoE.*” Article V, thus, underscores the need for, and importance of, the two studies recommended by the IPoE, and agreed upon by the three parties.

19. With regards to the Principle of Dam safety, Article VIII of the DoP recorded appreciation of the three parties for “*the efforts undertaken thus far by Ethiopia in implementing the IPoE recommendations pertinent to the GERD safety*” and requires that “*Ethiopia shall in good faith continue the full implementation of the Dam safety recommendations as per the IPoE report.*”

20. It is worth adding that the Memoranda to the Security Council of both the Arab Republic of Egypt, and the Federal Democratic Republic of Ethiopia (dated 1 May 2020, and 14 May 2020, respectively) have reconfirmed their full commitment to the DoP.

21. For these reasons, Sudan remains fully committed to the DoP, and believes firmly that its provisions afford adequate, fair and appropriate grounds for resolving the remaining differences on the filling and operation of the GERD, and its safety, as well as the two studies, and for reaching a full and final (and not a partial) agreement on the GERD. Accordingly, Sudan believes and calls for the immediate resumption and continuation of the trilateral negotiations on the remaining differences on the GERD on the basis of the DoP, as well as good faith and cooperation, as the DoP itself stipulates.

IV. Sudan’s Position throughout the Negotiations Process

22. Sudan’s long-standing policy is that cooperation would optimize the returns and benefits for all, and that benefits from large infrastructure projects should be enhanced in order to address water and power scarcity and shortages in the region. Historically, Sudan has constructively contributed to all cooperative projects in the Nile. For example, the HYDROMET project (1967 to 1992), was mainly focusing on hydrological measurements at the Equatorial Lakes. Next, there was the Technical Cooperation Committee for the Promotion of the Development and Environmental Protection of the Nile Basin (TECCONILE) from 1992 to 1998. The Nile Basin Initiative (NBI) established in 1999 and is continuing up to date. Sudan considers that without

cooperation, unilateral actions will result in an exceedingly harmful situation that jeopardizes the regional security.

23. Committed to the significance of the River Nile as the source of livelihood and the major resource to the development of the three countries, and affirming Ethiopia's right to benefit from the Nile, similar to the two downstream countries, Sudan explicitly and officially supported the GERD, at the highest official level (the President, Minister of Foreign Affairs, Minister of Water Resources and Irrigation), and held a number of meetings with water authorities of the neighboring countries, which culminated in establishing the International Panel of Experts (IPOE), the Trilateral National Committee (TNC), the nine Party Committee, and the National Independent Scientific Research Group (NISRG).

25. From 2011, Sudan supported bringing the parties together for GERD trilateral talks including high level diplomatic visits. Accordingly, Sudan organized the main trilateral negotiations rounds in Khartoum (2013-2015) that culminated in the successful conclusion of the Agreement on the Declaration of Principles on the GERD signed by the leaders of the three countries in Khartoum, on 23rd March, 2015.

26. Putting the DoP into effect, Sudan has been instrumental in establishing the NISRG whose mandate includes *"Discussing means of enhancing the level of understanding and cooperation among the three countries with regard to GERD, including discussing and developing various scenarios related to the filling and operation rules in accordance with the principle of equitable and reasonable utilization of shared water resources while taking all appropriate measures to prevent the causing of significant harm"*.

27. Recalling all the above commitments to regional cooperation, and recognizing the right of Ethiopia to develop its shared water resources without causing significant harm to other Blue Nile riparian countries, Sudan is firmly committed to conclude a comprehensive agreement on the filling and operation of the GERD. The main areas of concern are: the dam safety, filling plans, variability and minimum releases from the GERD, data and information sharing, operation during normal and dry years, the coordination mechanism, and the socio-economic and environmental impacts resulting from the implementation of the GERD project.

28. The NISRG has conducted five rounds of negotiation held rotationally in the capitals of the three countries. Major achievement that has been made is the agreement on the GERD first filling to be in stages, as well as studying different scenarios for the initial filling. While, details of initial filling, long term operation, and the coordination mechanism remained the main issues of disagreement between the countries at that stage.

29. Upon the request by Egypt to include the US and World Bank representatives as observers to the negotiations process, the ministers of foreign affairs and water resources and irrigation in the three countries, met in Washington, in the presence of the observers, on the 3rd November, 2019 and agreed on the way forward. Consequently five Ministerial and several technical sessions

were held in Washington, plus one meeting in Khartoum. In the meetings held on February 12th and 13th, 2020 in Washington there was a major breakthrough where the three parties reached consensus on most of the issues on the negotiations table; and agreed to discuss and finalize the remaining issues during the next meeting to be held on 28th -29th Feb, 2020 in Washington.

30. However, Ethiopia did not attend the February 28th 2020 meeting in Washington. In line with its commitment to reach a comprehensive agreement, Sudan sent its negotiations team to Washington. However, Sudan refused to take part in any bilateral negotiations in the absence of the third party, because Sudan strongly believes that meaningful negotiations can only be conducted in the presence of the three parties.

31. Sudan also believes that the three countries can bring about the necessary, fair and just agreement. Therefore, despite being an important member of the Arab League, Sudan declined to endorse a resolution by the Arab League on the issue of the GERD. Sudan felt, despite the body's good intentions, that the resolution will be counterproductive to the process and not in the best interest of encouraging finding a solution to the pending issues that is acceptable to all three countries.

V. Sudan's Views and Efforts on Finding Solutions

32. In November 2019 the United States and the World Bank joined the negotiations process as observers. Their constructive and supportive role to the riparian countries helped to accelerate the frequency of the meetings and accordingly the three countries made significant progress in the negotiations which led to the start of drafting a comprehensive legal agreement.

33. However, it is worth noting here that the process of drafting the legal agreement was entirely led and driven by the riparian countries themselves. The kick-off meeting of the legal teams of the three countries was held in Khartoum, on January 22nd -23rd, 2019 and the discussions and drafting process continued in Washington D.C. in various sessions on January 28th to February 13th, 2020. By the last session concluded on February 13th, 2020 a draft agreement was in a very advanced stage with 90% of the issues agreed upon, and only few differences remained to be resolved.

34. Throughout the process Sudan negotiated in good faith, believed in and advocated for a comprehensive agreement inclusive of all three riparian countries. For this reason when Ethiopia was unable to attend the last meeting which was supposed to be held on February 27, 2020, Sudan refrained from holding any talks that did not include all three parties. Similarly, when Ethiopia, later, proposed a partial agreement addressing the initial filling stage, Sudan again insisted that a comprehensive agreement addressing all issues is the only tenable way forward.

35. Thus, Sudan strongly believes that signing a partial agreement covering only the first stage filling will not be tenable because there are many other technical and legal issues which should be

included in any agreement related to the filling and operation of the GERD. These include, but not limited to, the coordination mechanism, normal operation, data exchange, dam safety measures, and the pending environmental and social impacts studies.

36. Furthermore, Sudan strongly believes that reaching an agreement on the guidelines and rules for the first stage filling, prior to starting the filling of the GERD is extremely necessary and important for all parties, as GERD is a huge dam, built just 15 km from the border, with millions of Sudanese people living downstream along the river banks. Most importantly, GERD is only 100 km upstream of the Roseries Dam which is one-tenth smaller in size. Any unilateral decisions on the timing and rules of filling the GERD will put millions of lives and communities at risk.

37. The Prime Minister of Sudan held bilateral meetings with the Prime Ministers of Egypt and Ethiopia on May 19th and 21st, 2020 respectively. The objectives of these meetings were to bring all the parties back to the negotiations table with the view of finding solutions to the few pending issues. Sudan is grateful that both governments have agreed to resume negotiations and instructed their respective Ministers of Irrigation and Water Resources to start planning for the resumption of the tripartite meetings.

38. Based on the above mandate, the Sudanese Minister of Irrigation and Water Resources held several bilateral talks and meetings with his counterparts from Egypt and Ethiopia to start planning for the resumption of the trilateral negotiations

VI. Conclusions and Recommendations

39. Sudan believes that the three countries are close to concluding a comprehensive deal. With the political will and commitment, the three parties can address the few remaining issues. Therefore, Sudan would like to request the Security Council to:

- Discourage all parties from taking unilateral actions including filling the GERD prior to concluding a comprehensive agreement; and
- Support Sudan's efforts and call upon all parties to resume negotiations in good faith immediately.

Attachment 2

Sudan's Letter to the Security Council dated June 24, 2020

Le Président du Conseil de sécurité présente ses compliments aux membres du Conseil et a l'honneur de transmettre, pour information, le texte d'une **lettre datée du 24 juin 2020**, adressée au Président du Conseil de sécurité, **par le Représentant permanent du Soudan auprès de l'Organisation des Nations Unies**, ainsi que les pièces qui y sont jointes.

Cette lettre et les pièces qui y sont jointes seront publiées comme document du Conseil de sécurité sous la cote S/2020/586.

Le 24 juin 2020

The President of the Security Council presents his compliments to the members of the Council and has the honour to transmit herewith, for their information, a copy of a **letter dated 24 June 2020 from the Permanent Representative of the Sudan to the United Nations** addressed to the President of the Security Council, and its enclosures.

This letter and its enclosures will be issued as a document of the Security Council under the symbol S/2020/586.

24 June 2020

Republic of the Sudan

Permanent Mission to the United Nations
New York
The Permanent Representative



جمهورية السودان
البعثة الدائمة لدى الأمم المتحدة
نيويورك
المستدوب الدائم

No: SUN/210/20

June 24, 2020

Excellency,

Upon instructions from my Government, I have the honor to convey to Your Excellency the attached letter from H.E. Ms. Asmaa Mohammed Abdalla, the Minister of Foreign Affairs of the Republic of the Sudan, dated June 24, 2020, on the developments pertaining to the negotiations process on the Grand Ethiopian Renaissance Dam (GERD).

It's to be notified that copy of this letter was forwarded to H.E. Mr. Antonio Guterres, the United Nations Secretary General, for his perusal.

I would be grateful if you, kindly, circulate this letter and its annexes, as a document of the Security Council.

Please, accept, Excellency, the assurances of my highest consideration.

*Omer Mohamed A. Siddig
Permanent Representative*

*H.E. Mr. Nicolas de Rivière
President of the Security Council,
New York.*

Republic of the Sudan

Ministry of Foreign Affairs

The Minister



جمهورية السودان
وزارة الخارجية
القاهرة

June 24, 2020

Excellency,

I have the honor to write to Your Excellency following on my letter dated 2nd June, 2020, and in relation to the two recent letters sent to you by Egypt and Ethiopia on 19 June 2020, and 22nd June 2020, respectively on the developments pertaining to the negotiations process of the Grand Ethiopian Renaissance Dam (GERD).

In my 2nd June letter, I have stressed the fact that Sudan has always believed in, and advocated regional cooperation and partnership, over the Blue Nile and the River Nile as a whole. I have also indicated that the GERD has the potential of bringing both positive and negative impacts, and it is significantly crucial for the parties to exert all possible efforts in a cooperative spirit to realize the positive impacts, while earnestly collaborating to mitigate the negative ones.

I also reaffirmed the unequivocal commitment and adherence of Sudan to the principles of international water law, especially those relating to the equitable and reasonable use of shared water resources without causing significant harm to others. These principles were confirmed by the three countries in the Declaration of the Principles (DoP) they signed in 2015. I concluded my letter by requesting the Security Council to encourage the parties to refrain from taking unilateral actions and to support Sudan's efforts to immediately resume negotiations in good faith.

Excellency,

I felt obliged to write this letter to update Your Excellency on developments of paramount importance with emphasis on the outcome of the initiative taken by the Prime Minister of Sudan, Dr. Abdalla Hamdok, which aimed at ending the stagnation and convincing the parties to resume the trilateral negotiations. He also invited South Africa, the United States of America, and the European Union as observers, who have kindly attended all the trilateral meetings. You will find

a detailed account of the status of negotiations and outstanding issues in the Annexes to this letter.

A series of six video conference rounds of bilateral technical discussions, and ultimately seven trilateral negotiations, took place from 19th of May, to 17th of June, 2020. During these rounds of talks Sudan succeeded in bringing the divergent views and positions by submitting three consecutive versions of the draft agreement on the filling and operation of the GERD. These drafts are based on the consensus achieved till mid-February 2020 in Washington, as well as the bilateral technical discussions and trilateral negotiations held in May-June 2020.

Towards the end of the negotiations, Sudan was convinced that the parties have made significant progress on major technical issues, while divergence on some fundamental legal issues still persists. Sudan took the appropriate decision of proposing the referral of those pending issues to the level of Prime Ministers who will have the political will to reach an agreement on these issues; hence enabling the negotiating teams to resume negotiations and conclude a comprehensive and binding agreement.

Sudan is of the conviction that its proposals contained in the draft agreement dated June 14, 2020, submitted towards the end of the last round of negotiations, represent the best compromise text as the draft has endeavored to genuinely accommodate the interests and concerns of all the parties. The draft is comprehensive, fair, and balanced, and it paves the way for concluding a comprehensive and final deal. We believe that the three countries should adopt this draft as a base to conclude a final agreement. With the political will and commitment from the parties we can conclude this historic agreement.

Sudan is deeply concerned about Ethiopia decision to start filling the of GERD reservoir in the absence of an agreement. The water of the Sudanese Roseires reservoir, is only 15 km downstream the GERD. With its small size (one tenth of the GERD), unilateral filling of GERD put operation of Roseires, and hence the lives of millions people living downstream at a very high risk.

