



## **Report on the Regional Training on Hydro Diplomacy and Negotiation Skills for IGAD Water Resources Protocol Negotiation Members**



**Held on 27<sup>th</sup>-28<sup>th</sup> February 2017 at the Golden Tulip Hotel,  
Addis Ababa, Ethiopia**

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## List of Abbreviations/Acronyms

AMCOW	African Ministers' Council on Water
BRIDGE	Building River Dialogue and Governance
IGAD	Intergovernmental Authority on Development
ICJ	International Court of Justice
IWL	International Water Law
IWRM	Integrated Water Resources Management
INWRMP	Inland Water Resources Management Programme
IUCN	International Union for the Conservation of Nature
MoU	Memorandum of Understanding
NBI	Nile Basin Initiative
OES US	Bureau of Oceans and International Environmental and Scientific Affairs of the Department of the United States of America
SADC	Southern African Development Community
SDC	Swiss Development Cooperation
SDG	Sustainable Development Goal
SMM	Sio -Malaba –Malakisi
TAC	Technical Advisory Committee
TC	Technical Committee
ToRs	Terms of Reference
TWC	Transboundary Waters Cooperation
TWRM	Transboundary Water Resources Management
UN	United Nations
UNECE	United Nations Economic Commission for Europe
UNWC	UN Water Convention
WB	World Bank

## 1 Opening Session

The Regional Training on Hydro diplomacy and Negotiation Skills for IGAD Water Resources Protocol Negotiation Members was convened from 27th - 28th February, 2017 at the Golden Tulip Hotel in Addis Ababa, Ethiopia. The training was attended mainly by the Negotiation Committee Members (NCM) members from the IGAD Member States and facilitated by regional and international experts and partners. These included the IGAD Secretariat; the International Union for the Conservation of Nature (IUCN); the United Nations Economic Commission for Europe (UNECE) Water Convention Secretariat and Dundee University. Representatives of the Bureau of Oceans and International Environmental and Scientific Affairs of the Department of the United States of America (OES US) as well as the Swiss Development Cooperation (SDC) also attended the training.

The full list of the participants is herein presented as Annex 1 to this report.

Mr. Mohamed Moussa, speaking on behalf of H.E Amb (Eng) Mahboub Maalim, the Executive Secretary of IGAD, called the meeting to order and welcomed all the participants to the beautiful city of Addis Ababa and also to the training. He informed the meeting that the training was a continuation of the process that was started earlier to enhance capacity building hence advance knowledge regarding Transboundary Water Cooperation in the IGAD region. He further, informed the meeting that the intervention of IGAD in capacity building through Inland Water Resources Management Programme (INWRMP) component benefited the region not only in the matters of Trans boundary Waters Resources management (TWRM) but also in boosting Transboundary Waters Cooperation. . He stressed that IGAD countries should learn from other regions that have embraced and benefitted from Transboundary Waters Cooperation citing South African countries as an example. Mr. Moussa also gave an example of one participant from Somalia who had benefitted from the INWRM programme which enabled him to further his studies in Integrated Water Resources Management/Transboundary Waters Resources Management. The aim of capacity building therefore is to equip the region with knowledge on emerging water issues and build a future generation with deep knowledge in Transboundary Waters Management, Cooperation and Conventions. He further thanked the Development Partners i.e. the IUCN, the Swiss Development Cooperation, OES and UNECE for their continuous support to the IGAD Region by providing support its projects. He acknowledged that these partners have not only aided in the establishment of the IGAD Water Unit but have also assured sustainability of its projects. He emphasized that capacity building is a continuous process and that the trainings will equip countries with the required skills of negotiation both at regional and international levels. He once again welcomed all guests to the two days regional training and thanked Ethiopia for hosting the meetings.

Mr. John Owino, representative of the IUCN Eastern and Southern Africa Regional Programme welcomed all participants to the meeting and expressed his delight being in

the training. He informed the meeting that IUCN has been supporting IGAD since the close of IWRMP and has been ensuring sustainability of its activities. He highlighted that IUCN has two projects ,namely, BRIDGE (Building River Dialogue and Governance) funded by Swiss Development Component (SDC) and the recently launched project 'Strengthening Transboundary Water Governance in the IGAD Region', funded by the OES US. These two projects complement each other by supporting Transboundary Water projects, creating synergies, boosting up capacity building, and enhancing Transboundary Waters Governance among IGAD member states. He further emphasized that the training on hydro diplomacy would impart to the participants essential negotiation skills especially the ones required in the ongoing negotiations of the IGAD Regional Water Protocol. He finally welcomed the members to the meeting.

Ms. Sonja Koepfel, representative of the United Nations Economic Commission for Europe (UNECE) began by emphasizing the importance of Transboundary Water Cooperation. She stated that more than half of the transboundary water flows in the world lack binding legal and institutional frameworks stressing that if mechanisms for the governance of transboundary waters were put in place, this would promote peace, food security and economic development among the involved parties. She then gave a brief introduction to the UNECE Water Convention stating that it started in the Pan-European region and in 2013 was opened up to all United Nations Member countries. She informed the meeting that UNECE was committed to support Transboundary Water cooperation in the IGAD region. She stressed that water is important for security and development purposes and that it was therefore a great step forward that the Sustainable Development Goals (SDG's) had not only a dedicated goal on water, but also a target 6.5 which requires United Nations Member States to implement IWRM at all levels, including through Transboundary Cooperation as appropriate. She explained that the progress on this issue would be measured in the future since an indicator on this target had been developed by UNECE and UNESCO and adopted by the UN Statistical Commission. All IGAD countries are asked to report on this indicator by 15 June 2017.

She stressed that UNECE is committed to promoting that there are functional institutional bodies for Transboundary Water Cooperation and governance in all shared basins. Ms. Sonja expressed the hope that the negotiation process of the IGAD Regional Water Resources Protocol would soon be completed since such a legal framework agreement could offer guidance and direction especially on water governance at both national and transboundary level and could promote peaceful cooperation in the IGAD region. She ended by stating that this training would build capacity of participants on international water governance, improve their negotiation skills, boost knowledge on Water Law, and support exchange of experiences. She finally thanked the Development Partners, IGAD Secretariat and all participants for attending the training.

