AMBIGUITY
IN TRANSBOUNDARY RIVER BASINS AGREEMENTS AND NEGOTIATIONS

THE CASE OF THE NILE RIVER BASIN

Ana Cascão
King's College of London
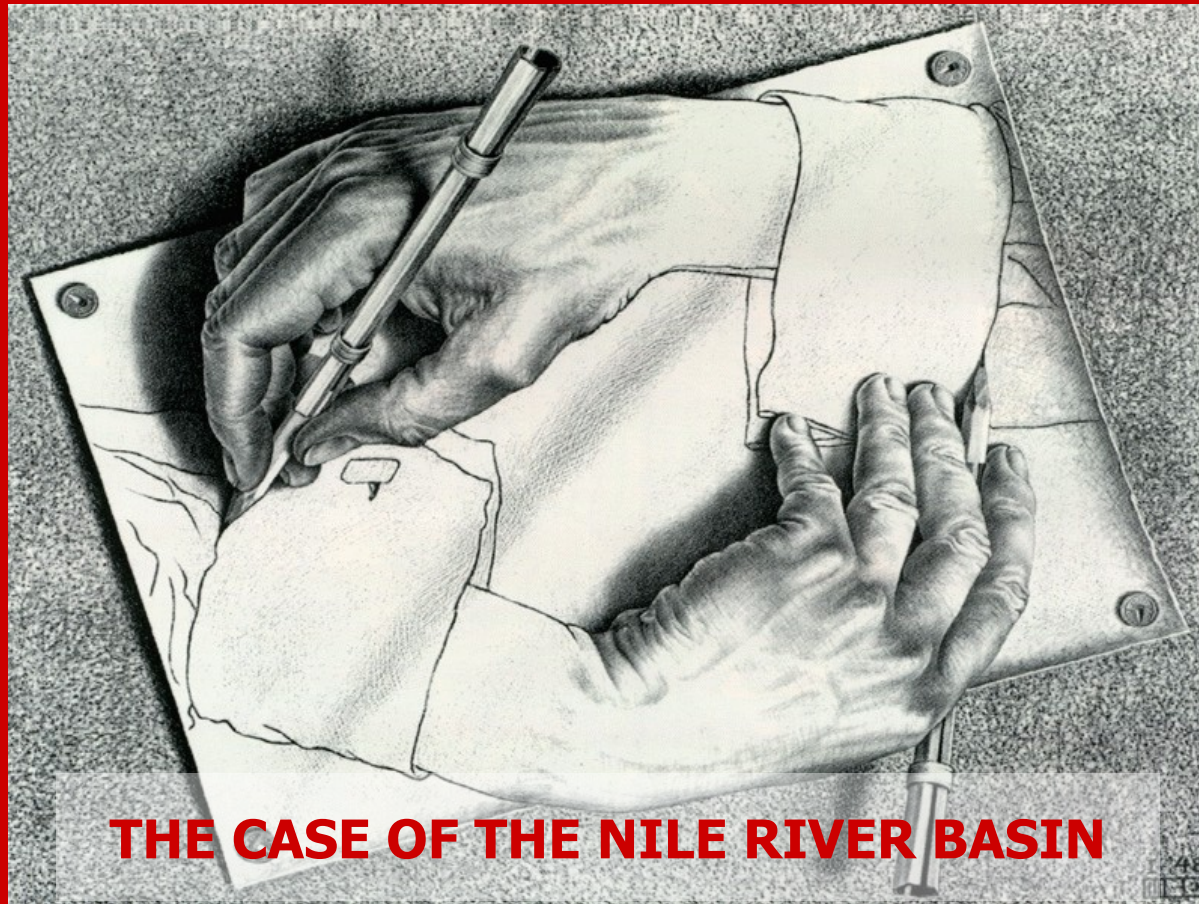
WARNING:
this presentation may contain implicit illusions