Therefore, we request the Security Council to consider the following:

- (1) call upon the leaders of the three countries to demonstrate their political will and commitment by resolving the few remaining issues and conclude an agreement.

(2) Call upon the parties to adopt the comprehensive draft Sudan has submitted as the basis for finalizing an agreement.

(3) Discourage all parties from unilateral actions including starting the filling of the reservoir before reaching an agreement.

Sudan believes that the window for reaching an agreement is closing by the hour. Let us all work very hard to mark a historic moment in the Nile region and turn GERD into a trigger for cooperation instead of a cause for conflict and instability.

Your Excellency,

Please accept, Excellency, the assurances of my highest consideration.

Sincerely,



Asmaa Mohammed Abdalla
Minister of Foreign Affairs
Republic of the Sudan

H.E Ambassador Nicolas de Riviere
President of the Security Council
United Nations,
New York

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Sincerely,



Asmaa Mohammed Abdalla
Minister of Foreign Affairs
Republic of the Sudan

H.E Ambassador Nicolas de Riviere
President of the Security Council
United Nations,
New York

Annex
Grand Ethiopian Renaissance Dam
Sudan's Position

I. Background

Ethiopia is currently in the final phases of constructing the Grand Ethiopian Renaissance Dam (GERD) which is being built across the Blue Nile, at 5 to 15 kilometers from the Sudanese-Ethiopian border; with a storage capacity of 74 Bm³ and installed capacity 6450 MW of hydropower. Once completed, GERD will be the largest in Africa, and among the largest 15 hydroelectric plants in the world. The GERD is located just 100 km upstream of the Roseires dam in Sudan, which is less than 10% the size of GERD (see Attachments 1 and 2).

The Blue Nile is the life line for most of Sudan's 40 million people; it serves 70% of the irrigated land in the country, and as such represents the heart of the agricultural activities on which the country's population and economy are largely dependent.

The GERD has the potential of resulting in both positive and negative impacts to Sudan as further explained below. However, for the positive impacts to be realized, and for the negative impacts to be mitigated, there has to be an agreement in place with Ethiopia on how it intends to fill and operate the GRED, otherwise the GERD stands to cause substantial risks to Sudan.

On the positive side, most the potential positive impacts will result from regulating the water flow of the Blue Nile which, in turn, will control the annual floods during the rainy season, and enable Sudan to better manage its irrigation system. Regulation of the flow will increase the hydropower generation capacity from the existing hydropower plants. Other positive impacts include longer life- time for Sudan's existing dams (with the decrease of sediment load), savings in pumping costs and enhancement of the navigation depth.

On the negative sides, the GERD will completely change the flow regime of the Blue Nile by flattening its hydrograph. With its gigantic size, the GERD poses substantial negative impacts on Sudan if not properly designed, constructed, filled and operated. These impacts range from threatening the lives and safety of millions of Sudanese citizens living directly downstream of the GERD, to the operational safety of the Sudanese dams, to the flood-plain agricultural system of the country, and to the socioeconomic and environmental impacts along the Blue Nile and downstream in the main Nile.

Therefore, while Sudan recognizes the right of Ethiopia to develop its water resources for the benefit and well-being of its citizens, it is vital that Ethiopia does so while ensuring that any potential negative impacts are properly addressed and mitigated, in close consultation and coordination with the downstream riparian countries.

Since 2011, Sudan has participated in all stages of negotiations on the GERD, including organizing the main negotiations rounds in Sudan that culminated in the successful conclusion of the Agreement on the Declaration of Principles on the GERD (DoP). The DoP was signed by the leaders of the three countries in Khartoum, on 23rd March, 2015. The current round of negotiations started in 2018, and in November 2019 the United States and the World Bank joined as observers to support the three riparian countries to reach a final agreement on the filling and operation of the GERD. Unfortunately, negotiations have stalled since February 2020 with escalation in rhetoric statements. Consequently, the Prime Minister of Sudan took the initiative to convince the parties to resume the negotiations for reaching a fair, comprehensive and final agreement. Details of Sudan initiative is given in Part II below.

Sudan believes that the 1997 United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses (UN Convention) reflects and codifies the basic principles of customary international water law which must be adhered to, during the negotiations, to resolve the remaining differences on the GERD. The overarching principle of international water law is cooperation of the riparian states of the shared watercourse. Under this umbrella, the UN Convention lays down, in detail, four main principles to which Sudan fully subscribes: the principle of equitable and reasonable utilization; the obligation not to cause significant harm; notification and exchange of data and information; and the peaceful settlement of disputes.

Walking on the footsteps of the UN Convention, the DoP emphasizes the principle of cooperation in the first of its Articles, and requires the three states “*To cooperate based on common understanding, mutual benefit, good faith, win-win, and principles of international law.*” Furthermore, the same Article requires the three states “*To cooperate in understanding upstream and downstream water needs in its various aspects.*” The DoP then goes on to embrace and elaborate the four ensuing and basic principles of international water law, namely: (i) The Obligation not to cause significant harm, (ii) Equitable and reasonable utilization, (iii) Exchange of Information and Data, and (iv) Peaceful Settlement of Disputes.

Based on the above principles, and throughout the process, Sudan negotiated in good faith and believed in and advocated for a comprehensive agreement inclusive of all three riparian countries. That’s why Sudan refrained from conducting trilateral negotiations in Washington in the absence of Ethiopia, the owner of the Dam. For the benefit of the process, Sudan also refused to endorse an Arab League resolution criticizing Ethiopia. In the same vain, Sudan rejected a proposal by Ethiopia for a partial agreement covering only the first stage filling as we believe any agreement has to be comprehensive and should cover all related issues to the filling and operation of the GERD.

Furthermore, Sudan strongly believes that reaching a comprehensive agreement on the guidelines and rules prior to starting the filling of GERD is extremely necessary and important for all parties; any unilateral decisions on the timing and rules of filling GERD will put millions of lives and communities at risk.

II. Status of Negotiations under the Sudan Initiative

The Prime of Sudan, Dr. Abdalla Hamdok, led an initiative to convince the parties to resume the negotiations and reach a fair, comprehensive and final agreement. With this context, the Prime Minister of Sudan held virtual bilateral meetings with the Prime Ministers of Egypt and Ethiopia on May 19 and 21, 2020 respectively. His efforts lead to the restart of bilateral technical discussions followed by trilateral negotiations.

From May 25 to June 5, 2020 the Sudanese negotiations team, led by Sudan's Minister of Irrigation and Water Resources, held six (6) bilateral technical discussions (three each with Egypt's and Ethiopia's) to prepare for the resumption of the trilateral negotiations.

The Prime Minister of Sudan issued an invitation to three observers, namely, South Africa, the current Chair of the African Union, the United States of America, and the European Union. Following that an invitation was extended by Sudan to all parties including the observers for the resumption of the trilateral negotiations.

From June 9 to 17, 2020 a total of seven (7) trilateral negotiations meetings were held among the parties. During this period Sudan submitted three versions of a compromise draft Agreement for the First Filling and Annual Operations of the GERD, on June 10, 12, and 14, 2020. The June 10, 2020 version was based on the consensus reached up to mid-February, and the June 12 and 14 versions were based on the feedback and suggestions we received from Egypt and Ethiopia during this last round of discussions.

We believe the three parties made significant progress on the main technical issues, mainly the first filling, annual operation, mitigation measures, dam safety, environmental and social issues, coordination mechanism, and data exchange. However, on the legal matters a widening gap emerged on the issues of the binding nature of the legal agreement including amendments and termination. These gaps on the legal matters also include dispute resolution mechanism, and the reference to 1959 water treaty between Egypt and Sudan as well as a demand by Ethiopia to enter into a water sharing agreement within 10 years in accordance with Nile Basin Cooperative Framework Agreement (CFA).

These remaining few issues require a political will and commitment to conclude an agreement. Therefore, Sudan suggested suspension of the trilateral negotiations to allow time for the political leaders of the three countries to try to settle these outstanding legal issues.

III. Sudan Proposed Compromise Agreement of June 14, 2020

Sudan believes that the three countries are closer than ever to reaching an agreement, and that the June 14, 2020 proposed draft Agreement of Sudan (Attachment 3) is a comprehensive, fair, and balanced Agreement which the three countries should adopt as the basis for the final agreement. This draft agreement has been based on the outputs of discussions and negotiations throughout

the previous years since the signature of the DoP in 2015, and up to the last current round of negotiations held by the three countries following the initiative of the Prime Minister of Sudan in June 2020.

The following parts describe in details how our proposal addresses the various legal and technical issues:

(1) Objective and Scope:

The Sudan proposal defines and limits the objectives of the agreement to the "*guidelines and rules governing the filling and operation of the Grand Ethiopian Renaissance Dam*". In addition, the proposal makes it clear that the agreement is "*not intended to be, and shall not be interpreted or applied as, an allocation of the waters of the Blue Nile among the Parties.*" These provisions are intended to ring-fence the agreement, and provide an assurance that its scope and limits shall never exceed the boundaries of filling and operating the GERD. They also provide protection against any interpretation of the agreement as a water-allocation treaty among the parties.

(2) Relationship to Pre-Existing Treaties and Future Development:

The Sudan proposal does not make any reference to any pre-existing water treaties to ensure that no party, by signing the agreement, is impliedly or inadvertently considered to have recognized an agreement to which it is not a party. The proposal goes on to state that the agreement "*shall not prejudice the rights of any of the three countries in existing and future developments upstream and downstream of the GERD.*"

(3) Filling of the GERD

The filling of the GERD is based on two basic principles, (a) It is carried out in stages, to minimize reduction of river flow downstream, as well as to follow the construction schedule; in this way, there will be minimum loss of hydropower generation, and minimum downstream impacts, and (b) the filling is accelerated or decelerated in accordance with the amount of water in the river. The later depends on the amount of rainfall over the Ethiopian highlands. To avoid competition with the small reservoirs in Sudan, the filling is carried out during July and August, and possibly in September, if the water level during that month is above average. Therefore, formulas and tables were developed accordingly to ensure filling of the GERD in stages, depending on rainfall, and hence the flow in the river.

(4) Long-Term Operations

Once the GERD is filled for the first time, i.e., reaching level 625m with a capacity of 49.3 Bm³, then the normal operation is straightforward to maximize hydropower generation. In that, the GERD is filled seasonally during flood season (July, August, and possibly September), to reach maximum level of 640 m (capacity of 74 BM³), before it starts emptying to generate hydropower during the following months. To maximize

hydropower generation, the GERD waits for the next flood season at the minimum operation level of 625m.

To sustain the environmental system downstream the GERD, a minimum release of 300 m³/s is always ensured. It may happen in the future that, the GERD level drops significantly because of drought in the basin, in particular if it is succession of dry years. In that case, the refilling follows the same criteria in (3) above.

(5) Mitigation Measures

Drought and prolonged drought periods are expected as natural phenomena. In accordance with the first principle of the Declaration of Principles (DoP), the Sudan proposal adopts drought mitigation measures that benefits from reserved storage at GERD. The later releases water for hydropower generation, which can also serve as drought mitigation measures if properly planned. In that part of the strategic reserved storage at the GERD is released through the turbines during drought conditions. The Sudan draft proposal adopts feasible thresholds to define drought, and percentages of reserved storage to be released, both during filling and operation of the GERD. However, the case of prolonged (semi) dry years, and how to deal with it, are still under discussion by the three countries.

(6) Environmental and Social Impact

The Sudan draft proposal contains the obligation on all three Parties to complete the environmental and social impact assessments which have been delayed. These studies are important to identify and assess the impacts, and identify appropriate mitigation measures. The draft proposal states “The Parties shall carry out the relevant transboundary environmental and social impact assessments, and address the recommendations of these studies following their approval”.

(7) Dam Safety Measures:

The Sudan draft proposal ensures that appropriate dam safety measures, to be followed and kept updated, are defined according to well established procedures and best practices. These procedures and practices include: risk evaluation and management, surveillance and monitoring, emergency preparedness, documentation and periodic third-party dam safety reviews. “Information and documents necessary for the safety of downstream communities and reservoirs” are required to be shared with other parties. Daily exchange of data between the GERD and the Roseires dam in Sudan are required to enable safe operation of the Roseires dam, which reservoir is only few 100 kilometers from the GERD. Special notification and coordination are required in case of emergency related to the GERD, in addition to the requirement on the dam owner “to immediately take all practicable measures to prevent, mitigate, and eliminate the harmful effects of the

Emergency.” In order to allow for safety of the earth embankments of the Roseires dam, the daily change of release from GERD is limited to prevent significant water level fluctuations.

(8) Data Exchange

The draft proposal of Sudan adopted a reciprocal data exchange mechanism on monthly basis between the GERD and downstream reservoirs to monitor and verify the implementation of the agreement. However, and because of the proximity of the Roseires dam to the GERD, daily data is to be exchanged reciprocally between the two dams. This is crucial to ensure safe operation of the small size reservoir of Roseires (one tenth of GERD).

(9) Coordination

The Sudan proposal adopts two levels coordination mechanism to be established by the three countries. First, the Technical Coordination Committee (TCC), which role is to monitor and verify the implementation of the rules governing the filling and operation of the GERD. The TCC meets 4 times a year. Then a higher level committee composed of the Ministers of Water from the three countries supervises and guides the work of the TCC. The MC and TCC may invite additional participants on a meeting-by-meeting basis in accordance with their rules of procedure.

