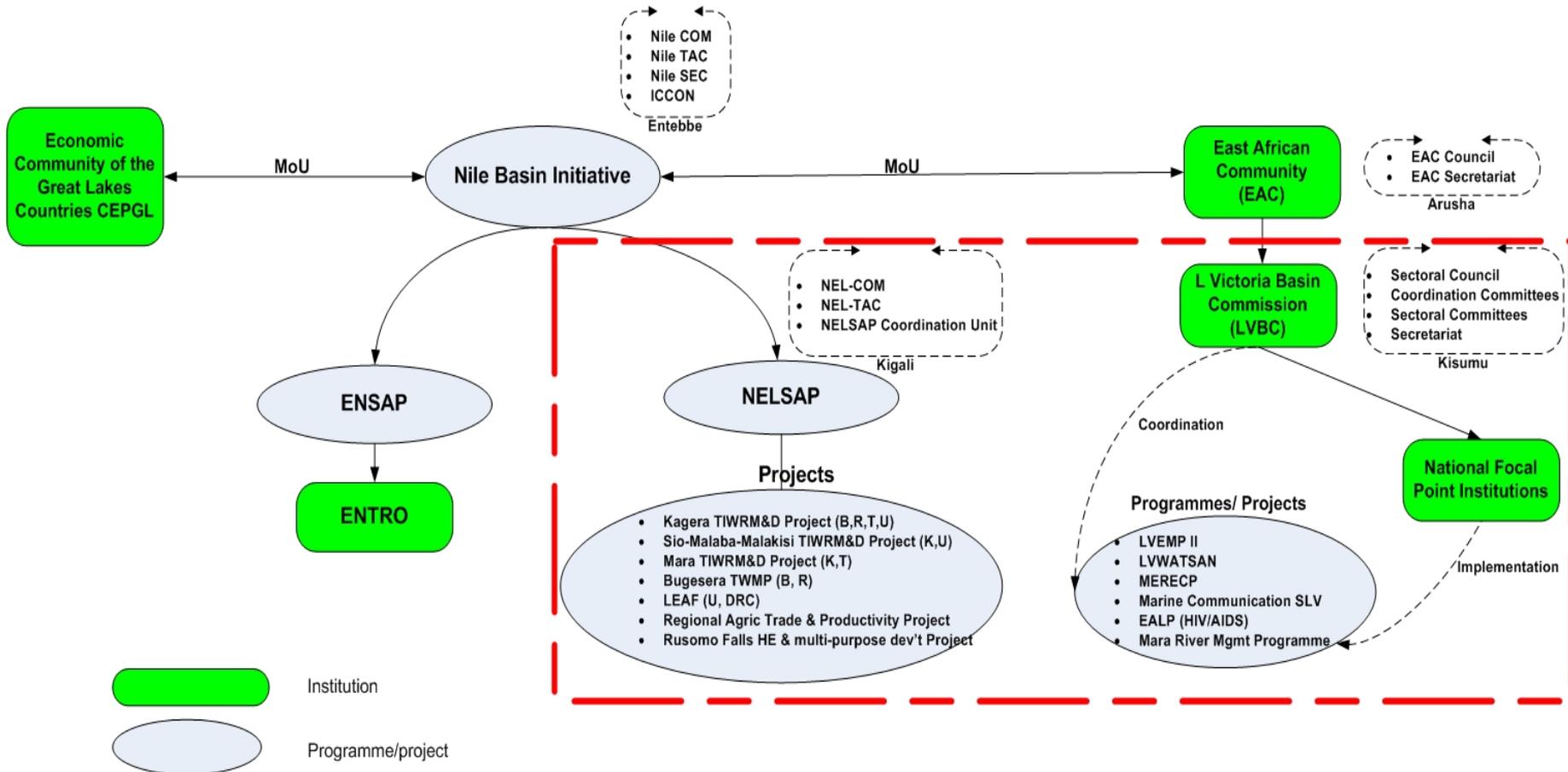


**OVERVIEW OF PAST WORK AND CURRENT STATUS OF
INSTITUTIONAL PROCESSES AND ARRANGEMENTS AT ALL
LEVELS
FORMAL AND INFORMAL**

SIO-MALABA-MALAKISI SUB BASIN.