Mr. Yeneneh Teka representative of the Bureau of Oceans and International Environmental and Scientific Affairs of the US Department (OES US) informed the meeting that the OES US and in particular the American embassy in Addis addresses matters that concerns both Transboundary Waters and illegal trafficking of wildlife and

wildlife products. He pointed out that the department works on bringing people to work together on Transboundary Water cooperation progress. He further stated that the department also facilitates the African countries with regard to sharing of information on Transboundary Waters, wildlife and water as well as encouraging the countries to bringing disputes to the negotiation table whenever they arise. The OES US representative further informed the meeting that the department had supported the negotiations of the Nile Basin Initiative Cooperative Framework Agreement (NBI-CFA). He finally affirmed that the OES US department was ready to help in transboundary waters resources negotiations and cooperation in the IGAD region.

## **2 The Programme and Objectives of the Workshop**

Presentations on the Workshop Programme and Objectives were made by Mr. Fred Mwangi, the Regional Water Expert, and IGAD Secretariat; and Mr. Juan Carlos Sánchez, IUCN Environmental Law Center respectively. The objectives of the workshop mainly focused on:

- i) Building on the previous training and capacity building i.e. 1992 Helsinki Convention.
- ii) Negotiations and strong components in negotiations (theories, case studies, and practical discussions)

To realize these workshop objectives, the programme for the meeting was adopted without amendments and is appended as annex 2.

## **3 Introduction to the Training; Ice breaker activity on expectations**

An ice breaker activity on the expectations of the training was done by Ms. Sonja Koeppel, UNECE. The participants voiced their expectations of the training as follows: enhanced knowledge on Transboundary Water Cooperation and exchange of previous experiences; enriched skills for negotiations; increased knowledge on International Water Law, on the Helsinki Water Convention and its implications for the IGAD region; Increased skills and knowledge to improve the IGAD Regional Water protocol negotiations; reconciliation of differences on negotiations; general information concerning Transboundary Water matters; and facilitating the way forward on the IGAD Regional Water Resources Protocol.

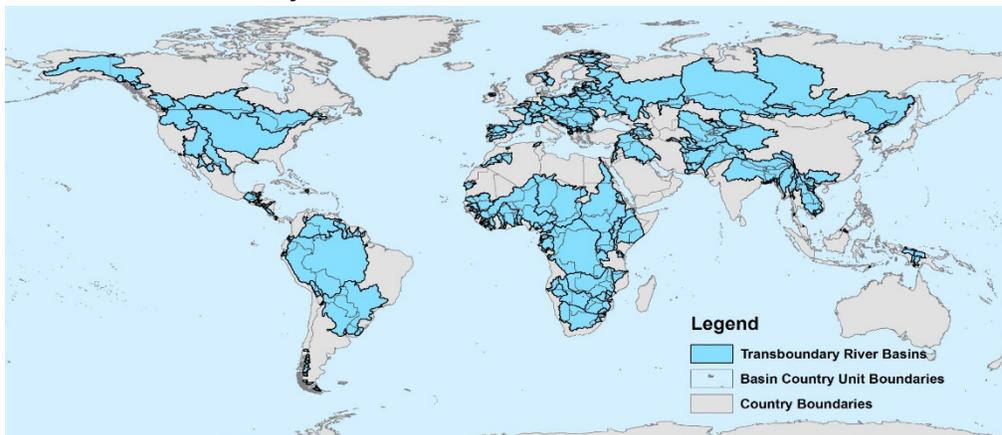
## **4 Technical session I: International Water Law and its contribution to Hydro diplomacy.**

An introductory review of International Water Law (IWL) and its relationship with hydro diplomacy was made by Mr. Juan Carlos Sánchez from IUCN. He highlighted that at least 60% of the world's transboundary basins lack any type of cooperative framework agreements. He indicated that the IGAD region has twelve (12) transboundary water basins out of which only Lake Victoria has a formal water governance mechanism in place. The highlights of this intervention covered the following key areas: transboundary

river basins of the world; conflict and cooperation management; the role of International Water Law; relationship between the UN Watercourses Convention (UNWC) and the UNECE Water Convention, substantive and procedural rules in the UN Watercourses Convention, showcasing key provisions under the 1997 Convention and reviewing its text regarding institutional arrangements for their implementation. The presentation is appended as annex 3

In this presentation a map (Fig 1) indicating the Transboundary River basins of the world, as well as a map (Fig 2) pointing out the countries which have ratified UN Watercourses Convention were displayed.

### Transboundary river basins of the world

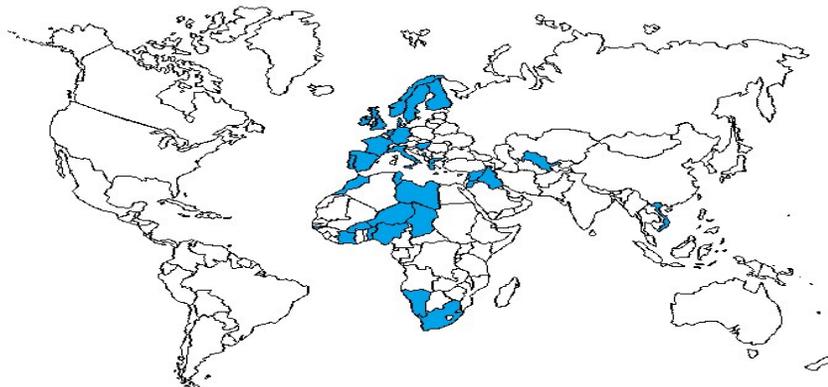


Source: twap-rivers.org

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Fig .1 Map of the world showing Transboundary River Basin of the World

## Status of the UNWC



15

*Fig. 2 Map of the world showing the countries that have ratified the UN Water Convention; 37 parties have ratified the Convention.*

### **Discussion – Technical session I**

During the discussion that followed the presentation, participants had the chance to reflect on the importance of the principles and rules of international water law for the effective management of shared waters. Furthermore, it was clarified how the UN Watercourses Convention entered into force and how this is a crucial instrument to ensure the protection of freshwater ecosystems and to foster cooperation. Moreover, it was discussed how the ratification and implementation of the UNWC could lead to positive changes and to overcome challenges and conflicts between neighbors sharing international rivers.