(10) Dispute Resolution

The Sudan proposal adopts a gradual dispute resolution mechanism which incorporates technical, political, and finally legally binding options. First the Technical Coordination Committee (TCC) will try to resolve any dispute related to the implementation of the agreement, if they fail then issue will be submitted to the Ministerial Council (MC), and if it is not resolved then the issue will be escalated to the Heads of State. Finally, if the Heads of State are unable to find a solution then the issues will be submitted to an arbitral tribunal to issue a final and binding report.

IV. Outstanding Issues

Throughout the negotiation process, and up to the last trilateral meeting of 17 June 2020, there has been convergence among the three countries on most of the issues elaborated in Part III above. However, there remains some difference in some technical and legal issues, these include:

(1) Technical issues

(a) **Dry Years:** this issue relates to the question of how could the GERD supports the downstream system if the flow is below average, but still above the criteria for drought.

The Sudan proposal acknowledges the importance of this point, but left it for the TCC to discuss and agree on the details.

(b) **Annual Operation Rule:** it is important to share the average (standard) “*annual operation rule*”, with Roseires reservoir to be able to plan water usages downstream. However, the dam owner adjusts this average rule every year, and also can be further adjusted, later in the year, around October. The Sudan proposal includes sharing of the average “*annual operation rule*” in the draft agreement.

(c) **Daily Variation of Release:** Since the Roseires reservoir is very small compared to the GERD (one tenth), it is important to limit the daily changes of the release from the GERD to ensure safe operation of Roseires. Sudan proposals define this as 200 Mm³/day, while Ethiopia proposes 400 Mm³/day.

(d) **Refilling Rules:** If excessive drought occurs in the future, (like the mid 1980’s), it is most likely that both big dams HAD and GERD drop to their minimum operation level. The Sudan proposal assumes and suggests that the refilling of the GERD will be similar to the initial filling given in (3) above. However, further modifications can also be discussed and agreed to by the TCC.

(2) Legal issues

(a) **The Binding Nature of the Agreement:** the Sudan proposal ensures that the agreement to be signed will be legally binding and cannot be amended or terminated without the agreement of all three parties. However, Ethiopia is proposing a document that is “guidelines” in nature, and which can be revised easily, and in some cases would even terminate automatically if the Parties do not agree to certain revisions.

(b) **Reference to Water-Sharing Agreement:** Ethiopia insists on inserting a provision to mandate that the three countries reach a water-sharing agreement within 10 years in accordance with the Cooperative Framework Agreement (CFA), an agreement which is not signed by Sudan. We believe that the issue of water-sharing is outside the objective and scope of the agreement, and it also involves the other riparian countries of the Nile River. In addition, Ethiopia also insists in inserting a statement stating that it does not recognize a 1959 bilateral treaty between Egypt and Sudan even though that treaty has nothing to do with the agreement being negotiated.

(c) **Dispute Resolution Mechanism:** Ethiopia would like to limit the dispute resolution mechanism to only technical and political means, and a binding and conclusive process. On the other hand, Sudan proposed to include a gradual system of technical, political, and finally legal as we described above. We believe that having a conclusive and binding dispute resolution process is crucial to the sustainability of any agreement to be reached.

V. Conclusion and Recommendations

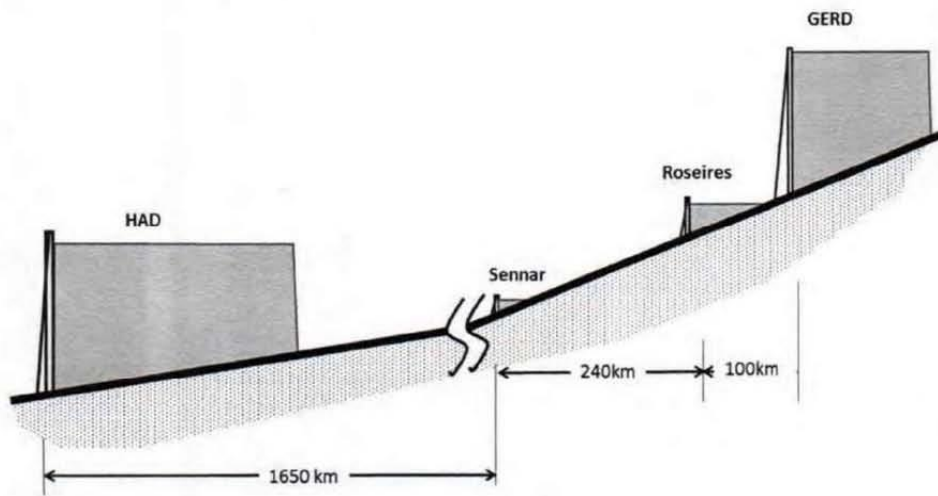
Sudan believes that the three countries are very close to concluding a comprehensive deal, and that the June 14, 2020 proposal of Sudan is a comprehensive, fair, and balanced Agreement which the three countries should adopt as the basis for their agreement. With the political will and commitment from the parties we can conclude this historic agreement.

Therefore, we request the Security Council to consider the following:

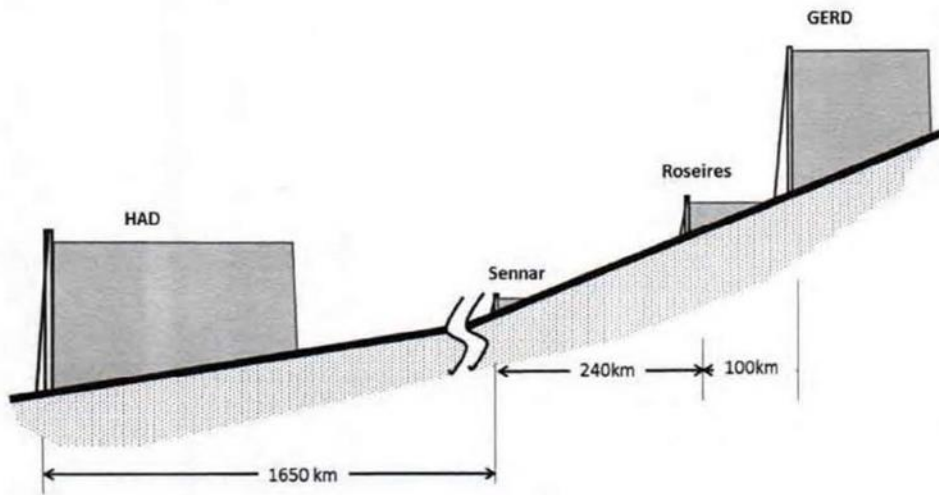
- (1) Call upon the leaders of the three countries to demonstrate their political will and commitment by resolving the few remaining issues and conclude an agreement.
- (2) Call upon the parties to adopt the comprehensive draft Sudan has submitted as the basis for finalizing an agreement.
- (3) Discourage all parties from unilateral actions including the filling of the reservoir before reaching an agreement.

Sudan believes that the window for reaching an agreement is closing by the hour. Let us all work very hard to mark a historic moment in the Nile region and turn GERD into a trigger for cooperation instead of a cause for conflict and instability.

Attachment 2: Schematization of Dams to Show Relative Size, and Distances



Attachment 2: Schematization of Dams to Show Relative Size, and Distances



Attachment 3

Sudan Compromise Proposal

Dated

June 14, 2020

“Draft Agreement on Guidelines and Rules for the
First Filling and Annual Operation of
the Grand Ethiopian Renaissance Dam

Confidential Draft**June 14, 2020****Agreement on Guidelines and Rules for the First Filling and Annual Operation
of the Grand Ethiopian Renaissance Dam**

The governments of The Arab Republic of Egypt, The Federal Democratic Republic of Ethiopia, and The Republic of the Sudan (each referred to as a "Party" and collectively as "Parties"),

Reaffirming the Agreement on Declaration of Principles (DOP) between The Arab Republic of Egypt, The Federal Democratic Republic of Ethiopia, and The Republic of the Sudan On the Grand Ethiopian Renaissance Dam Project of 23 March 2015, the object and purpose of which was to provide general principles to guide and facilitate the process of concluding the present Agreement on Guidelines and Rules for the Filling and Operation of the Grand Ethiopian Renaissance Dam (the "Agreement"),

Have concluded this Agreement, which consists of the following Articles and Annexes which constitute an integral part thereof:

**Article 1
Definitions**

For the purposes of this Agreement,

- (a) "**BCM**" means billion cubic meters.
- (b) "**Dam Safety Measures**" mean the appropriate measures and instruments developed for the safety of GERD operations including: (a) operations and maintenance manuals; (b) risk evaluation and management analysis; (c) surveillance and monitoring plans; (d) emergency preparedness plans; and (e) periodic dam safety reviews by a panel of experts.
- (c) "**Emergency**" means a situation that causes, or poses an imminent threat of causing, serious harm to any of the Parties, and that results suddenly from natural causes or human conduct.
- (d) "**Flow**" means the total volume of water entering the GERD reservoir in any given Hydrological Year.
- (e) "**GERD Level**" means the level of the GERD reservoir at the beginning of any given Hydrological Year.
- (f) "**Grand Ethiopian Renaissance Dam**" or "**GERD**" means the roller-compacted concrete gravity dam on the Blue Nile in Ethiopia and auxiliary structures including the saddle dam located at the GERD.

- (g) “**Hydrological Year**” means the period from July 1 to June 30 the following year.
- (h) “**Minimum Environmental Release**” means release from the GERD required to sustain freshwater ecosystems and the livelihoods that depend on these ecosystems.
- (i) “**m.a.s.l.**” means meters above mean sea level.
- (j) “**Normal Operation**” means operation of the GERD after the completion of the First Filling specified in this Agreement;
- (k) “**Roseires Dam**” means the concrete and earth dams and other auxiliaries at the Roseires Dam in Sudan.
- (l) “**Quantile**” means the probability of annual Flow at GERD as ranked from the largest to the smallest value - wherein each corresponding annual Flow value is equaled or exceeded.

Article 2 Objective

This Agreement establishes the guidelines and rules governing the filling and operation of the Grand Ethiopian Renaissance Dam.

Article 3 General Principles

3.1. The implementation of this Agreement shall be governed by the principles of international law in particular the principles of equitable and reasonable utilization of transboundary watercourse, the obligation not to cause significant harm, and cooperation.

3.2. This Agreement is not intended to be, and shall not be interpreted or applied as, an allocation of the waters of the Blue Nile among the Parties.

3.3. This Agreement shall not prejudice the rights of any of the Parties in existing and future developments upstream and downstream of the GERD in accordance of the principles of international law.

Article 4 Filling

4.1. Filling of the GERD shall be carried out in stages and may be accelerated or decelerated in accordance with the hydrological condition and following the rules, and the filling schedules set out in Annexes A, B and C.

4.2. Filling of the GERD shall be carried out during the wet season generally from July to August and may continue in September if the flow in September is above the average (Q50 of the flow in September).

- 4.3 The GERD will operate with a Minimum Environmental Release of 300 m³/s.
- 4.4 The acceleration referred to in Section 4.1 shall not exceed 50% of the additional flow above the average of 49 BCM (Q50) in addition to the incremental retained water in Annex B.
- 4.5 The following rules shall apply in filling of the GERD during Drought, Prolonged Drought, Prolonged Period of Dry Years:
- (a) Drought: if, in any hydrological year, the Flow at the GERD is less than 37 BCM (Q92) then the minimum release from the GERD will take place pursuant to the rules set out in Annex C.
 - (b) Prolonged Drought: if, the average Flow at the GERD over the preceding four (4) hydrological years is less than 37 BCM (Q92), then in addition to the annual release indicated in Annex C, the TCC shall discuss and agree on additional releases if the GERD Level is above 605 m.a.s.l.
 - (c) Prolonged Period of Dry Years: if, the average Flow at the GERD over the preceding four (4) hydrological years is between 38 BCM (Q90) and 40 BCM (Q85), then in addition to the annual release indicated in Annex C, the TCC shall discuss and agree on additional releases if the GERD Level is above 605 m.a.s.l.
- 4.6 Filling stage shall be completed if the GERD level reaches 625 m.a.s.l. at the end of any given Hydrological Year.
- 4.7 If, due to hydrological conditions or considerations relating to hydropower production and demand, Ethiopia deems it necessary to undertake minor adjustments in the rules or values set out in Annexes A, B, and C Ethiopia may do so, and immediately inform the TCC.

Article 5 Normal Operation

- 5.1 In normal hydrological conditions the GERD will operate mainly between 625 m.a.s.l. and 640 m.a.s.l.
- 5.2 Annual filling during operation of the GERD will be carried out in July and August and may continue in September if the Flow in September is above the average (Q50) of the flow in September).
- 5.3 The GERD will operate with a Minimum Environmental Release of 300 m³/s.
- 5.4 The following rules shall apply in Normal Operations during Drought, Prolonged Drought, Prolonged Period of Dry Years:

(a) Drought: if, in any hydrological year, the Flow at the GERD is less than 37 BCM (Q92) then the minimum release from the GERD will take place pursuant to the rules set out in Annex C.

(b) Prolonged Drought: if, the average Flow at the GERD over the preceding four (4) hydrological years is less than 37 BCM (Q92), then in addition to the annual release indicated in Annex C, the TCC shall discuss and agree on additional releases if the GERD Level is above 605 m.a.s.l.