Schematic diagram of existing arrangements & initiatives

NBI-EAC Institutional Linkages



SMM INSTITUTIONAL SET UP

- The Nile Equatorial Lakes Council of Water Ministers
- The Nile Equatorial Lakes Technical Advisory Committee
- The Regional Project Steering Committee
- The Nile Equatorial Lakes Subsidiary Action Program Coordination Unit
- The Project Management Unit

- Policy and political decisions concerning the NELSAP Program
- Recommendations to the riparian governments concerning policy issues that require decisions;
- Strategic direction for the preparation and implementation of the NELSAP programme
- Approving Project Implementation Manuals and grant proposals for financing;
- Approving annual work plans and budgets, and programs and projects
- Ensuring the smooth operation of NELSAP activities
- Mobilisation of member country cash contributions and contributions from external support agencies (Development Partners) and NGOs
- Providing linkage of programme elements with other line ministries in the member countries and regional programmes like the EAC, CEPGL, NEPAD, IGAD, COMESA and other regional bodies;
- Facilitating joint agreements, policies and data sharing protocols;
- Reporting to the respective governments of the basin countries.

- Technical advice to NELCOM members to enable them take informed decisions.
- Providing strategic guidance, oversight, monitoring and supervision, on behalf of NELCOM,
- Guidance and advice to NELSAP-CU and the SMM PMU on policy and technical matters
- Assisting NELSAP-CU and the SMM PMU in prioritization of major programs.
- Linking NELCOM to the NELSAP-CU and the SMM PMU, Development Partners.
- Follow-up on the implementation of NELCOM decisions and directives, and monitoring and providing regular feedback.
- Briefing NELCOM on strategic issues on the NEL Region, outcomes of engagements and strategic dialogue with development partners
- Coordinating, facilitating and supervising NELSAP programmes
- Identification and preparation of NELSAP projects; and
- Facilitating joint agreements, policies and data sharing protocols.

- Guiding, supervising, monitoring and ensuring that the activities undertaken by the SMM PMU meet NELSAP Program and SMM Project objectives.
- Carrying out critical review of the performance of the SMM Project and offering guidance to enable it deliver expected outputs.
- Monitoring the implementation by Kenya and Uganda of their obligations to the SMM Project and NELSAP Program;
- Facilitating cooperative decision making by Member states on integrated management and development of the shared water resources of the SMM;
- Facilitating and promoting the resolution of issues raised by either State Party with a view to preventing disputes;
- Reviewing and approving program work plans and budgets, progress reports, financial reports and project technical and administrative reports;
- Reporting to NELTAC on the activities of the SMM Project; and
- Other functions as the State Parties (Kenya and Uganda), in consultation with the NELSAP may mandate it to undertake.

NELSAP CU

- Recruiting SMM PMU staff in line with the NELSAP Human Resources Policy and Procedures Manual (2009);
- Making external communications on the NELSAP Program and Projects
- Procuring and contracting consultants and other service providers for the NELSAP Projects;
- Monitoring and evaluation of the NELSAP Program and Projects; joint annual supervision missions and mid-term and end of project evaluations;
- Liaising with development partners and management of program trust funds;
- Preparing and overseeing the application of good practice guides in a wide range of areas related to the activities of NELSAP projects.
- Capacity building for NELSAP Project staff and government officials
- Discharging such other functions related to the implementation of the SMM Project as assigned by NELTAC and NELCOM.