### **5 Technical session II: History of Helsinki Water Convention and lesson learnt from the negotiations**

A presentation on the history of Helsinki Water Convention was made by Ms. Sonja Koepfel, UNECE. In her presentation she stated that the Helsinki Water Convention was signed in Helsinki in 1992 and entered into force in 1996. In 2003 amendments were adopted to allow accession to all UN Member States. In 2016 the Convention was opened for accession to all UN Member States. The meeting also learnt that currently, 41 countries have ratified the Convention and more than 60 countries outside the UNECE region participate in the Convention's activities. Several of these countries are in the process of accession. She also provided various maps showing geographical scope of the UNECE region (Fig 3), Countries participating in the Convention's activities ( Fig 4 ) and the ratification status of the UN Watercourses Convention and the Helsinki Water Convention ( Fig 5)

# Geographical scope of the UNECE Region



Fig. 3 Map showing the geographic Scope of the UNECE Region

The presentation highlighted the following areas: cooperation on water issues in UNECE since the 1960s; reasons for developing the Water Convention and process of negotiation;; main achievements of the Convention, Structure and main provisions, Institutional structure and current activities,; lessons learned from 20 years of implementing the Convention; and the relevance of the Water Convention for Africa.



**Participation in events under the Water Convention**

Fig. 4 Map showing the countries that participate in UNECE activities; more than 60 countries

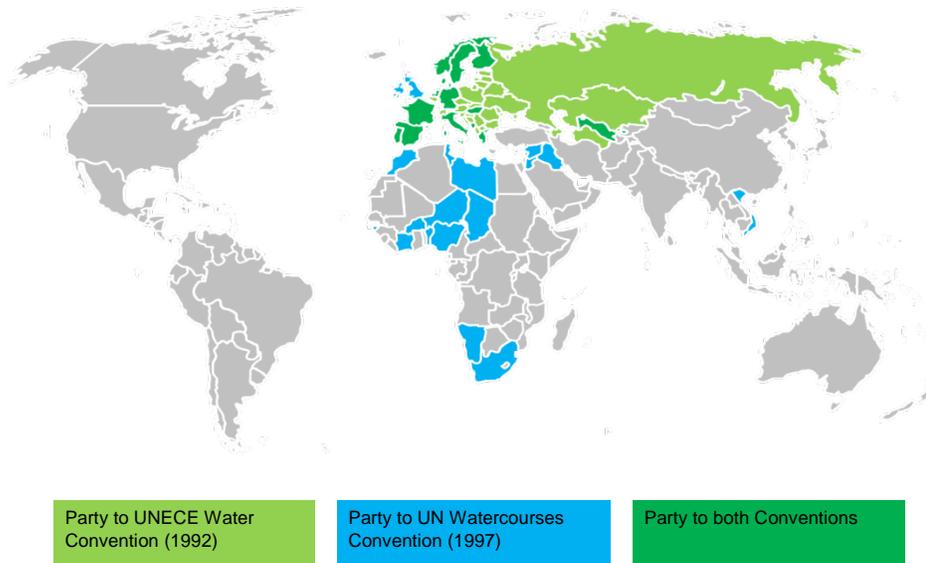


Fig. 5 Map showing the countries that are party to the UN Watercourses Convention, UNECE Water Convention and both

The presentation is appended as annex 4

## Discussions – Technical session II

During the discussion that followed, the meeting learnt that the development of the Helsinki Water Convention was rather quick (two years). Some of the possible reasons that contributed to the relatively rapid process were; a) many negotiations were taking place at that time; and b) the breakup of the Soviet Union into smaller countries which didn't have any binding agreements in place for the governance of their shared water resources. Therefore, these countries had to develop agreements and ensure their implementation.

The meeting was also informed that initially, the accession to the UNECE Water Convention was confined to UNECE countries, but in 2003 amendments were adopted to allow accession by all UN Member States. The amendments became operational in March, 2016 when the Convention opened for accession to all UN Member States. The logic behind opening up to other countries was triggered by the desire to share experiences, learn from other regions and to broaden political support for transboundary cooperation worldwide.

It was also clarified that the two Water Conventions – the Helsinki Water Convention and the UN Watercourses Convention - complement each other. However, only the UNECE one covers also all types of transboundary groundwaters and has an institutional framework. UN member states were encouraged to join both conventions since they form a useful package. More details as regards the main conventions as well as achievements of the Water Conventions are found in the attached presentation.

## **6 Technical Session III: Building and Strengthening Transboundary Waters Cooperation: The fundamental of legal drafting and negotiations**

A presentation on the fundamental of legal drafting and negotiations of international agreements on transboundary waters was done by Prof. Sergei Vinogradov. In his presentation he captured four main themes namely: law of treaties; agreements on transboundary waters; legal drafting; as well as negotiation and negotiation skills. He further expanded on the following sub themes: types of international water treaties and their interpretation; drafting process of the treaties; ground rules to guide treaty making; transboundary water agreements, types of negotiations and basic principles for better negotiation skills.

The presentation is appended as annex 5

### **Discussions - Technical session III**

In the discussion that followed the presentation it was made clear that for building and strengthening transboundary water cooperation the basics of legal drafting of the treaties and negotiations should be known and that agreements should be ideally adopted by consensus. Furthermore, it was clarified that framework agreements and general principles provide a levelling ground for all negotiating countries and that these frameworks and rules can be complemented by protocols.

In addition, the legal strength of an instrument does not depend on the name of the treaty or agreement but on the intention of the parties which developed and finalized the legally binding instrument. Although a treaty may be quite developed in terms of legal drafting, its entry into force may be delayed due the bureaucracies involved in the ratification process. On the dynamics of treaties, it was discussed that agreements should not remain static and that there ought to be room for renegotiation with time. Regarding the drafting of the text of treaties, the meeting learnt that experts with the technical know-how and legal background should be involved from the beginning of the whole process.

Besides, the participants learnt that if a country is not willing to engage itself in the negotiations, it can't be forced to do so but can be encouraged to participate yet keeping and observing all the conditions governing the negotiations. All countries must know that building trust among fellow Member States can take a long time and this calls for patience among involved parties. Consequently, an observation was made to the effect that resource that when used may inconvenience the second party should be treated as a *shared resources* other than a *common resource*.

Regarding sovereignty issues, conflicting parties that are unable to solve their disputes can further take them to the International Court of Justice (ICJ) for solving conflicts if the parties to the conflict have agreed to this. Regarding the issue of 'reservation' it was clarified that reservation is part of the treaty and is allowed under international law.