(c) Prolonged Period of Dry Years: if, the average Flow at the GERD over the preceding four (4) hydrological years is between 38 BCM (Q90) and 40 BCM (Q85), then in addition to the annual release indicated in Annex C, the TCC shall discuss and agree on additional releases if the GERD Level is above 605 m.a.s.l.

5.5. If, due to hydrological conditions or considerations relating to hydropower production and demand, Ethiopia deems it necessary to undertake minor adjustments in the rules or values set out in Annex C, Ethiopia shall request an urgent meeting of the TCC which shall consider the proposed adjustments.

5.6. Refilling of the GERD to Normal Operation shall follow the provisions of Article 4 above.

Article 6 Coordination Mechanism

6.1 The three countries shall establish a coordination mechanism composed of a Ministerial Committee (MC) and the TCC.

6.2 The MC shall be comprised of each Party's Minister in charge of water affairs. The TCC shall be comprised of three (3) representatives from each Party assigned by the Minister in charge of water affairs. The MC and TCC may invite additional participants on a meeting-by-meeting basis in accordance with their rules of procedure.

6.3 The MC shall:

- (a) provide strategic guidance and promote cooperation and coordination on matters related to implementation of this Agreement;
- (b) resolve issues that may arise in the interpretation, application, amendment, and implementation of this Agreement in accordance with Article 10; and
- (c) adopt its own rules of procedure; and approve the TCC's rules of procedure.

6.4 The TCC shall:

- (a) facilitate cooperation and coordination on issues related to the implementation of this Agreement;
- (b) resolve issues that may arise in the interpretation, application, amendment and implementation of this Agreement in accordance with Article 10;
- (c) develop its rules of procedure for approval by the MC;
- (d) facilitate the exchange of data and information as provided for under this Agreement;
- (e) develop and implement a system for the validation of such data, relying wherever possible and appropriate, on information technology, collection and monitoring systems agreed and maintained collectively by the Parties;
- (f) monitor and verify the implementation of the rules governing the filling and operation of the GERD;
- (g) undertake any coordination of the forecasting of hydrological conditions by each of the Parties as may be agreed, and
- (h) undertake such other activities as may be agreed upon by the MC.

6.5 The TCC shall:

- (a) hold its first meeting in Addis Ababa, not later than 45 days following the entry into force of this Agreement during which it shall prepare its rules of procedure for approval by the MC,
- (b) hold subsequent meetings on a rotational basis; and
- (c) meet every year on quarterly basis, at the beginning of July, during the final week of October, at the beginning of the calendar year, and during the final week of March of every year, and as otherwise agreed by the TCC in accordance with its rule and procedures.

Article 7
Data Exchange

7.1 The Parties agree the following data will be reciprocally exchanged:

- (a) Monthly time step (daily aggregated) data on the following:
 - i. Flow at the GERD and downstream reservoirs
 - ii. water quality in the GERD reservoir, and downstream reservoirs and
 - iii. meteorological data at the GERD reservoir and downstream reservoirs.

(b) Daily time step data on the following:

- i. water level at the GERD reservoir, and
- ii. water release from the GERD reservoir.

(c) Daily time step data on the following, to be exchanged reciprocally between Ethiopia and Sudan:

- i. water level at the GERD reservoir and the Roseires reservoir, and
- ii. water release from the GERD reservoir and the Roseires reservoir.

7.2 The data referred to in Article 7.1 shall be transmitted on a monthly basis by the relevant Party to the other Parties, through the TCC, except that the data referred to in Article 7.1(c) shall be transmitted on a daily basis.

7.3 Each Party's Minister in charge of water affairs will designate focal points for the transmission and receipt of data as provided above.

Article 8 Dam Safety and Emergency Situations

8.1 Each Party shall ensure the safety of its dams.

8.2 Ethiopia shall ensure that Dam Safety Measures are kept up to date and shared with and discussed by the TCC.

8.3 Ethiopia shall share with the other Parties information and documents necessary for the safety of downstream communities and reservoirs.

8.4 Ethiopia shall complete vegetation clearance in accordance with the stages of reservoir filling and the applicable environmental management plans.

8.5 Whenever a Party becomes aware of any water quantity or quality problems they believe to be arising from the GERD and constituting an Emergency that requires an immediate response, it shall notify the other Parties and the MC shall convene without delay in order to discuss and put in place appropriate remedial action.

8.6 Nothing in the preceding paragraph shall be deemed to delay the obligation of a Party within whose territory an Emergency arising from the GERD occurs or on whose territory the impact of the Emergency occurs or is anticipated to occur to immediately take all practicable measures to prevent, mitigate, and eliminate the harmful effects of the Emergency.

8.7 To provide for the safety of the Roseires dam the daily change in the release from the GERD should be less than 200 Mm³/day.

Article 9
Environmental and Social Impact Assessments

The Parties shall carry out the relevant transboundary environmental and social impact assessments, and address the recommendations of these studies following their approval by the MC.

Article 10
Dispute Settlement

10.1 In the event of a dispute concerning the interpretation, application, or implementation of the Agreement, any of the Parties may request the holding of negotiations through the TCC to settle the dispute. The TCC may rely upon the advice and support of technical experts as appropriate to support its negotiations.

10.2 If, after thirty (30) days of a request to negotiate by any of the Parties, the TCC is unable to resolve the dispute, any of the Parties may refer the dispute to the MC, which may rely upon the advice and support of technical experts as appropriate to support its consideration of the dispute. If after 30 days of the referral of the dispute to the MC, the dispute is not settled, any of the Parties may refer the dispute to the Parties' Heads of State for consideration.

10.3 If, after thirty (30) days of the referral of the dispute to the Heads of States, the dispute is not settled, any of the Parties may refer the dispute to an arbitral tribunal. The arbitral tribunal shall be composed of five members. Within 30 days of notification of referral of the dispute by any of the Parties to the arbitral tribunal, each Party shall appoint one member to the arbitral tribunal. The Secretary General of the Permanent Court of Arbitration shall appoint the remaining two members, both of whom shall not be nationals of any of the Parties, and shall designate the Chairperson of the arbitral tribunal from those two members. If any of the Parties do not appoint a member to the arbitral tribunal, the Secretary General of the Permanent Court of Arbitration shall, within two weeks, appoint the requisite number of members, who shall be non-nationals of the Parties, to complete the composition of the arbitral tribunal.

10.4 The arbitral tribunal shall, by simple majority, adopt its own rules of procedure. If within four weeks of the establishment of the arbitral tribunal, the panel is unable to adopt the rules of procedure, the applicable rules of procedure shall be the 2012 Arbitration Rules of the Permanent Court of Arbitration, except in matters governed by this Agreement.

10.5 The arbitral tribunal shall adopt, by simple majority, its award within ninety (90) days of the appointment of the Chairperson. The award shall include findings regarding the facts of the dispute and conclusions regarding the means of settling the dispute, including, if necessary, conclusions on adequate reparations. The report of the arbitral tribunal shall be final and binding.

10.6 The Secretary General of the Permanent Court of Arbitration shall, in consultation with the TCC, maintain a roster of non-nationals of the parties and who may be appointed to the arbitral tribunal pursuant to Article 10.3.

10.7 The Parties involved shall bear the costs of the dispute resolution process. The arbitral tribunal may redistribute the final cost based on its rules and procedures.

Article 11
Signature and Entry into Force

11.1 The Ministers in charge of water affairs of the three states, being duly authorized by their respective governments, have affixed their signatures onto and concluded this Agreement.

11.2 This Agreement shall enter into force upon the exchange of the last instrument among the Parties noting the completion of their constitutional procedures and expressing their approval of and evidencing their consent to be bound by this Agreement, which shall be communicated through diplomatic channels.

11.3 The Parties undertake to complete their constitutional procedures and exchange instruments expressing their approval of and evidencing their consent to be bound by this Agreement within three months of the signature of this Agreement.

Article 12
Provisional Application

This Agreement shall be applied provisionally upon signature until its entry into force upon the exchange of instruments of ratification by the Parties, which they undertake to complete within three months of the conclusion of this Agreement.

Article 13
Review and Amendment

13.1 This Agreement shall be reviewed by the Parties every 10 years after the entry into force of the Agreement.

13.2 The quantiles included in Annex C shall be reviewed and may be amended by the Parties on the basis of the updated historical data of the hydrological conditions of the Blue Nile at the GERD site every 10 years after the entry into force of the Agreement.

13.3 Any of the Parties may propose amendments to the Agreement, which shall be submitted to and may be agreed upon by the Parties.

13.4 Amendments to the Agreement shall enter into force in accordance with same procedures set out in Article 11.2.

Article 14
Reservations

This Agreement does not lend itself to partial application, therefore reservations to this Agreement shall not be made.

Article 15
Termination

This Agreement shall only be terminated upon the entry into force of a subsequent agreement among the Parties that provides for termination of this Agreement.

[SIGNATURE BLOCK]

Done in [place] on [date] in one original in the English language.

Article 15
Termination

This Agreement shall only be terminated upon the entry into force of a subsequent agreement among the Parties that provides for termination of this Agreement.

[SIGNATURE BLOCK]

Done in [place] on [date] in one original in the English language.

Annex A

Grand Ethiopian Renaissance Dam

Stage I Filling

Stage I Filling (to 595 m.a.s.l. level of GERD)	Incremental Retention
Hydrological Year 1	4.9 BCM
Hydrological Year 2	13.5 BCM (18.4 BCM total)
Definition of Drought	
	31 BCM
Release Rule	
	Lower of 31 BCM or Flow
Postponement of Stage I	
	If Flow is less than 31 BCM, Stage I will be postponed to the following Hydrological Year

Annex B

**The Grand Ethiopian Renaissance Dam
Stage Based Filling Plan**

Stage	Target Levels of Stages in GERD (m)	Incremental Retained Water at the End of June (BCM)	Cumulative Retained Water at the End of June (BCM)
1	565	4.9	4.9
	595	13.5	18.4
2	608	10.5	28.9
3	617	10.4	39.3
4	625	10.0	49.3

Annex C

Drought Conditions Release Matrix
(Release in BCM)

Flow of River
BCM

GERD Level		37	36	35	34	33	32	31	30	29	28	27	26	25	24	23	22	21	20	
BCM	m																			
49.3 BCM	625 m	36.25	36.25	36.25	36.25	36.21	36.15	36.07	35.97	35.85	35.71	35.55	35.37	35.17	34.95	34.71	34.45	34.17	34.04	
46.2 BCM	623 m	36.30	36.20	36.10	36.00	35.86	35.70	35.52	35.32	35.10	34.86	34.60	34.32	34.02	33.70	33.36	33.00	32.62	32.39	
43.1 BCM	620 m	36.35	36.15	35.95	35.75	35.51	35.25	34.97	34.67	34.35	34.01	33.65	33.27	32.87	32.45	32.01	31.55	31.07	30.74	
40.1 BCM	618 m	36.38	36.08	35.78	35.48	35.14	34.78	34.40	34.00	33.58	33.14	32.68	32.20	31.70	31.18	30.64	30.08	29.50	29.07	
37 BCM	615 m	36.41	36.01	35.61	35.21	34.77	34.31	33.83	33.33	32.81	32.27	31.71	31.13	30.53	29.91	29.27	28.61	27.93	27.40	
33.9 BCM	613 m	36.43	35.93	35.43	34.93	34.39	33.83	33.25	32.65	32.03	31.39	30.73	30.05	29.35	28.63	27.89	27.13	26.35	25.72	
30.8 BCM	610 m	36.46	35.86	35.26	34.66	34.02	33.36	32.68	31.98	31.26	30.52	29.76	28.98	28.18	27.36	26.52	25.66	24.78	24.05	
27.7 BCM	607 m	36.50	35.80	35.10	34.40	33.66	32.90	32.12	31.32	30.50	29.66	28.80	27.92	27.02	26.10	25.16	24.20	23.22	22.39	
26.8 BCM	605 m	36.52	35.77	35.03	34.28	33.49	32.69	31.86	31.01	30.15	29.26	28.36	27.43	26.48	25.52	24.53	23.53	22.50	21.62	

Attachment 3
Communique of the Extraordinary African Union (AU)
Bureau of the Assembly of the Heads of States and the Government
Video-Teleconference Meeting on the
Grand Ethiopian Renaissance Dam (GERD)
June 26, 2020



**COMMUNIQUE OF THE EXTRAORDINARY AFRICAN UNION (AU)
BUREAU OF THE ASSEMBLY OF HEADS OF STATE AND
GOVERNMENT VIDEO-TELECONFERENCE MEETING ON THE GRAND
ETHIOPIAN RENAISSANCE DAM (GERD), 26 JUNE 2020**

President Matamela Cyril Ramaphosa of the Republic of South Africa, and Chairperson of the African Union (AU) convened a video-teleconference Meeting of the African Union (AU) Extraordinary Bureau of the Assembly of Heads of State and Government, on 26 June 2020, to discuss developments pertaining to the Grand Ethiopian Renaissance Dam (GERD).

All the Members of the Bureau participated in the video-teleconference Meeting as follows:

- His Excellency, President Felix Tshisekedi of the Democratic Republic of Congo,
- His Excellency, President Abdel Fattah al Sisi of the Arab Republic of Egypt,
- His Excellency, President Uhuru Kenyatta of the Republic of Kenya,
- His Excellency, President Ibrahim Boubacar Keita of the Republic of Mali,

His Excellency, Prime Minister Abiy Ahmad of the Federal Democratic Republic of Ethiopia, and His Excellency, Prime Minister Abdalla Hamdok of the Republic of Sudan, were invited to participate in the meeting. His Excellency, Moussa Faki Mahamat the Chairperson of the African Union Commission (AUC) also participated in the Meeting.