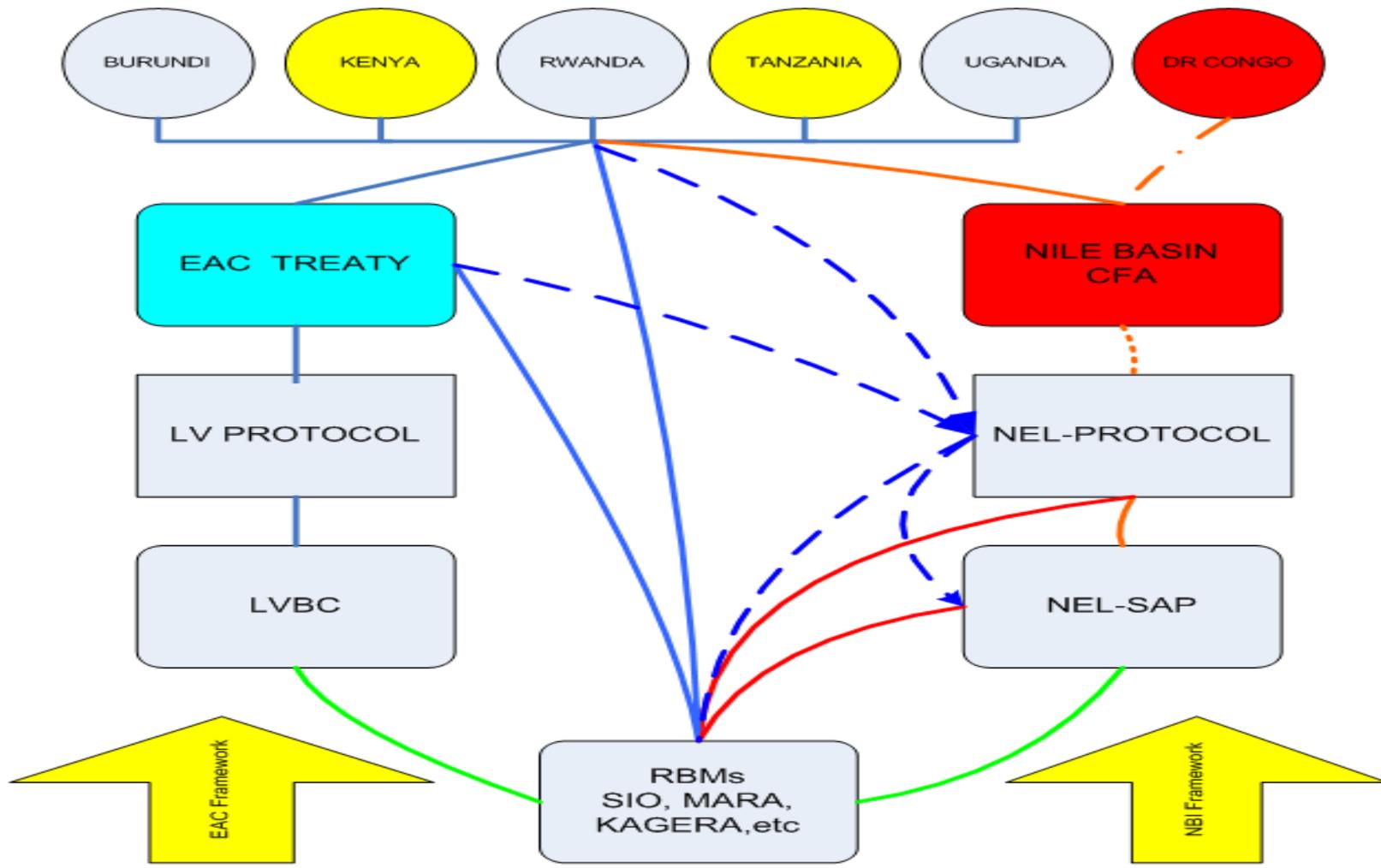
- Preparing annual and quarterly project work plans and budgets
- Implementing the work plans and budgets to ensure timely delivery of expected outputs
- Carrying out financial control and ensuring proper management of project funds
- Procurement of goods, works and services; preparing terms of reference and tender documents for hire of consultants and contractors under the project;
- Facilitating and supervising the activities of consultants and contractors procured
- Arranging for, and facilitating project steering committee meeting
- Establishing, maintaining and managing data and information systems on the SMM Project;
- Facilitating data and information sharing and exchange on the SMM - NBI Information Sharing and Exchange Procedures and Guidelines.