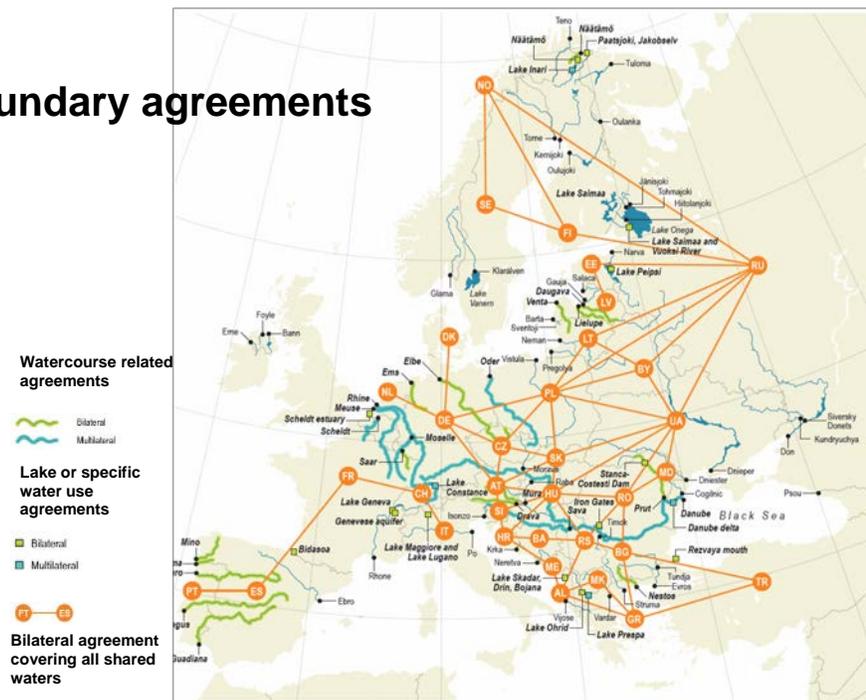
However, the reservation made by any member state cannot go against the general object and purpose of the main treaty.

## 7 Case Studies

### 7.1 Negotiations and Cooperate on shared waters in the Pan European Region

This presentation was made by Ms. Sonja Koeppel, UNECE, highlighting the following: the role of the Water Convention in the promotion of cooperation and agreements in transboundary waters; the progress of transboundary agreements on almost all transboundary waters in the Pan-European region; the impacts on the ground and lesson

#### Map of transboundary agreements



learnt; and achievements of the Convention.

The Convention has inspired the development of bilateral and multilateral agreements on almost all transboundary waters in the pan-European region

Fig. 6 Map showing both bilateral and multilateral Transboundary agreements

The presentation also offered examples of the basins that have benefitted from support of the Water Convention secretariat. These basins include: Chu Talas – Central Asia,

Kazakhstan, Kyrgyzstan; Drin – Western Balkans, South Eastern Europe; Dniester – Republic of Moldova, Ukraine; and Neman – Belarus, Lithuania and Russian Federation.

**a. Chu Talas – Central Asia; Kazakhstan, Kyrgyzstan**



Fig. 7 Map of Chu Talas Basin

**b. Drin – Western Balkans South Eastern Europe**

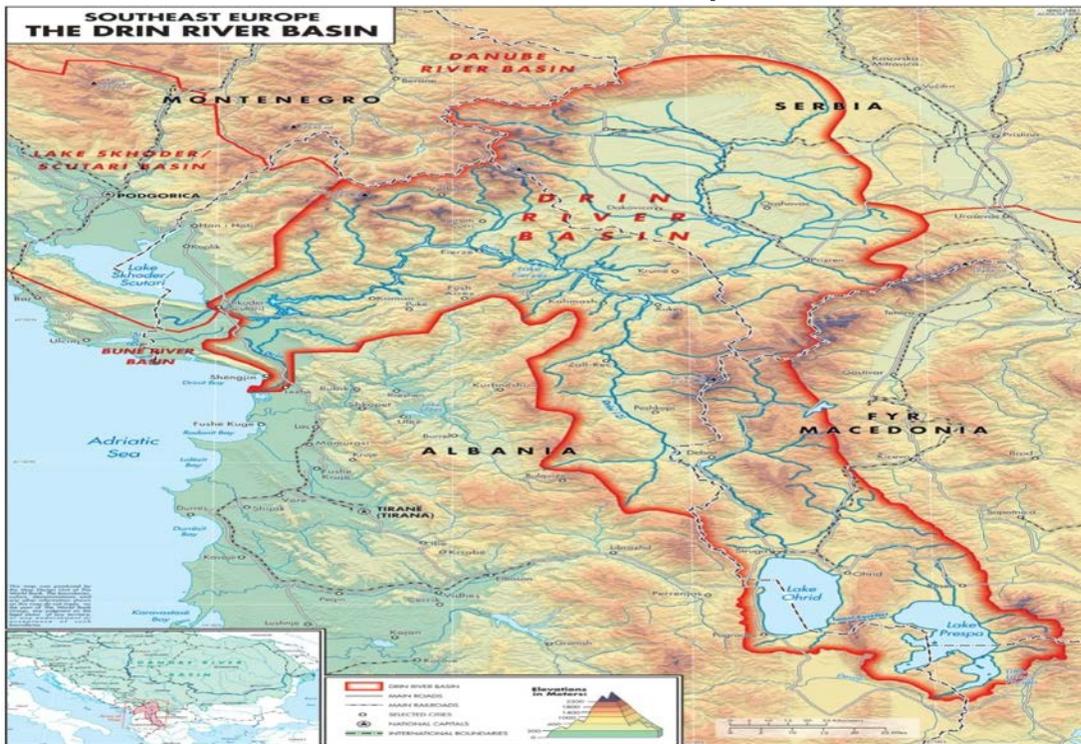


Fig. 8 Map of Drin Basin

**c. Dniester – Republic of Moldova, Ukraine**



Fig. 9 Map of Dniester Basin

**d. Neman – Belarus, Lithuania and Russian Federation**

niemen\_overview\_map.jpg (6613 x 4677 = 30.93MP , 4.972KB) [ 4 / 4 ] 15%



Fig. 10 Map of Neman Basin

The presentation is appended as annex 6.

### **Discussions - Case study; Pan European Region**

During the discussion that followed, the meeting learnt that transboundary cooperation is vital for building trust and prevention of any possible conflicts. The establishment of institutional frameworks and a functional commission for every shared basin is crucial. The legal and institutional framework of the Water Convention should be viewed as a good platform for the promotion of Transboundary Water Cooperation in the individual basins and also for non-Parties. It was also clarified that not only Parties can benefit from the Water Convention and its support, but also non-Parties. In addition, any negotiations and agreements on cooperation should involve technical experts from the initial stages. High level support in the process is also very important. Progressively, as trust among the riparians grows, a good political relationship is built.