The Meeting of the Bureau was held pursuant to consultations undertaken by His Excellency, President Ramaphosa, in his capacity as the Chairperson of the Union with the three Negotiating Parties concerning the Grand Ethiopian Renaissance Dam (GERD), namely, Egypt, Ethiopia, and Sudan.

The Bureau of the Assembly noted that the three Negotiating Parties are Founding Members of the former Organisation of African Unity (OAU), and the African Union (AU), and have significantly contributed to the unity, integration and the development of the continent. They further noted the potential the GERD project possesses for Africa.

The Bureau of the Assembly received with appreciation a report from the Chairperson of the AUC, H.E. Moussa Faki Mahamat, which, *inter alia* noted that more than 90% of the issues in the Tripartite Negotiations between Egypt, Ethiopia and Sudan have already been resolved.

The Bureau of the Assembly was addressed by His Excellency, President Abdel Fattah al Sisi of the Arab Republic of Egypt; His Excellency, Prime Minister Abiy Ahmad of the Federal Democratic Republic of Ethiopia; and His Excellency, Prime Minister Abdalla Hamdok of the Republic of Sudan, with regards to their respective positions pertaining to the GERD matter.

The Bureau of the Assembly expressed its deep appreciation for the positive and constructive approach displayed by the three Parties in finding a peaceful, negotiated settlement on all outstanding matters, and further emphasized the importance of a win-win outcome, in the spirit of solidarity and cooperation.

In this regard, the Bureau of the Assembly decided to lend renewed impetus to the Tripartite Negotiations and urged the three Parties to expeditiously work towards finding a mutually acceptable and amicable solution on the outstanding technical and legal issues in the negotiations process.

The Bureau of the Assembly welcomed the undertaking by the three Parties to refrain from making any statements, or taking any action that may jeopardize or complicate the AU-led process aimed at finding an acceptable solution on all outstanding matters.

The Bureau of the Assembly welcomed the commitment of the three Parties to an AU-led process. In this regard, the Bureau of the Assembly agreed to augment the Tripartite Committee dealing with the GERD issue consisting of Egypt, Ethiopia and Sudan with the participation of observers, namely South Africa in its capacity as Chairperson of the AU, Members of the Bureau of the AU, and experts from the Commission, with a view to addressing outstanding technical and legal issues. The augmented Committee will present its report to the Chairperson of the AU, H.E. President Ramaphosa within a week from the issuance of this Communique.

Accordingly the Bureau of the Assembly and participating Heads of State and Government request the United Nations Security Council (UNSC) to take note of the fact that the AU is seized of this matter.

The Bureau of the Assembly and participating Heads of State and Government welcomed the intervention of H.E. President Ramaphosa and expressed their deep gratitude for his initiative to bring together the three Parties to the GERD in order to find a negotiated solution on outstanding matters.

The Bureau of the Assembly and the participating Heads of State and Government agreed to reconvene in two weeks from the date of issuance of this Communique to consider a report on the outcome of negotiations of the outstanding issues concerning the GERD matter.

ENDS.

Attachment 4
Report of the AU Experts dated July 14, 2020

**Report for the Chairperson of the African Union on the Trilateral Negotiations between
Egypt, Ethiopia and Sudan on the Grand Ethiopian Renaissance Dam**

Prepared by Legal Experts Appointed by the Africa Union (AU):

Dire Tladi¹
Tafadzwa Pasipanodya²
Adewole Adedeji³

1. Introduction

The purpose of the current report is to appraise the Chair of the African Union (AU), President Cyril Ramaphosa, of the substantive deliberations in the Trilateral Negotiations between Egypt, Ethiopia and Sudan on the Grand Ethiopian Renaissance Dam (the “Trilateral Negotiations”). The report will focus on the most difficult legal issues that, if resolved, would lead to agreements.

In particular, the following substantive legal issues are addressed in this report:

- (i) Future upstream developments
- (ii) Title and binding nature of the instrument
- (iii) Dispute settlement
- (iv) Unilateral modification and adjustment
- (v) Existing water sharing agreements
- (vi) Threshold for significant harm
- (vii) Provisional application

It has become evident through the course of the present round of the Trilateral Negotiations that the question of future upstream development is central to the Parties’ ability to reach an agreement on the Guidelines and Rules for the First Filling and Operation of the Grand Ethiopian Renaissance Dam (“Guidelines and Rules on the GERD” or “GERD agreement” or “GERD instrument”). We thus begin with this issue.

¹ Professor of International Law, University of Pretoria.

² Partner, Foley Hoag LLP.

³ Professor, Obafemi Awolowo University.

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³ Professor, Obafemi Awolowo University.

2. Future Upstream Development

Position of the Parties

The main question is whether Ethiopia, under the instrument being negotiated, would be entitled to engage in further development projects upstream of the GERD, should those upstream projects have the effect of reducing the flow through the GERD below the drought threshold. Ethiopia fears that this instrument will enable Egypt and Sudan to foreclose its future development on the Blue Nile upstream of the GERD by requiring it to seek the approval of Egypt and Sudan (or potentially an external party), for the development of such projects. The instrument will lay down thresholds of flow to enter and be released from the GERD in any hydrological year. Whether there is a drought, and thus whether the GERD can continue to be filled, is dependent on the level of this flow. Consequently, future upstream development that reduces the level of flow from the GERD below the threshold drought amount agreed upon will be subject to the consent of the other two Parties. This question, to borrow, the words of the Ethiopian legal adviser, has two levels.

The first level of the dispute is conceptual, and concerns the extent to which the instrument establishes that international principles will govern any future projects and that the GERD instrument is not intended to limit Ethiopia's right to develop future projects.

The second level of the dispute is practical and concerns the regulatory tool of the instrument. **Whatever the instrument might say about the Parties' recognition of Ethiopia's right to freely develop future upstream projects as long as they are in accordance with international law, the reality is that the instrument will subject Ethiopia's right to develop future projects to the consent of Egypt, Sudan and/or an external party, to the extent that such project reduces the flow through the GERD below the drought threshold specified in the instrument.** The main regulatory tool adopted in the draft instrument is the identification of quantiles and values of flow of water into and from the GERD. Any future development by Ethiopia will, almost certainly, affect these quantiles and values. For Ethiopia, any project upstream, even if it affects the values agreed to in the instruments, cannot be seen as breach of the instrument, since it will be in the exercise of its right to use the waters. For Egypt, allowing Ethiopia to change the quantiles and values of the flow of the GERD at will, depending on the needs of its future upstream projects, would grant Ethiopia a unilateral right to amend the instrument.

Sudan initially agreed with Egypt that Ethiopia's upstream projects should not enable Ethiopia to change unilaterally the threshold flows agreed upon by the Parties in the GERD instrument, **but through the course of these Trilateral Negotiations it has come to understand Ethiopia's perspective and has offered a helpful compromise solution addressed in the following section.**

Possible Solutions

This is a difficult issue and there are no easy solutions. While the Parties have gained critical **understanding of each other's perspectives during the course of these Trilateral Negotiations**, Ethiopia and Egypt are still far from reaching agreement. **In our view, Sudan's latest proposal**

on a future development provision represents a potential way forward. **Sudan's proposal is**, was inspired by a proposal that we had shared with the Parties during the course of these Trilateral Negotiations. This proposal was contained in our interim report of 9 July 2020 and is not reproduced here. **We present below Sudan's proposal.**

Sudan's Current Proposal:

Future Development

- (1) *This agreement shall not prejudice the rights of any of the Parties in existing and future developments upstream and downstream of the GERD.*
- (2) *Future developments upstream and downstream of the GERD shall be developed and implemented in accordance with the principles of international law, in particular the principles of equitable and reasonable utilisation of transboundary watercourses, the obligation not to cause significant harm and cooperation [this should be the duty of cooperation/duty to cooperate].*
- (3) *In case of future developments upstream of GERD developed in accordance with the principles of (2) above, Ethiopia shall*
 - (a) *maintain the quantiles set forth in Sections 4.5 and 5.4 of this Agreement; and*
 - (b) *have the right to adjust the numerical value corresponding to these Quantiles in light of changing conditions resulting from the future developments and shall notify Egypt and Sudan accordingly.*

We believe that **Sudan's proposal, based on our earlier proposal to them, presents** a workable solution and could form the basis for a way forward. While Ethiopia has expressed a willingness to work on the basis of Sudan's proposal, Egypt, has rejected it and has emphasized that while it is willing to compromise on every other aspect of the GERD agreement, it cannot depart from its position that any modification in the values in the agreement can only be done by the agreement of all the Parties.

Given the openness of Ethiopia to considering **Sudan's proposal**, we are of the view that Egypt should be encouraged to compromise on that issue. If Egypt were to compromise on that issue, Ethiopia could be encouraged to compromise and accept some form of a binding dispute settlement mechanism. Alternatively, if Egypt refuses to budge, one possibility may be to exploit **Egypt's indication** that it is willing to compromise on the binding nature of a dispute settlement mechanism if necessary to maintain its position on future development. In other words, exclude the third paragraph in Sudan's proposal (which is critical for Ethiopia), but provide for a completely non-binding, political dispute settlement process. The International Joint Commission of the United States-Canada Boundary Waters Treaty may serve as a inspiration for such a mechanism. Whether Ethiopia would be willing to accept such a compromise is an open question, but it is worth keeping it in mind in the event that Egypt

continues to reject the Sudanese approach. This alternative package might take the following form:

Future Development

- (1) *This [Agreement] shall not prejudice the rights of any of the Parties in existing and future developments upstream and downstream of the GERD.*
- (2) *Any future developments upstream and downstream of the GERD shall be developed and implemented in accordance with relevant international legal principles enshrined in the Declaration of Principles, including the principles of equitable and reasonable utilisation, the obligation not to cause significant harm and the duty to cooperate.*

Dispute Settlement

1. *In the event of a dispute concerning the interpretation, application, or implementation of the [Agreement], any of the Parties may request the holding of negotiations through the TCC to settle the dispute.*
2. *If, after thirty (30) days of a request to negotiate by any of the Parties, the TCC is unable to resolve the dispute, any of the Parties may refer the dispute to the MC.*
3. *If, after thirty (30) days of the referral of the dispute to the MC, the dispute is not settled, any of the Parties may refer the matter to a Joint Panel.*
4. *A Joint Panel is an ad hoc panel that studies and recommends solutions concerning the interpretation and the implementation of the [Agreement] when asked to do so by the Parties. Each Party appoints two experts to the Joint Panel. Panel members are chosen for their professional abilities, rather than as representatives of a particular State.*
5. *The recommendations of the Joint Panel must be accepted by the Parties to take effect.*

2. Title and Binding Nature of the Instrument

Positions of the Parties

Sudan and Egypt have taken the position that the instrument being negotiated must be a binding agreement and must be designated as such, i.e. the name of the instrument must include the word “**Agreement**” (Agreement on the **Guidelines and Rules ...**).

While Ethiopia, has conceded that the agreement will be binding, it does not accept the designation of agreement.

Possible Options

This issue is, in substance, the least difficult of the outstanding ones mainly because the Parties agree on the binding nature of the agreement. Under international law, the designation of agreement is not decisive as to whether it is a treaty or not (Art 2(1) of the Vienna Convention on the Law of Treaties). This opens up several options:

(a) *An ambiguous preambular provision as proposed by Ethiopia: “Committed to be bound by and faithfully implement the guidelines and rules contained herein”.*

(b) *A final preambular provision indicating that the agreement is binding (Both Sudan and Egypt have proposed language to this effect.*

Sudan: “this agreement which consists of the following Articles and Annexes ...”

Egypt: “have agreed on and conclude the present instrument, which is binding under and governed by international, and which consists of the following guidelines and rules ...” “Have agreed on and adopted

(c) *no explicit terms referring to “agreement” or “binding” are used, but the content of the instrument as a whole indicates, beyond doubt, that it is binding (e.g. entry into force provisions provide for ratification, there is a binding dispute settlement provision, termination or any other provisions normally associated with treaties and that you would not find in a non-binding instrument. This is a package deal approach. Although Egypt expressed discomfort with this, much of this discomfort seemed to be based on the idea that Ethiopia would not agree to these other provisions.*

(d) *A further possibility could, based on Ethiopia’s ambiguous language: “Expressing the intention to be bound under international law ...have agreed as follows”);*

(e) *Finally, different terms could be employed in the stead of “Agreement”. For example, the term Memorandum of Understanding.*

In truth, any of these possibilities will become acceptable to the Parties if the question of the future development is resolved. Ethiopia has indicated that it is ready to compromise on this issue.

2. Dispute Settlement

Positions of the Parties

The disagreement on the dispute settlement clause turns on whether the Parties can resort to an external party to resolve disputes arising out of the GERD Guidelines and Rules in a conclusive and binding manner. The Parties agree that they should try to resolve any disputes through technical and political negotiations and consultations in the first instance, but disagree as to how to settle disputes that cannot be resolved amongst the Parties in this way.