- Link between the SMM Project, central and local governments, and local stakeholders;
- Guidance on national policies and procedures that are applicable to the project;
- Guidance to local stakeholders/beneficiaries on disbursement and accountability procedures of the project;
- Disseminating information on the project to stakeholders at national and local levels;
- Assist in implementation of micro projects; identifying relevant stakeholders (county/district and local levels; NGOs, CBOs, politicians, media);
- Participating in project steering committee meetings;
- Participating in monitoring and evaluation of the project;

Efforts to develop a permanent legal and institutional framework – SMM Sub Basin

- Maintaining the status quo (i.e. the project management framework described above);
- Creating a bilateral framework between Kenya and Uganda for management of the SMM sub-basin;
- Create a framework under the NBI; or
- Create a framework under EAC

Institutional arrangement-legal options for RBMs

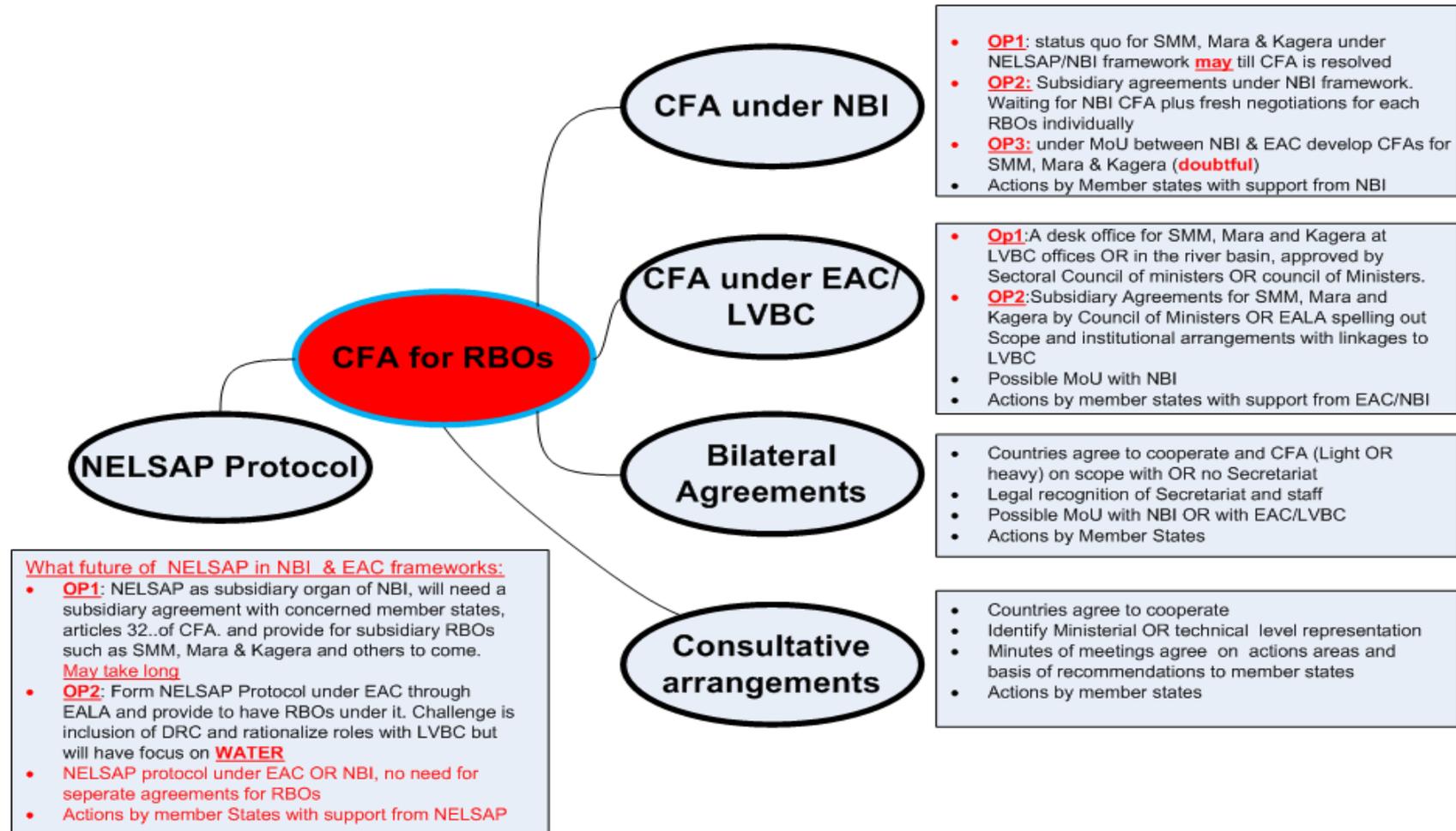


Key

- Possible now
- Potential under CFA
- Project/ Programmes
- - - Necessary Link, CFA
- - - Possible now with Intermediate step