### **7.2 Negotiations and cooperation on shared waters in Central Asia: a story of success and failures**

A Case Study presentation on Water-Energy Security Nexus; the Aral Sea basin case was made by Prof. Sergei Vinogradov. The basin is shared among eight Member States namely; Kazakhstan, Uzbekistan, Kyrgyzstan, Turkmenistan, Tajikistan, Afghanistan, Iran and China. The highlights of the presentation included Water (Irrigation/Food); Energy (Hydropower) and environment. The transboundary water challenges that the basin faced included increasing demand for water as a result of population growth and economic development; diminishing supply due to deteriorated water quality; climate change and conflicting interests leading to changing the regime of existing reservoirs/building new dams for irrigation food security thus negatively impacting the ecosystem. The presentation also covered the legal framework highlighting on its evolution and current challenges affecting the member states.

The presentation is appended as annex 7

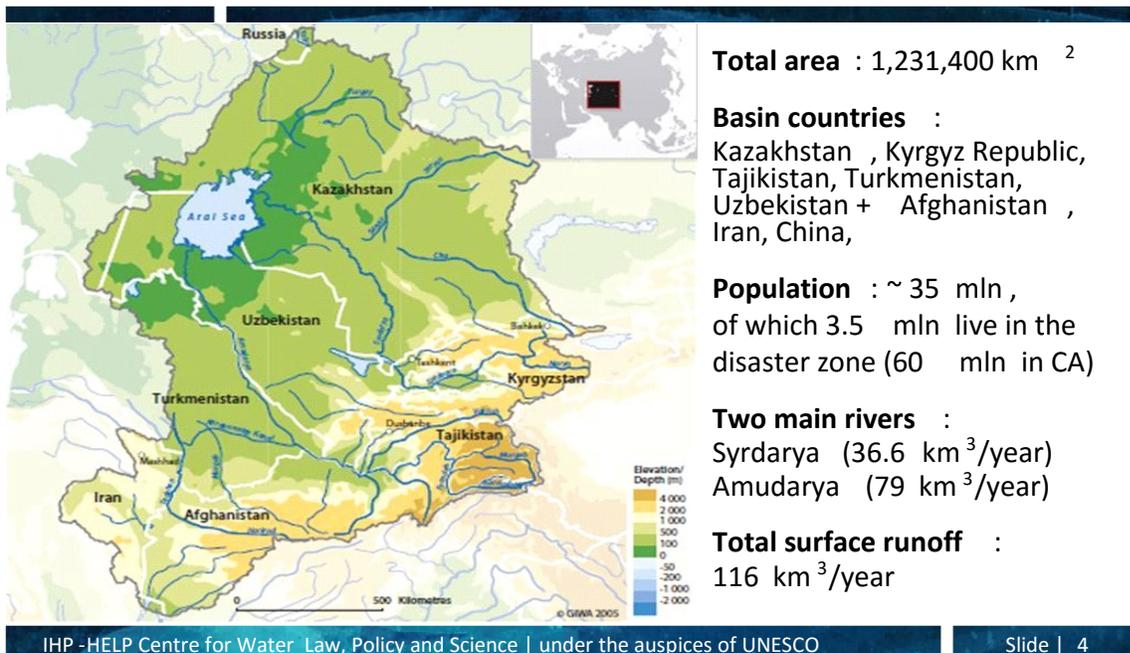
## a. Central Asian Countries

Commonwealth of Independent States - Central Asian States



Fig. 11 Map of the Central Asian States

## b. Aral Sea Basin



IHP -HELP Centre for Water Law, Policy and Science | under the auspices of UNESCO

### Discussions - Case study; Central Asia Region

During the discussion that followed, it was noted that in any shared basin, riparian countries could potentially face competing uses of water which could end up causing significant harm to the region e.g. loss of an important ecosystem. In addition, competing for shared resources creates a loss-loss scenario for all parties. In this sense, it was demonstrated how the livelihood of people is usually affected in such circumstances. Such kind of scenarios help States to reflect on the importance of addressing water challenges appropriately, in order to avoid any type of harm to humans and nature. Increased water pollution as well as diminishing water volume in this case study could have sent a warning about the situation of the basin in order to take immediate actions. However, certain interests undermined any environmental effort and in that way the cotton and grain production among other activities leading to disappearance of the lake continued. This scenario developed due to the lack or inequadequacy of legal and institutional frameworks in

The most important lesson here is **that cooperation is a must, and that in the lack of it, all countries face a loss loss situation. Thus water is a matter of global security.**

## 8 Reflections on the first Day

A brief presentation on the reflections of the first day was done by Mr. John Owino, IUCN, highlighting the three technical sessions and key messages. The three sessions included: The International Water Law and its contribution to Hydro diplomacy; the history of Helsinki Water Convention and lesson learnt from the negotiations; Building and Strengthening Transboundary Waters Cooperation - the fundamental of legal drafting and negotiations. He also soundly captured the two case studies on Negotiations and Cooperation on shared waters in the Pan European and Central Asia, respectively.

The presentation is appended as annex 8

## 9 Technical Session IV; Special Session on Transboundary Water Aquifers

A presentation on International Water Law and the law of Transboundary Aquifers (UNESCO) was done through a Video presentation by Marguerite de Chaisemartin. Subsequently the UNECE Water Convention and transboundary groundwater was presented by Sonja Koepfel, highlighting the following: the main groundwater initiatives under the Helsinki Water Convention; and model provisions on Transboundary groundwater.

The presentation is herein attached as annex 9

### Discussions - Technical session IV

During discussions that followed, it was clarified that groundwater issues were not much known to the public and to policy makers which explains why there is limited attention to groundwater in the existing agreements. This being the case therefore, there was need

to analyze and revise some existing agreements, e.g. due to higher flow variability which could also be an occasion for including groundwater more explicitly. Further, some of the challenges in transboundary groundwater cooperation as noted in the discussion included limited joint characterization of transboundary aquifers, inadequate monitoring, lack of proper assessment and planning in many countries, and poor monitoring of abstraction of groundwater.

On the two global Water Conventions, the meeting was informed that both of them reflect customary law and thus their main principles have been in use before the conventions came into force. The Helsinki Water Convention has been complemented by model provisions which were specifically developed and adopted for Transboundary Groundwater governance. In this regard, the Helsinki Water Convention fully incorporates the issue of transboundary aquifers and also addresses both the rules and norms for the governance of transboundary groundwater and surface water, respectively. It further offers a guiding principle for the regional and bilateral agreements. The meeting learnt that although ratification of the Conventions may take a longer time, its provisions and rules should be and are already used in the governance of both shared groundwater and surface water.