Ethiopia’s position is that the dispute settlement clause should adopt the mechanisms that the Parties agreed to in the DoP. Article 10 of the DoP provides: “If the Parties are unable to resolve the dispute through consultation or negotiation, they may jointly request for conciliation, mediation or refer the matter for the consideration of the Heads of State/Heads of Government.” The Ethiopian delegation asserts that they have no mandate to agree to any mechanism that

falls outside the scope of the DoP. Ethiopia also emphasizes that the Agreement between the Republic of Sudan and the United Arab Republic on the Full Utilization of the Waters of the Nile (“the 1959 Treaty”) does not establish a third-party dispute settlement mechanism. It further asserts that since the GERD instrument under negotiation is not a comprehensive basin-wide agreement, a third-party dispute settlement mechanism is unnecessary.

Egypt and Sudan insist that the agreement requires a conclusive and binding dispute settlement mechanism. They highlight the experience of the Parties in resolving the present dispute over the past decade to show that it would be impracticable to leave all disputes that might arise from the GERD Guidelines and Rules to the Parties alone.

Egypt and Sudan are flexible as to the specifics of the external party dispute settlement mechanism adopted, as long as it is binding and conclusive. Egypt’s current proposal includes resort to an arbitration composed of five members, with each member appointing one arbitrator and the Secretary-General appointing two members. Sudan also prefers arbitration, but is also willing to adopt some other binding process involving the African Union or the resolution of a dispute by a minimum of two of the three Heads of State.

Possible Solutions

The Parties have made progress in resolving their disagreement on this issue during the course of the AU Trilateral Negotiations. Ethiopia has now indicated that it would be willing to allow disputes to be resolved by a mediator. This represents some progress since all Parties now agree on the possibility of resorting to an external party for dispute resolution. The remaining point of disagreement is that, in Ethiopia’s view, the report of the mediator would only become binding upon endorsement by the Heads of State of the Parties.

Continued discussions during the course of these AU-led negotiations should help the Parties come to agreement on the modalities of mediation once the larger issue of future upstream development by Ethiopia is resolved. An alternative to mediation that the Parties should be encouraged to explore is compulsory conciliation. As with mediation, there are various kinds of conciliation. To be acceptable to Egypt and Sudan, the conciliation report would likely have to be binding and conclusive. A benefit of conciliation over mediation is that it generally allows for increased fact-finding. This ability to conduct in-depth factual inquiries might be useful in the context of the disputes that might arise between the Parties. Moreover, the Parties might prefer a conciliation commission, rather than a single mediator resolving their disputes.

We provide our proposed solution concerning dispute settlement below. As explained above, the Parties could also consider the alternative of non-binding dispute settlement through a joint panel of experts, should that approach prove necessary to achieve a package deal between the future development and dispute settlement provisions.

AU Legal Experts’ Proposed Solution:

Dispute Settlement

- 1. In the event of a dispute concerning the interpretation, application, or implementation of the Agreement, any of the Parties may request the holding of negotiations through*

the TCC to settle the dispute. The TCC may rely upon the advice and support of technical experts as appropriate to support its negotiations.

- 2. If, after thirty (30) days of a request to negotiate by any of the Parties, the TCC is unable to resolve the dispute, any of the Parties may refer the dispute to the MC, which may rely upon the advice and support of technical experts as appropriate to support its consideration of the dispute.*
- 3. If, after thirty (30) days of the referral of the dispute to the MC, the dispute is not settled, any of the Parties may refer the dispute to conciliation within the African Union.*
- 4. The African Union shall designate a conciliation commission that shall hear the Parties, examine their claims and objections, establish facts and make proposals to the Parties with a view to reaching a conclusory settlement. The commission shall be composed of independent experts chosen among a roster of experts established by the African Union in consultation with the Parties.*
- 5. The Parties shall implement in good faith the proposals of the conciliation commission.*

3. Unilateral Adjustment and Modification

Positions of the Parties

For Ethiopia, in the event of **change in “hydrological conditions or conditions relating to hydrological power”**, Ethiopia may **“undertake minor adjustments in the rules or values”** for flows and would **“immediately inform the”** other parties through the established coordination mechanism.

For Egypt, in the event that Ethiopia believes there to be a need to make minor adjustment **“Ethiopia shall request an urgent meeting of the TCC which shall consider and approve”** any proposed adjustment.

Sudan’s position is that in such an event the Ethiopia may make the adjustment and then inform the Parties.

Possible Solutions

The arguments for both sides have merit. From the perspective of Egypt, if Ethiopia can decide to make adjustments without the need for agreement of the Parties, then indeed the instrument would be an empty shell. On the other hand, if necessary changes could only be affected through agreement of the Parties, then necessary modifications, called for by hydrological changes, may be held hostage to the political considerations.

The Parties have made significant progress in reaching agreement on this issue during the course of the Trilateral Negotiations. It is now clear to all that the nature of adjustments under consideration concern the safe operation of the dam. The adjustments would be minor, temporary, and intended to protect the dam and ensure safety. Ethiopia has indicated that it will

consider Sudan's proposed language, which specifies that the adjustments would be minor and necessary to address emergencies.

5. Existing Water Sharing Agreements

Positions of the Parties

The Parties disagree as to the reference the GERD Rules and Guidelines should make to existing water sharing agreements such as the 1959 Treaty and the Nile Basin Cooperative Framework Agreement ("CFA").

Ethiopia's position is that the GERD Rules and Guidelines should specify that the instrument "does not amount to recognition of existing water sharing agreements between Egypt and Sudan."

Egypt prefers a more general statement that the instrument "is not intended to be and shall not be interpreted or applied as an allocation of the waters of the Blue Nile among the Parties." Egypt insists that a party cannot be bound by an agreement it has not concluded, so the provision Ethiopia proposes is unnecessary.

Like Egypt's, Sudan's proposal is also general, but makes a more explicit reference to existing water agreements: "This Agreement shall not be considered or interpreted as a recognition by any Party of a pre-existing water related agreement or any other agreement to which it is not a Party."

Possible Solutions

The Parties have made progress in resolving their disagreement on this issue during the course of the AU Trilateral Negotiations. Ethiopia has now indicated that it could potentially compromise on this issue and accept Sudan's language. It should be possible to encourage Egypt to accept Sudan's proposal should the Parties agree to more significant differences.

An alternative solution, should Egypt choose not to accept Sudan's proposal, is a preambular clause referencing *pacta tertiis*.

6. Threshold of Significant Harm

This issue of threshold for significant harm is intricately connected to the question of the right of Ethiopia to engage in upstream development.

For Egypt, any upstream development by Ethiopia that results in the lowering of the amounts flowing into the GERD and thus downstream would constitute "harm".

For Ethiopia this position is untenable as it would mean that Ethiopia is effectively precluded from engaging in development projects on the Nile. Ethiopia thus insists that the agreement must explicitly state that the thresholds and boundary conditions provided in the instrument relate only to the GERD and shall not constitute an agreement between the Parties on the threshold of significant harm.

This issue is intricately connected with the question of future development on the Nile. Its resolution will be relatively easy if the Parties can come to an agreement on future developments.

7. Provisional Application

Positions of the Parties

The Parties disagree as to the inclusion of a provisional application clause in the GERD Rules and Guidelines under negotiation.

Egypt and Sudan propose the inclusion of a clause that establishes that the GERD Rules and Guidelines apply provisionally upon signature until the instrument enters into force upon ratification by the Parties. They consider this clause essential because Ethiopia has indicated that it will start filling the GERD within a couple of weeks even though ratification processes take months. Egypt and Sudan believe a provisional application clause of this nature is necessary to ensure they are protected during the period in which ratifications are pending but Ethiopia has begun filling the GERD.

Ethiopia explained during the course of the AU Trilateral Negotiations that a domestic law enacted in 2016 prevents international treaties from being implemented in Ethiopia before ratification. Ethiopia is therefore unable to include a provisional application clause in the agreement. Nevertheless, since Ethiopia agrees to be bound by the GERD instrument once it has been signed by the Parties, it is willing to assure Egypt and Sudan of this in the form of a separate official letter.

Possible Solutions

Sudan has accepted Ethiopia's proposal. Egypt has indicated that it will review Ethiopia's 2016 law concerning treaty ratification and confirm that a separate guarantee of the application of the GERD instrument upon its signature by the Parties is legally binding. Pending Egypt's review of the relevant Ethiopian law, the Parties have essentially resolved their dispute on this issue.

* * *

As evidenced above, the AU-led Trilateral Negotiations have proven productive and have **increased the Parties' understanding of** their respective positions. Nevertheless, a few significant differences remain. As such, the leadership of the AU Chair will be critical in helping the Parties come to an agreement. It is an opportune time for the AU Chair to play a more prominent role since the Parties have expressed that they are reaching a point at which they feel that they cannot progress further in their negotiations without assistance. We stand ready to provide any further assistance.

Attachment 5

Sudan's Letter to the Security Council dated April 12, 2021

Republic of the Sudan
Ministry of Foreign Affairs

The Minister



جمهورية السودان
وزارة الخارجية
الوزير

Date 12/04/2021

Excellency;

At the outset, I would like to extend my sincere congratulations to you on assuming the responsibilities as President of the Security Council presidency for the month of April 2021. I am confident that, with your experience and brilliant leadership qualities, you will be able to efficiently manage the work of the Council.

Following up on Sudan's letters to the Council dated June 2, 2020, and Jun 24, 2020, I would like to recall, hereafter the latest developments related to the Grand Ethiopian Renaissance Dam (GERD) negotiations, as they may have serious negative impact on the situation in Sudan, the neighboring countries and would cast a negative shadow over the peace and security and stability of the region as a whole:

Excellency;

1. Despite the increasing hopes, Kinshasa meetings held on 4 to 6 April, 2021, ended without progress with regard to the GERD crisis.
2. The AU led process, which started in June 2020, has been of no significant progress due to the lack of good will to explore efficient methods. Ethiopia has always rejected all alternative options proposed by Sudan to give a more productive role to international partners, namely the United Nations, the European Union and the United States of America, in facilitating negotiations and mediating between the three parties or even setting a specific timetable for finalizing the outstanding

Republic of the Sudan
Ministry of Foreign Affairs
The Minister



جمهورية السودان
وزارة الخارجية
الوزير

Date 12/04/2021

Excellency;

At the outset, I would like to extend my sincere congratulations to you on assuming the responsibilities as President of the Security Council presidency for the month of April 2021. I am confident that, with your experience and brilliant leadership qualities, you will be able to efficiently manage the work of the Council.

Following up on Sudan's letters to the Council dated June 2, 2020, and Jun 24, 2020, I would like to recall, hereafter the latest developments related to the Grand Ethiopian Renaissance Dam (GERD) negotiations, as they may have serious negative impact on the situation in Sudan, the neighboring countries and would cast a negative shadow over the peace and security and stability of the region as a whole:

Excellency;

1. Despite the increasing hopes, Kinshasa meetings held on 4 to 6 April, 2021, ended without progress with regard to the GERD crisis.
2. The AU led process, which started in June 2020, has been of no significant progress due to the lack of good will to explore efficient methods. Ethiopia has always rejected all alternative options proposed by Sudan to give a more productive role to international partners, namely the United Nations, the European Union and the United States of America, in facilitating negotiations and mediating between the three parties or even setting a specific timetable for finalizing the outstanding

technical and legal issues which do not exceed 10% of the whole agreement.

3. Ethiopian intransigence remained inherent in all the efforts towards reaching a legally binding agreement. In addition, Addis Ababa had repeatedly officially announced that it intends to start storing water for the purpose of the second year filling of the GERD in July 2021. Filling this gigantic dam unilaterally before reaching a final and binding agreement with the downstream countries on the rules governing its filling and operation, taking into account the interests of the three countries, would threaten the lives of millions of the Sudanese people living downstream the dam, and jeopardize the operation of the Sudanese dams, hence risking the national security of the Sudan which is inconsistent with the spirit of cooperation among riparian countries that share an international waterway and constitutes a fundamental violation of the existing international legal obligations, and contrary to what was agreed upon between the three countries in the Declaration of Principles for the year 2015.
4. Sudan has continued, since 2011, in marathon negotiations to reach a final comprehensive agreement on filling and operating the dam. Sudan has participated - in good faith - in all stages of negotiations related to the dam, including the organization of the main tripartite negotiations rounds in Khartoum (2013-2015), that culminated in the conclusion of the Declaration of Principles Agreement on the GERD. The Declaration was signed by the leaders of the three countries in Khartoum on March 23, 2015. The ongoing of negotiations began in 2018, and in November 2019, the United States and the World Bank joined the negotiation process as observers to support the three riparian countries in reaching a final comprehensive agreement on filling and operation of the dam. Despite the significant progress made in all stages of the negotiation process, up to February 2020, it is regrettable that the negotiations have stalled in February 2020, as

Ethiopia claimed time for internal consultations. Then, in May 2020, His Excellency Prime Minister of the Sudan Dr. Abdullah Hamdok, took the initiative to activate the tripartite negotiations on the outstanding issues regarding filling and operating the Renaissance Dam, based on the draft agreement for the first filling and operation of the dam, which the three countries agreed to in Washington in February 2020. But unfortunately, it was also rejected by Ethiopia.