Options under Pillar Institutions

OPTIONS FOR RBOS UNDER THE PILLAR INSTITUTIONS OF EAC/NBI



Institutional options for the future management of the SMM Sub-basin

Option	Key features
<p>OPTION 1: Maintain the status quo.</p>	<p>In this option, the two riparian states would maintain the existing water resources management arrangements in the catchments with no new formal institutional arrangement between the two states.</p> <p>Each state takes its own administrative and legal measures to manage the basin and when necessary, on ad hoc basis, the two states can meet to resolve any outstanding and emergent transboundary issues.</p> <p>This was the option that the countries eventually settled on.</p>
<p>OPTION 2: Bilateral arrangement between Kenya and Uganda.</p>	<p>Under this option, the two States enter into a specific agreement for co-operation in the integrated management and development of the SMM waters. This would be a purely bilateral arrangement outside existing legal and institutional frameworks of the EAC/LVBC and Nile Basin.</p> <p>This option appeared attractive to the countries but was not prioritized.</p>

<p>OPTION 3: An Arrangement under NBI.</p>	<p>Under this option, the countries make an arrangement (sign protocols) for the management of the SMM under the Nile Basin Initiative within the context of draft Nile Basin Cooperative Framework as a subsidiarity institution.</p> <p>However, the proposed Nile Basin Cooperative Framework has not been finalized and was only signed by six countries (Burundi, Rwanda, Kenya, Ethiopia, Tanzania and Uganda). Even when the Co-operative framework is adopted by the states, it must necessarily go through a lengthy ratification process (already ratified by Ethiopia, Rwanda and Tanzania) before coming into effect. Only after conclusion of this process will Kenya and Uganda be in position to enter into a new treaty bringing the SMM institutional arrangement under the Nile Cooperative Framework.</p> <p>For the above reasons, and fear of losing benefits already demonstrated under NELSAP by opening up to all NBI countries, this option was not recommended.</p>
<p>OPTION 4: An Arrangement under East African Community</p>	<p>Under this option, Kenya and Uganda will need to reach an agreement under the EAC Treaty to cooperate on the management of the SMM sub-basin.</p> <p>The SMM sub-basin comprises of two main river systems: the Sio River system that drains into Lake Victoria, and the Lwakhakha-Malakisi-Malaba River system that drains into Lake Kyoga in Uganda.</p> <p>The two river systems may have to be managed separately (with the Sio managed under the LVBC protocol while a new protocol is reached for the Lwakhakha-Malakisi-Malaba River system) or managed together (which is the preference of the countries), by extending the LVBC protocol to cover the Lwakhakha-Malakisi-Malaba Catchment.</p> <p>To commence cooperation on the SMM under the EAC: (a) through a directive of the Council of Ministers, which would enable the SMM to be managed without a separate legal framework; and (b) through a community law prepared by the East African Legislative Assembly (EALA), which would have greater moral authority than the Council of Ministers' directive. Under the latter modality, a specific legal instrument will be required to create an enabling law that creates a specific institutional framework to implement SMM in a specific geographical and social context.</p> <p>This option was the recommended framework under the institutional framework studies, but was not adopted by the countries</p>