## 10 Group Work

### 10.1 Negotiation Simulation Exercise: The River Wide Basin case

#### The River Wide Basin



Fig. 13 The River Wide Basin Shared by Blanconia, Kufra and Elbia

The negotiation simulation exercise involved three countries Blanconia, Kufra and Elbia respectively, situated in the drainage basin of the River Wide, which is the principal source of water for these countries. The total annual flow of the River Wide was about  $100 \text{ km}^3$  (with 86% coming from the territory of Blanconia). Elbia and Kufra, two downstream countries, have traditionally used River Wide waters for irrigation while Blanconia, the least developed state of the basin, had all along relied almost entirely on rainfall.

The country (Blanconia) wanted to construct two large dams with hydropower stations and reservoirs of a total volume of  $40.0 \text{ km}^3$  on the tributaries of the River Wide to control the variations in its flow, increase agricultural production through irrigation and especially hydropower generation for its economic development. All the countries coexisted in harmony until Blanconia expressed the idea of developing water resource.

## 10.2: Practical Session 1; practice Negotiation Skills

The participants were divided into four groups. The three groups; group 1 (representing Blanconia), group 2 (Kufra) and group 3 (Elbia) were required to prepare a concise statement outlining some principal arguments, which their respective countries may rely upon in arguing their case in the World Bank. Group 4 (Expert Panel) would consider the case on behalf of the World Bank. Each group comprised competent technical experts, experienced expert in international water negotiations and legal experts for advice and guidance.

The Countries tabled down their arguments as below;

### a) **Blanconia (Group 1) – Upstream Country**

- i. The country receives a lot of rainfall yet much of it goes into a waste hence need to construct the reservoirs in order to take care of the excess flows
- ii. Has the highest potential hydropower in the Basin and despite this, the country suffers from severe power shortages, making it too difficult to supply energy for its emerging industry. Half of the total energy produced would meet the domestic demands and remaining energy production is planned for export to the neighbouring States
- iii. Had no known reserves of other energy resources thus investing in hydropower production will help solve the energy crisis in the country
- iv. Its population had been growing; a majority of them live below the poverty level and depend upon subsistence farming. Since the country suffers from food insecurity, the irrigation plan would ensure abundance food for its population.
- v. Lack adequate financial and technical capacity; had been unable to harness the abundance of its water resources thus seek financial support from World Bank.
- vi. The country has had long existing disputes with the Zutu community who were not contented with countries the development plan. However the Zutu community learnt of the benefits of the project and is concerned about the forthcoming major resettlement in which the country had factored in, in their plans.
- vii. That since the dams are being constructed on the tributaries of the River Wide, which are not transboundary as such, this should be of little concern to Kufra and Elbia - the lower riparian States.
- viii. Blanconia being the least developed country wanted to use the River Wide to enhance food security, increase hydropower thus boosting its economic growth.
- ix. The two countries downstream (Kufra and Eibia) received much water from upstream, however their irrigation system were obsolete, and that the agricultural water use is wasteful thus with sufficient investment of financial resources their efficiencies can be drastically improved.

In addition, Blanconia, in its decision to implements its plans as an upstream country would ensure adherence to the following principles of cooperation and standards:-

- i. cooperate based on common understanding, mutual benefit, good faith, win-win according to the international law with the understanding of the upstream and downstream needs;
- ii. equitable and reasonable utilization and participation (Article 5); iii. not to cause any significant harm to downstream users;
- iv. duty to cooperate including operation and filling of the dam and establishment of mechanism for the operation of the dam;
- v. the duty to exchange data and information; peaceful settlement of disputes arising from the project;
- vi. and ensure environmental and social safeguards are looked into.

**b) Kufra (Group 2) – Down stream of Balconia and upstream of Elbia**

- i. The country felt that its traditional rights to use the River Wide Basin for irrigation among other purposes had been violated. The country claims its water utilization based on existing use seemed to be put at risk by any significant development upstream.
- ii. Much worried about its wetlands which are famous for their rich biodiversity (flora and fauna) and are marked as the World Natural Heritage site and the Ramsar Convention; the country feels that they might dry out. iii. Has a limited amount of hydrocarbon reserves and needs cheap electricity for its economic development; the country could benefit from the move taken by Blanconia. iv. The reservoirs could help to control some heavy seasonal flows from Blanconia which usually cause harm downstream in terms of loss of life and property.
- v. Worried about the upstream development in Blanconia, and requested that Blanconia furnish all the details of the planned projects – in accordance with the World Bank’s Operational Policy 7.50

**c) Elbia (Group 3) – Downstream of both Blanconia and Kufra**

- i. It is entirely dependent upon the waters from the River Wide for its extensive irrigated agriculture and growing industries. Elbia claims its water utilization based on existing use should have priority over planned uses and as will be put at risk by any significant development upstream. ii. Its population was increasing hence needed to develop 200,000 ha to meet the demand as far as food production is concerned
- iii. The Wide delta required adequate supply of water (no less than 10 km<sup>3</sup>) to sustain its ecosystem and valuable coastal fisheries. iv. Required to develop its gas reserves to be independent of importation from its neighbor Dabbe at high price. To achieve this Elbia required additional estimated annual electricity in excess of 3000GWh for another 10 years until its gas resources are fully developed. In this regard, the move by Blanconia might positively influence this negatively.
- v. Elbia had been offering financial support to the Zutu community of Blanconia and threatened to draw away from the same due to the current soar relationship between the two countries. vi. However, Elbia has an interest in better flood control in the delta of River wide basin.

vii. Elbia has great concerns about the new planned development in Blanconia, and requested that Blanconia furnish all the details of the planned projects - in accordance with the World Bank's Operational Policy 7.50.

viii. Embraced the fact that countries should never go to war on the existing uses versus new uses of the any shared water resource.

Elbia and Kufra further requested the World Bank not to provide any financial support for the projects by Blanconia, as this will cause serious harm to their traditional water uses.

Before any move could be taken, Elbier proposed that a group of expert should visit the proposed site to independently evaluate the project.

#### **d) World Bank (Group 4) - Expert Panel**

The Expert Panel was expected to determine the facts and make recommendation considering the facts of the case and legal aspects such as principles of ERU, obligation not to cause significant harm, prior notification of planned measures, benefit sharing, duty to cooperate, and any other relevant principles.

The World Bank (WB) ardently listened to the grievances from the three countries as regards the development of the hydropower stations and reservoirs by Blanconia. The Bank in the company of the expert visited and assessed the proposed area prompting it to approve the implementation of the project. The Bank also affirmed that it was ready to facilitate the negotiations and noted that there was need to have an agreement in place if at all the implementation of the project had to take off. It also noted that the countries were ready to come up with a trilateral agreement that will give direction in the development, governance and sustainability of the project.