5. In pursuit of an amicable solution, Sudan agreed and engaged in the African Union initiative, where the Security Council consultations had resulted in the acceptance of a proposal by, Cyril Ramaphosa, President of the Republic of South Africa and President of the African Union, to host the negotiations under the slogan "African solutions to African problems". The Security Council's statement came out in support of the launch of new efforts to reach an agreement between the three parties under the auspices of the African Union, provided that the position would be re-presented at the time to the Security Council. Sudan has been negotiating in good faith for nearly a year, but the Ethiopian side's intransigence and its steadfast policy of evasion and obstruction led also to the stumbling and failure of these negotiations.
6. Then, after that, and confirming Sudan keenness, earnest and sincere endeavor to reach a final and binding agreement based on the interests of the three parties without harming his national interests, Sudan agreed and participated in the Kinshasa meetings in the Democratic Republic of the Congo under the auspices of the African Union from 3 to 6 April 2021, which also suffered a major failure. This also supports Sudan's view of the necessity to modify and expand the negotiation umbrella to be moderation/facilitation, and include other countries and entities, which can contribute positively and effectively to defuse tension between the three parties and set the negotiations in a correct, productive and fruitful context. Sudan stresses that the three

countries are in dire need to conclude urgently a comprehensive agreement before Ethiopia begins the disastrous second year filling process of the dam in July 2021.

7. We reiterate that the GERD will completely change the hydrological system of the Blue Nile by flattening its hydrograph. Of this huge size, the dam could cause significant negative impacts in Sudan if not properly designed, constructed, filled and operated. These effects range from threatening the lives and safety of more than twenty million Sudanese citizens who live directly downstream the dam, and threatening the operational safety of the Sudanese dams, the agricultural flood plains system in the country, in additions to the huge social, economic and environmental impacts all the way along the Blue Nile and the main Nile downstream to the border with Egypt.
8. Sudan recently initiated an initiative to expand the negotiation platform to include, in addition to the African Union, the European Union, the United Nations and the United States of America as mediators to enhance the negotiations, pushing the negotiation process forward, by contributing positively and actively to defuse tension between the three parties and setting up the negotiations in a productive and fruitful framework.

Excellency;

9. For all that we mentioned above and to defuse the tension that could develop into unfortunate and serious consequences in the region, and the world, Sudan would like to request the esteemed Security Council to do the following:
 - (A) Take note of the stalled negotiations and their failure under the auspices of the African Union in light of the declaration of the Federal Republic of Ethiopia its intention to implement the second filling of the dam lake in July 2021 without agreement between the parties. This surely will deepen the crisis and miss opportunities to reach amicable solutions,

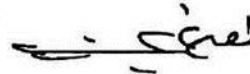
which necessitates effective intervention to move the deadlock and open opportunities and horizons for friendly solutions;

(B) Encouraging all parties to refrain from taking unilateral measures, including the commencement of the second year filling of the Grand Ethiopian Renaissance Dam before a comprehensive agreement is reached, or any other action that endangers regional and international peace and security;

(C) Support the efforts of the Republic of Sudan calling for mediation process, which is also encouraged by the Arab Republic of Egypt to negotiate an amicable agreement on the filling and operation of the Renaissance Dam and to immediately resume negotiations in good faith with the aim of resolving the outstanding issues and concluding a final comprehensive agreement as soon as possible.

Excellency;

Kindly accept my sincere and highest regards



Dr. Mariam El Sadig El Mahdi
Minister of Foreign Affairs
Republic of the Sudan

To: H.E. Ambassador Dang Dinh Quy Permanent Representative of the Socialist Republic of Viet Nam,, President of the Security Council for April 2021

Attachment 6

Exchange of Letters Between Sudan and Ethiopia on a Proposed Partial Agreement



የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ ጠቅኋላ ሚኒስትር
The Prime Minister of the Federal Democratic Republic of Ethiopia

April 10, 2020

H.E. Abdel Fattah el- Sisi
President of the Arab Republic of Egypt

H.E. Abdella Hamdok
Prime Minister of the Republic of Sudan

Excellencies and Dear Brothers,

At the outset, please allow me to extend the sincere wishes of the Ethiopian people and my government to the wellbeing of the brotherly people of Egypt and Sudan during this unprecedented time of global challenge.

The Global Pandemic is yet another transcending challenge of humanity necessitating joint efforts towards our common good. I write this letter concerning the other issue of significant importance for our countries.

In our tripartite negotiations, we have made extraordinary effort to reach consensus on the Guidelines and rules for the first filling and annual operation of the GERD. Accordingly, we managed to agree on the stage based filling schedule of the Dam.

Admittedly, more work needs to be done to finalize the Guidelines and rules. Unfortunately, time is not on our side as the COVID-19 pandemic poses a challenge for the usual shuttle diplomacy to take place.

Although reaching an agreement on Guidelines and rules is not a prerequisite for my country to begin filling the GERD, I find it appropriate to stand by my Government's longstanding commitment to promote cooperation among the Nile family. Accordingly, I propose the signing of the Guidelines and rules for the first stage filling of the GERD up to 595 meters above sea level based on the outcomes of our negotiations over the years.

As the filling of the GERD will commence in the coming few months, I believe, my proposal will bring acceptable intermediate solution that will build confidence, gain public support, and pave the way for a constructive dialogue.

We will communicate the text of the Guidelines and Rules on first stage filling as soon as I receive your Excellencies agreement with my proposal. I sincerely hope our water affairs ministers could sign the Guidelines and rules soon.

Your Excellencies, kindly accept the assurance of my highest consideration.

Sincerely,



Abiy Ahmed Ali

Prime Minister of the Federal Democratic Republic of Ethiopia

CC:

- H.E President Donald J. Trump
Washington DC
- H.E David Malpass, President of the World Bank Group
Washington DC

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Republic of the Sudan
Council of Ministers
Prime Minister



مجلس الوزراء
رئيس مجلس الوزراء

April 15, 2020

H.E Excellency Abiy Ahmed Ali
Prime Minister of the Federal Democratic Republic of Ethiopia,

Dear Excellency,

Thank you for your letter dated April 10, 2020.

Indeed, these are unprecedented times as our respective countries and people go through the global challenge of COVID-19. Please allow me to extend on behalf of the government and people of Sudan our best wishes to you and the whole of Ethiopia.

We also appreciate your kind initiative of starting a constructive discussion among the leaders of Egypt, Ethiopia and Sudan on the best way to reach an agreement on the filling and operation of the Grand Ethiopian Renaissance Dam (GERD). We believe that only through constructive dialogue and good faith negotiations we will be able to reach an agreement on the pending issues.

However, we believe that signing a partial agreement covering only the first stage filling may not be tenable because there are many other technical and legal issues which should be included in any agreement related to the filling and operation of GERD. These include, but not limited to, the coordination mechanism, data exchange, dam safety measures, and the environmental and social impacts studies.

Furthermore, we strongly believe that reaching an agreement on the guidelines and rules prior to starting the filling of GERD is necessary and important for all parties. From our perspective, I trust you would appreciate that GERD is the largest dam in Africa built just 15 km from our border, with millions of Sudanese people, living downstream along the river banks. Also, GERD is only 115 km upstream of the

Roseries Dam which is one-tenth smaller in size. Any unilateral decisions on the timing and rules of filling GERD will put millions of lives and communities at risk.

Therefore, we would like to propose, the best way forward is to immediately restart the negotiations among the three countries in order to reach a comprehensive agreement on all issues. As you noted, we made huge progress during the negotiations of the last few years, particularly through the last four to five months through the Washington Process, which remains the only viable option. We genuinely believe that we are now closer than ever to reaching a comprehensive agreement. With a final push and good faith efforts from all parties, we will be able to close the gap in the last remaining issues and conclude a historic agreement.

We agree that under the current circumstances, it may not be possible to resume the negotiations through the normal diplomatic channels. However, we should certainly explore alternative options for restarting the negotiations through video-conferencing or other technology-based means.

Please accept the assurance of my highest consideration.

Sincerely yours,



Abdalla Hamdok

Prime Minister

Republic of the Sudan



CC:

H.E Abdel Fattah El-Sisi

President of the Arab Republic of Egypt

H.E Donald J. Trump

President of the United States of America

H.E David Malpass

President of the World Bank Group

Attachment 7

**Letter from Sudan's Minister of Irrigation and Water Resources,
and Technical Report on the Implications of the First Filling July 2020**

Annex:

Sample collection of Sudanese newspaper quotes and media coverage for the implications of the sudden decline of the water inflow of the Blue Nile during the period 13 to 20 July 2020.

1. **SUNA: Nile's water plants in Khartoum stopped operating after a sudden decline in the White and Blue Nile Rivers, issue date: 19/07/2020**

<https://www.sun-a-sd.net/ar/single?id=685534&fbclid=IwAR1-7cXv0AC8JYE9Ug5zhRyiv8RhouByq78-A2Vz06JRIBmhxrVEjr-LKEs>

خروج محطات مياه عن الخدمة إثر انحسار للنيلين الابيض والازرق



15:10:07.523 2020-07-19 | مشاهدة 3582 | مشاركة الخبر علي :
|| طباعة :

الخرطوم 19-7-2020 (سونا)- أعلنت هيئة مياه ولاية الخرطوم عن خروج عدد من محطات النيلية عن الخدمة جراء انحسار مفاجئ للنيلين الابيض والازرق ونهر النيل .

وقال مدير عام الهيئة مهندس مستشار انور السادات الحاج محمد في تصريحات صحفية اليوم الاحد ان محطات الصالحه (أ) و (ب) وبيت المال وشمال بحري وام كتي والشجرة خرجت عن الخدمة جراء الانحسار المفاجئ للنيلين الابيض والازرق ونهر النيل كاشفا عن انزال منصات مضخات المياه الخام لانتي مستوي لها في محطة مياه سوبا ومحطة مياه بحري القديمه ومحطة مياه المقرن ومحطة مياه المناره مبينا ان ما نجم عن الانحسار ادى لخفض كميات المياه النقيه المنتجه من المحطات المذكورة.



واوضح السادات ان الهيئة ابلغت ادارة الخزانات بخروج محطاتها عن الخدمة للانحسار المفاجئ للنيل مشيرا الى ان ادارة الخزانات عادت و ابلغت الهيئة عن فتح عدد من بوابات خزان الروصيرص وان المياه ستتساب نحو الولايات في المسار التالي في غضون 48 ساعة .

وتوقع المهندس السادات حدوث شح في امداد المياه في عدد من الاحياء بالولاية ونقصها الحاد في مناطق اخري بعيدة.

2. **Sudan Tribune: 5 Drinking water stations in Khartoum out of service due to sudden drop in the Nile waters, issue date: 19/07/2020**

الصفاة لاسبسية | التاريخ: 19 يوليو 2020 | عدد: 19

خروج محطات مياه بالعاصمة الخرطوم عن الخدمة بسبب انحسار مفاجئ للنيل

الخرطوم 19 يوليو 2020 - أعلنت هيئة ولاية الخرطوم، الأحد، خروج 5 محطات مياه عن الخدمة خلال الساعات القليلة، بسبب انحسار مفاجئ للنيلين الأزرق والابيض.

وأعلنت وزارة الري والموارد المائية بالسودان، الأربعاء الماضي، إغلاق 10 بوابات سد النهضة، ما أدى إلى تراجع مستويات المياه بما يعادل 90 مليون متر مكعب يوميا.

وقال مدير عام الهيئة، نور السادات الحاج في بيان تلقاه "سودان تريبون"، إن محطات الصالحة (أ) و (ب)، وبيت المال، شمال بحري، ام كتي والشجرة، ستكون خارج الخدمة.

ولفت إلى إزال منصات مضخات المياه الخام إلى أناس متلوي في محطة مياه سوبا ومياه بحري القديمه، ومياه المقرن ومياه المناره.

وأوضح أن الانحسار تسبب في خفض كميات المياه النقيه المنتجة من المحطات التي ستخرج عن الخدمة.

وتواء إلى أن الهيئة ابلغت إدارة الخزانات بخروج محطاتها عن الخدمة للانحسار المفاجئ.

وتوقع السادات، تصيب المياه نحو الولايات في المسار التالي في غضون 48 ساعة.

ويقدر الإنتاج اليومي من المياه في ولاية الخرطوم عن المحطات النيلية والجوفية بـ 600 ألف متر مكعب، بينما يقدر الحجز الحالي للمياه بـ 600 ألف متر مكعب.

وتحتاج ولاية الخرطوم إلى إنتاج ما يقارب 2 مليون و500 ألف متر مكعب في اليوم في لسن الصيف.



وزير المياه والري الإثيوبي سيليبي بيليبي

4. Al-Jareeda Newspaper (no. 3203 - page 7): Receding in the great Nile to minor stages due to start filling of GERD without notifying downstream partners, issue date: 21/07/2020

الخرطوم:
عاطف كميل

قال الشاعر قديماً "أمرتهم أمري بمنعرج اللوى فلم يستبينوا النصيح إلا ضحى الغد"، هو لسان حال الخبراء السودانيين الذين لم يتوقفوا لحظة عن التحذير من خطورة السد دون أن يجدوا الاكثراث لقولهم من السلطات الرسمية سواء في عهد النظام البائد أو حكومة الفترة الإنتقالية التي جاءت للحفاظ على ثروات ومقدرات الوطن.