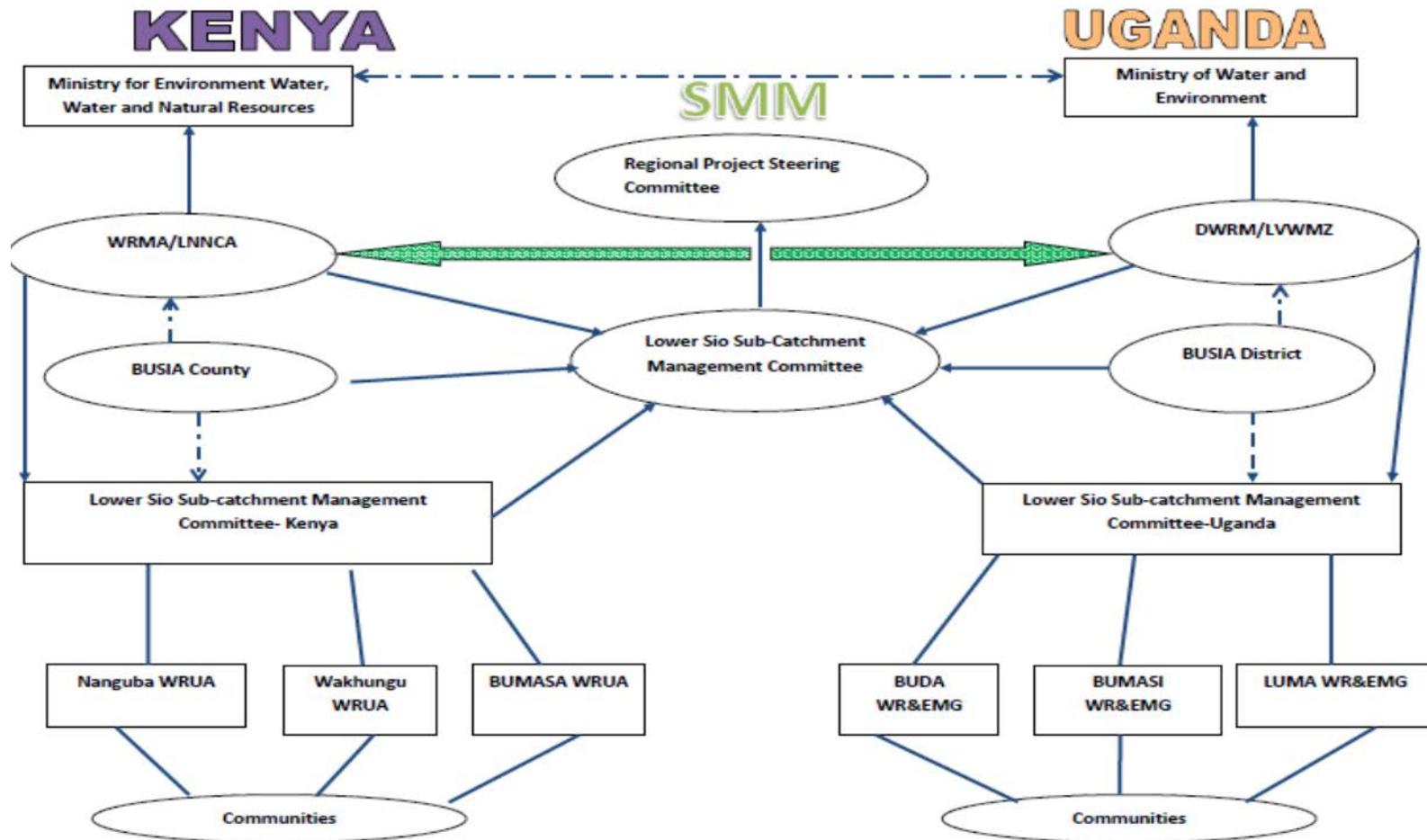
Institutional Framework in WRM-Middle Malaba sub-catchment

UGANDA	KENYA
Ministry of Water and Environment	Ministry of Water and Irrigation
Directorate of Water Resource Management	Water Resources Management Authority-National
Lake Kyoga Water Management Zone - Mobile	Lake Victoria North Catchment Area – Kakamega region
Mpologoma Catchment Management Organization	Elgon-Cherenganyi Catchment - Kitale sub-region
District Local Government of Busia/ Sub County Local Governments	County Government of Busia
Middle Malaba Sub-catchment Management Organization	Komiriai WRUA and Adungosi WRUA
Osukuru, Mella and Kwapa Micro-catchment management organisations	Water and Environmental CBOs

Institutional Framework in WRM-Lower Sio sub-catchment

UGANDA	KENYA
Ministry of Water and Environment	Ministry of Water and Irrigation
Directorate of Water Recourses Management	Water Resources Management Authority
Victoria Water Management Zone – Mbarare office	Lake Victoria North Catchment Area – WRMA Kakamega Regional office
Sio Catchment Management Organization	Sio Sub-Catchment - WRMA Siaya Sub-regional office
District Local Government of Busia/ Sub County Local Governments	County Government of Busia
Buda, Bumasi, and Luma Water Resources and Environment Groups (Micro-catchment management organizations)	Wakhungu WRUA ,Nanguba and Bumasa WRUA

SMM INSTITUTIONAL FRAMEWORK



Insert Photo

End