### **10.3 Practical Session II: practice Negotiation Skills**

The three countries and the World Bank as a mediator negotiated a trilateral agreement, outlining a framework of cooperation. . The teams used the 1992 UNECE Water Convention, 1997 UN Watercourses Convention, and WB Operational Policy and Bank Procedures 7.50.

Participants once again were divided into four negotiation groups 1, 2, 3 and 4, which negotiated on the scope and institutions, substantive provisions, procedure and disputes, and operational regimes respectively. Each group provided an expert from the negotiating countries.

#### **a) The scope and institutions**

Group 1 -negotiated on the scope and institutions that will govern the development and running of the project. On the scope, the committee covered issues of regional cooperation and integration on water resources including groundwater; adopted regional policies of development on the basis of water sharing, equitable and reasonable utilization of water resources including the groundwater; and finally organized and institutionalized

the regional efforts to gather information in the region regarding the transboundary water resources and their usage. As regards the establishment of the institution, a joint Technical Committee (TC) was established at the level of experts for coordination, implementation, monitoring, assessment, and policy review. Terms of Reference (ToRs) for the TC were also developed. As a result, it was resolved that the TC should be meeting twice in a year; the TC should make its decisions by consensus and should agree on disputed issues or refer them to the Regional Council of Ministers. Finally, they agreed that the International Court of Justice (ICJ) should only come as the last resort after exploring all available alternatives.

The presentation of the groups were appended as annex 10

In the discussion that followed, the meeting noted that the negotiation committee in this group deliberated on two key issues, namely, special characteristics of the shared water resources and groundwater issues (both confined and unconfined) and whether they are addressed by both the 1997 UN and 1992 UNECE Water conventions. The group also agreed to establish whether the potential groundwater aquifers were boundary or transboundary. The committee settled to set up an institution that would aid in governance of the shared water resource and as well agreed to have a body of technical committee in charge of water matters to deliberate on the issues that would be raised at a high level. It was also noted that more complications would be encountered if the negotiations involved a bigger basin or more countries. The meeting was informed that the technical committee may be between two or more countries.

### **The substantive provisions**

Group 2 - deliberated on the substantive provisions that will govern the countries regarding the shared River Wide Basin. The committee agreed to adhere to the general principles as outlined in the UN Water Convention. These included; equitable and reasonable utilization and participation in the use, and development of River Wide Basin; factors relevant to equitable and reasonable utilization of the shared water resource; obligation not to cause significant harm; general obligation to cooperate; and regular exchange of data and information. The presentation is appended as annex 11

During the discussion that followed, the meeting learnt that transboundary groundwater laws should be treated like surface water laws. The laws should give more specific obligations in the conservation and protection of ecosystem. Also discussed was the issue of sovereignty which should be integrated in the context of the agreements in a more detailed and elaborated manner. It was further observed that sovereignty on matters related to transboundary aquifers would only trigger misunderstanding between Member States.

### **Procedures and dispute settlement**

Group 3 - deliberated on the procedures and dispute settlement which encompassed regular sharing of information and readily available data e.g. hydrological, meteorological, water quality, forecasts and ecological data; planned measures especially notifying the

downstream countries on possible impacts the project may cause; protection, conservation and management of existing ecosystems; harmful and emergency situations that may arise with regard to development of the project and settlement of dispute in case they arise.

The presentation is appended as annex 12

During the discussion, the meeting learnt that it's the obligation of beneficiary State to ensure mechanism are put in place e.g. data and information sharing. The beneficiary State should always provide readily available data or take part in studies that would provide the required data as well as enhance data exchange. The measures to be taken on the anticipated impacts of the projects to the countries downstream should be provided by the planning committee. The international laws with regard to sharing of environmental and social impact assessment on Transboundary Waters aspect should also be quoted. In addition, the procedure provision should be reported in the context of multilateral cooperation. The meeting also learnt that in international law, transparency and active engagement in transboundary waters issues is very important. The issues that the countries cannot handle are the ones to be taken to the International Court of Justice since there no higher judicial system to resolve the international disputes. The decision made by the ICJ is legally binding and should be respected by all riparian states.

### **Operationalization of the regime**

Group 4 - deliberated on the operationalization of the regime with regard to the management of the shared river basin. Blanconia agreed setting up a commission on water management within the basin that will ensure there is minimum flow of the Wide River. The commission comprising the three states would ensure that the development won't cause any significant harm to the lower community based on their existing use and requirements of the Delta of River Wide, downstream of Elbia. The commission will also oversee the financing of resettlement projects for Zutu community. On the other hand, Kufra agreed to ensure that the regulation of the damage that may arise is managed and set minimum flow of the river; ensure dam safety and put up early warning systems in case of dam failure; and requested Blanconia to declare the amount they will be using as well as provisions for upgrading the irrigation systems. The project as anticipated may not impact Elbiar's population thus Elbiar's requested the resettlement for the Zutu communities as far as building of shelters is concerned.

From the discussion that followed, it was evident that group 4 would consider any omissions as appertaining the running of the project, any energy deficit; and would factor in all uses of the river downstream, existing ecosystem and economic needs of the people downstream. It was also proposed that the amount of water in the daily flow be reduced to 20 Km<sup>3</sup>. A further proposal was that at least a timescale of 7 years be given to reduce the amount of water reaching the reservoir.

## **11 Technical Session V; SDG indicator 6.5.2**

A presentation on Sustainable Development Goals (SDG) and their indicator framework was made by Ms Sonja Koeppel, UNECE. The presentation highlighted the following : global goals and targets as adopted by all UN Member States; global indicators and methodologies for global indicators; national targets and its indicators which need to be defined by each country; regional indicators which need to be defined in each region; calculation of SDG indicator 6.5.2 which measures the area covered by an operational arrangement for transboundary water cooperation. She also explained the template for reporting on indicator 6.5.2 which had been sent to all IGAD (and other) countries. Ms Sonja requested that all countries report by the deadline 15th June, 2017 in order to establish the baseline. She urged the participants to support the reporting process in their respective countries.