انحسار مياه النيل العظيم..
سد النهضة .. ونذر الكارثة

التراجع والانحسار
انها عن تراجع وانحسار مياه النيل إلى أدنى مستوياتها في توقيت بريده المنخفض الذي يتناثر بين خمسة وأن الحكومة الإثيوبية قد بدأت في ملء السد في الرابع عشر من يوليو الجاري ٢٠٢٠م. دون أن تلعب اعتبارات لتجميع من الترشاد والمعلمين باسم السد وهي خطوة لم تجد الرضا والقبول من الخبراء السودانيين الذين لديهم رأي واضح حول مسكة السد، ويرى مراقبون أنه سواء كان هذا الانحسار بسببه أو بأسباب أخرى متعلقة بتغير المناخ وغيرهما من العوامل التي تلحق الخسائر من التغيرات والتقلبات لها أنها في ذات الوقت قد تكون تذكيراً بما

قل نعتز من المختصين من معية انكسارات السد السابعة على البلاد والمعاصر المترامية عليه، فلما كان انحسار مياه النيل مرتبط بمرور السد فانه خير للثروة التي لا يمكن تلافيها بالنسبة للبلاد، وأن هذا الانحسار يترك آثاراً الفلكلن للثروة ضد هذا الخطر الداهم ولكنه يحث الذين كانوا يبالغون عن السد في موقف لا يصدون عليه امام المسؤولية الوطنية وما يرتبط بقضايا التنمية المستدامة التي تقتضي الحفاظ على حقوق الاجيال القادمة.

مسألة محسنة
قل خير إدارة السخاطر د(محمد عبدالحميد) ان هناك مساهمة جادة حول السخاطر التي تتكاتف السد ومنها ما يصل

البيئية
المترامية على قيام سد مسكته في التغيير المناخي الذي سيحدث لقطعا المنطقة أسفل النهر، ومسكته فقدان وسائل كسب المعيشة لآلاف من الأسر من صغدي الأسماك العاملين في صناعة الطوب، و المزارعون على الجروف المستجيبون من المياه الجوفية فهدد ان يتأثر نقص مصادر مياه الشرب، وأضاف أنه لم يكن لتوقف السودان خلال التقاوس لتواغل حقيقة فيما يتامل بالمخاطر أن موقفه أصلاً كان مبنياً على إنفاق الميزان ٢٠١٩م الذي وقعه الرئيس المخلوع والذي يمكن وصفه بالموقف الإنتهاري، ولكنه طالب برئيسه محمد الرشيد قريش، الخبير الاقتصادي الدولي في مجالات المياه الحكومة بضرورة التحرك والتوجه إلى الجمعية العمومية للأمم المتحدة لوقف ملء السد قبل تفرغ ضمان اجراءات السلامة وأن موقف السودان بسدده القانون الدولي وحذر من مسكته ملء السد وقال ان ذلك يعني الجهلاء ومار السودان التلبي بالتكامل لعدم وجود دراسات سلامة وقيام المهندسين الاستشاري للسد وطبيعة الأرض الهشة التي أسس عليها ولكنه تحذيرات العلماء الجيولوجيين بعدم قيام السدود في مواقع زلزالية الأرض، وعلق المهندس كميل على محمد وزير الري الأسبق قائل ان السعة التكوينية للسد تتراكم عليها أضرار كبيرة بسبب حجز مياه الفيضان تتمثل في استحقاق ملء خزاني الرصيرص

5. Akhir Lahza newspaper (no. 4750 - page 5): Filling of the GERD ... Where is the truth? Unusual decline of the Nile River inflows in July surprised Sudanese people and caused a lot of disturbances due to filling of GERD, issue date: 21/07/2020



6. The demonstration of the Wad Elmahi village on 23 July 2020, (located at 50 to 60 km downstream of the GERD)



ود الماحي 23-7-2020(سوني)

نظم مواطنو محلية ود الماحي بولاية النيل الأزرق وقفة احتجاجية برئاسة المحلية بالمدينة (4) بمشاركة واسعة لتنسيقيات لجان المقاومة بالمدن (1-2-3-4-5-6-7) بجانب الفرق التراثية و الشعبية ورفع المحتجون لافتات تعبيرية تطالب بضرورة معالجة ودرء آثار سد النهضة الأثيوبي واخرى تؤكد ان (التعويضات ضمان لعلاقات قوية بين الشعبين).

وفي استطلاعات لسونا وسط المشاركين في الوقفة الاحتجاجية طالب المتحدثين الحكومة الانتقالية للاسراع في معالجة آثار السد والآثار المتوقعة لمل البحيرة خاصة جانب المياه علي المجري والمياه الجوفية بالإضافة لتأثير الزراعة والانتاج السمكي وناشد المتحدثين الوفد الحكومي المفاوض في مباحثات سد النهضة باهمية استصحاب التعويضات وحفظ حقوق المناطق المجاورة للسد.

وقال مصطفى محمد الفكي المدير التنفيذي لمحلية ودالماحي لسونا ان المواطنين نظموا وقفة احتجاجية سلمية وحضارية عبروا من خلالها عن مخاوفهم وقلقهم جراء المخاطر المتوقعة من سد النهضة ورغم الثقة العالية في المفاوض الحكومي الا انهم كمحلية منوط بهم ايصال صوت المواطنين للجهات العليا وتسلمنا مذكرة المواطنين بشأن سد النهضة وسنعمل علي رفعها لوالي النيل الأزرق مبينا ان المخاطر التي اشارت اليها المذكرة تتمثل في آثار السد علي معاش المواطنين وتقلص مساحات الاراضي الزراعية وتراجع الانتاج السمكي فضلا عن تآثر الجنائن بسبب حجز الطمي.

المواطن الفاتح عوض جابر المدينة (2) ناشد الحكومة الانتقالية بضرورة تحقيق اهداف الثورة المتمثلة في مطالب الشعب في الحرية والسلام والعدالة وتعجيل توقيع السلام لافتا الي ان مخاطر السد في مقدمتها التغيير المتوقع في البيئة علي مستوى المحلية باعتبار تجاور السد وتأثير مباشرة بالمناخ بجانب تراجع كميات الطمي وانحسار المياه علي مجري النيل.

الاستاذ محجوب الخليفة تطرق للآثار السالبة لسد النهضة والاضرار المتوقعة علي الزراعة بحوض الخزان

Attachment 8

**Exchange of Letters between Prime Ministers of Sudan and Ethiopia on
a Proposed Heads of States Summit**

باسم الرحمن الرحيم

Republic of the Sudan
Presidency of the Cabinet
Prime Minister



جمهورية السودان
رئاسة مجلس الوزراء
رئيس الوزراء

April 13, 2021.

Excellency Dr. Abiy Ahmed Ali
Prime Minister of the Federal Democratic Republic of Ethiopia,

Excellency Dr. Mostafa Kamal Madbouly
Prime Minister of the Arab Republic of Egypt,

Dear Excellencies,

Please allow me to extend on behalf of the government and people of Sudan our best wishes to you and the people of Egypt and Ethiopia.

As you are aware, the negotiations among Egypt, Ethiopia and Sudan on the filling and operation of the Grand Ethiopian Renaissance Dam (GERD) has reached an impasse. Meanwhile, the construction of GERD has reached critical stages making reaching an agreement an urgent matter for the safe operation of the dam.

Unfortunately, the direct negotiations process which lasted for more than 10 years did not yield a final agreement. In addition, good facilitation efforts by the United States and the World Bank helped resolve many issues but still were not successful in concluding a final agreement. Furthermore, recent facilitation efforts by the African Union since June of 2020 were equally not successful including the recently concluded Ministerial Meetings in Kinshasa, DRC which failed to reach an agreement on an effective framework to conduct the negotiations. During the Kinshasa Meeting, Sudan's proposal for mediation by a quartet was not agreed to by Ethiopia despite the fact that it was endorsed by Egypt and all external parties invited to play a mediation role and expressed their willingness to play this role if the three parties agreed.

Pursuant to Article X of the Declaration of the Principles (DoP) signed on March 23, 2015 which states the following: [... *If the Parties are unable to resolve the*

dispute through consultation or negotiations, they may jointly request for conciliation, mediation or refer the matter for the consideration of the Heads of State/Head of Government.]; and since our best efforts through direct and facilitated negotiations were unsuccessful as well as our inability to agree on a mediation process, I believe it is about time to refer the matter to the Heads of State/Heads of Government for consideration given the urgency of the situation.


Accordingly, I would like to invite your Excellencies to a closed virtual summit among the three Head of State/Heads of Government of Egypt, Ethiopia and Sudan to be held in the next 10 days on a date and time convenient to all parties.

The objectives of the meeting are to take stock of the negotiations, discuss and agree on possible options to proceed forward with the negotiations, and renew our political commitment to reaching an agreement on a timely manner and in accordance with the DoP.

Excellencies, I look forward to your response and to our meeting.

Please accept my highest regards and best wishes to you and the people of Ethiopia and Egypt.

Sincerely yours,


Abdalla Hamdok
Prime Minister
Republic of the Sudan





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The Prime Minister of the Federal Democratic Republic of Ethiopia

April 19, 2021

Excellency,

I would like to extend my greetings and best wishes for your wellbeing and the peace and prosperity of the brotherly people of the Sudan.

I wish to acknowledge receipt of your letter dated 13 April 2021, regarding the negotiations on the first filling and annual operation of the Grand Ethiopian Renaissance Dam (GERD). I have also noted your desire to call for a meeting of the Heads of State and/or Government to take stock of the negotiations and agree on possible options for moving the process forward. In this regard, I would like to explain Ethiopia's position on your assertions and the proposed course of action.

I understand your proposal emanates from your assessment and conclusion that the negotiations have reached a deadlock. Ethiopia does not share this view. To the contrary, we believe that the tripartite negotiations have in fact made progress and could have resulted in a more substantial outcome if it was not repeatedly scuttled, especially in the past seven months.

As your Excellency knows, the trilateral process between our three countries has resulted in the signing of the Declaration of Principles (DoP) on 23 March 2015. Furthermore, the establishment of the National Independent Scientific Research Group (NISRG) and its work in relation to stage-based filling schedule that gained consensus of the three countries is another major milestone of the tripartite process.

Notwithstanding this progress however, Ethiopia recognizes the outstanding legal and technical issues that need to be tackled in order to reach a mutually beneficial outcome. This is what our three delegations were supposed to accomplish in our trilateral negotiation in the African Union led process. As Your Excellency will agree with me, the AU-led trilateral negotiations on the GERD gave us the opportunity to deal with the most pressing issues in spite of the interruption nine times.

I would also like to convey that Ethiopia believes the trilateral meeting in Kinshasa that was convened under the DRC Chairmanship has reached an understanding on the resumption of the stalled AU led trilateral negotiation process. We have also agreed on the continued and enhanced role of the observers, namely EU, South Africa, and the United States. Furthermore, we underscored the need for the current AU Chairperson to use resources at his disposal for the effective discharge of his facilitation role. This, we believe, is a good basis to continue the negotiations.

Your Excellency would recall, the Second Extraordinary meeting of the Bureau of the Assembly of AU Heads of State and Government held on 21 July 2020 under the South African chairmanship, has given clear direction to our Ministers and Experts, supported by the AU assigned experts, to work expeditiously to finalize the text of the guidelines and rules on the first filling and annual operation of the GERD and then to report back to the Bureau of the Assembly.

Therefore, the right course of action should be to request the current Chairperson of our Union, H.E President Felix Tshisekedi to call the meeting of the Bureau of the Assembly of the AU to consider this important report and guide the negotiations on the way forward.

The DoP is indeed our guiding post in the tripartite negotiation process, and it is the right of any one of the three countries to invoke Principle 10. The DoP clearly stipulates the three countries *"... may jointly request for conciliation, mediation or refer the matter for the consideration of the Heads of State/Heads of Government."* Accordingly, the choice of one of the three methods should be discussed and agreed by the three countries. In addition, we need to define the dispute from the perspective of our three countries, though it is my humble opinion that there is no dispute among the three countries arising out of the interpretation or implementation of the DoP. The divergence of opinions among our technical or legal experts is not a dispute in interpretation or implementation of the DoP. Moreover, we need to agree on third parties to get involved as mediator or conciliator depending on the dispute resolution mechanism we jointly choose.

Nevertheless, it should be understood that choosing the path of Principle 10 may reverse the whole process back to square one and risks undermining the gains we have made through painstaking negotiation. That is why Ethiopia still believes that the best way forward is to continue the trilateral negotiation under the AU led process to reach a win-win outcome. I wish to recall here that Ethiopia has proposed on several instances, for the three countries to reach an agreement over filling and related operation of the GERD and proceed to negotiation over a comprehensive water treaty, which I have shared with your Excellency.

Ethiopia's proposition will cater to the concerns Sudan raised in relation to rules on dam safety, coordination mechanism, daily variation rule, and environmental and social impact assessment. As you would recall, the same approach was stated in the Communiqué of the Second Extraordinary meeting of the AU Bureau of the Assembly. I still do hope that you would consider this workable option to move the negotiations forward.

If there is political will and commitment on the part of all parties to negotiate in good faith, there is no reason for us not to overcome our differences on the remaining outstanding issues and achieve this objective. It befits us to honor our solemn pledge to find solutions in the spirit of African solidarity. Anything less will be a disservice to our people and to this important Pan-African ideal.

Please accept, Excellency, the assurances of my highest consideration.



Abiy Ahmed Ali (PhD)
Prime Minister of the Federal Democratic Republic of Ethiopia

H.E Mr. Abdalla Hamdok
Prime Minister of the Republic of the Sudan
Khartoum

CC:
H.E Mr. Mostafa Kamal Madbouly
Prime Minister of the Arab Republic of Egypt
Cairo

H.E Mr. Felix Tshisekedi
President of the Democratic Republic of Congo
Kinshasa

H.E Mr. Moussa Faki Mahamat
Chairperson of the Africa Union Commission
Addis Ababa