The presentation is attached as annex 13

### **Discussions - Technical Session V**

In the discussion that followed, the meeting learnt that cooperation is essential as it enables countries to implement their global commitments. These commitments include the Sustainable Development Goal (SDG) on water particularly the SDG target 6.5 which requires all United Nations Member States to implement IWRM at all levels, including through transboundary cooperation as appropriate. This extent of cooperation will be measured in future through a dedicated SDG indicator 6.5.2. Further UNECE and UNESCO as custodian agencies will be collecting information on this indicator. The meeting was further informed that UNECE would consider developing a mechanism for quality data check in future. She emphasized on the need to cooperate with regional organizations such as AMCOW and IGAD to support the process. The UNECE is also aware that the African Ministers' Council on Water (AMCOW) had embarked on a related process; however, not all indicators were identical. Opportunities for collaboration with AMCOW in future data collection would be explored in order to ensure that sufficient and high quality data will be collected. Further it was mentioned that AMCOW had been collecting general information on water and that AMCOW has a wide mandate, however, the roles played by the two organizations with regards to monitoring, UNECE and AMCOW are different.

## **12 Advancing Transboundary Water Cooperation in the IGAD region**

### **12.1 Conclusion**

This last session of the training was jointly facilitated by Mr. Juan Carlos Sanchez and John Owino, IUCN. It comprised the reactions by participants as regards the workshop and way forward in the advancement of TWC in the IGAD Region.

The training increased negotiating skills through enhanced knowledge and through better understanding of the negotiation processes as well as of the complexity of the

negotiations and possible solutions as demonstrated by the three fictitious countries used as examples Blanconia, Kufra and Elbia. The participants also accumulated knowledge on river basins and scenarios; experience from other basins as in the case studies of the Pan European and Central Asia basins; the importance of transboundary aquifers and the relationship between Transboundary groundwater and the Helsinki Water Convention. On legal matters, the participants gained much knowledge on treaties; how to draft an agreement (law and diplomacy); and development of International Water Laws on aquifers. Finally, the committee gained knowledge on information sharing mechanisms, water diplomacy and cooperation, and lessons learned/ success factors as shared in the case studies. At the end of the training, a viable conclusion was made in that without Cooperation all the countries sharing any basin would eventually end up as losers.

## **12.2 Recommendations**

It was therefore recommended that;

1. Continuous process of capacity building is necessary to equip the negotiating countries with necessary knowledge and skills that would enable them handle the dynamic situations emerging from shared river basins in future.
2. Young experts should participate in such trainings so that they can gain knowledge and experience of the negotiation processes.
3. Such trainings should not only be held in the level of expert but also in the level of decision makers as well.

## **12.3 Way Forward**

1. A related training will be taking place in the month of June, 2017 in Uganda, organized by GWP, ANBO, IGAD, UNECE etc..
2. A study tour to the Sava and Rhine basins would be organized in Summer for representatives of Technical Advisory Committee (TAC) and the demonstration basin.
3. There would be an informal consultative meeting to be held the following day in the same venue to deliberate on the way forward regard the IGAD Regional Water Resources Protocol.

## **13 Closing Remarks**

Prof. Seifeldin Hamad Abdalla, representative of Sudan thanked the IGAD Secretariat for its Programmes and for organizing this important workshop. He thanked the Development Partners and sponsors for supporting the programme and for making this training possible. Further, he expressed special appreciation to Prof. Sergei Vinogradov, Ms. Sonja Koeppel and Mr. Juan Carlos Sanchez, for the credible work of preparing educative materials for the training. He emphasized that learning is a continuous process and that knowledge sharing is key in all aspects of life. He restated that such training should in future include experts of different ages, professions and expertise. Prof. Seifeldin noted

that such great trainings as this one need much time and those two days were not enough to exhaustively cover everything due to time limitations.

Ms. Sonja Koepfel, representative of UNECE, acknowledged that the training had been very interesting and interactive; she learnt a lot from participants. She urged the participants to share this new knowledge and experiences with the colleagues back in their respective countries. She further informed participants of another related training that is expected to take place in the month of June, 2017 in Uganda organized by GWP and partners. Ms. Sonja emphasized that such trainings are essential in enhancing knowledge on development of transboundary agreements. She thanked the participants for actively participating during the two days training; the Development Partners for support and collaboration; and the IGAD Secretariat and IUCN for organizing this important training. The training would hopefully support the Protocol negotiation team and decision makers since was conducted at a time when the IGAD Regional Water Resources Protocol was being discussed. Finally, Ms. Sonja acknowledged that there is need to enhance capacity building by conducting such trainings for audiences of different ages, professions, technical expertise and even decision makers.

Dr. Manfred Kauffman, representative of the Swiss Development Corporation (SDC) acknowledged that despite attending the training only on the second day, he could tell that it had been successful and inspiring event. He informed the meeting that the SDC has been supporting South Africa, Namibia and Botswana in matters appertaining to Transboundary Waters Cooperation. He added that gathering information and data is an important basins for negotiations. He further reminded participants that negotiation processes can take time and this process wasn't exceptional and therefore the negotiating countries ought to be patient. Dr. Manfred Kauffman affirmed that shared basins with agreements in place can more easily share the benefits from cooperation thus quoted an African saying 'if you want to go fast go alone; if you want to go far go together'. Thus, in order to walk far, cooperation among the member states is needed in all aspects of negotiations. He finally wished the delegations the best in the negotiations of the IGAD Water Resources Protocol.

Mr. John Owino, representative of IUCN reaffirmed that the IUCN has been offering great support to IGAD Secretariat who are the organizers of the training. He thanked all the participants for their patience during the training and more so for honoring the invitation to the workshop. He also conveyed special thanks to Prof. Sergei Vinogradov for creating time to share knowledge, experiences and expertise regarding Transboundary Water Cooperation and governance. He further commended the interpreters for a splendid job of interpreting the languages to ease understanding. In addition, Mr Owino acknowledged the IGAD Secretariat for the logistics and the Development Partners and donors for making this training a success.

The Chair, Mr. Mohammed Moussa, Director for Agriculture and Environment IGAD Secretariat, thanked all the participants for their active participation in the theory and practical sessions and for immense contributions to the training in terms of knowledge

sharing. He emphasized that a lot has been learnt from experience and acknowledged that training junior experts is very essential to help improve on their negotiation skills. He thanked Prof. Sergei Vinogradov, Ms. Sonja Koeppel, Mr. Juan Carlos Sánchez and John Owino for taking time to prepare the materials for the training and efforts they have shown during the running of the workshop. He also recognized Mr. Fred Mwangi of the IGAD Secretariat for his whole heartedness in ensuring that the programme ran smoothly. He in addition expressed sincere gratitude to the Development Partners IUCN, SDC, OES US and UNECE respectively for facilitating this important training.

#### 14. Appendixes

#### 15. List of Participants