NEXUS

WATER **LAW** **&** **AMBIGUITY**
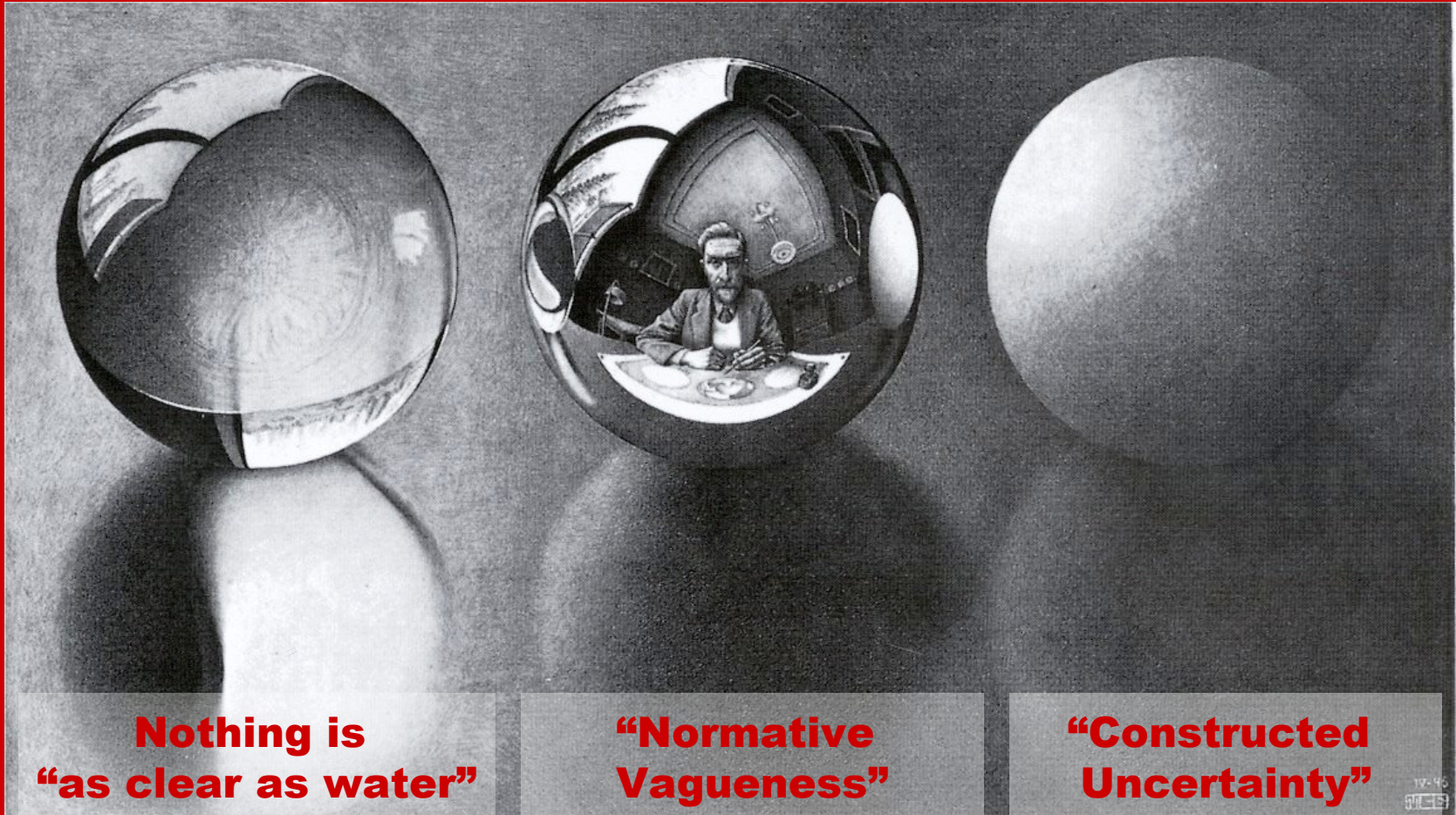
Nothing is "as clear as water"

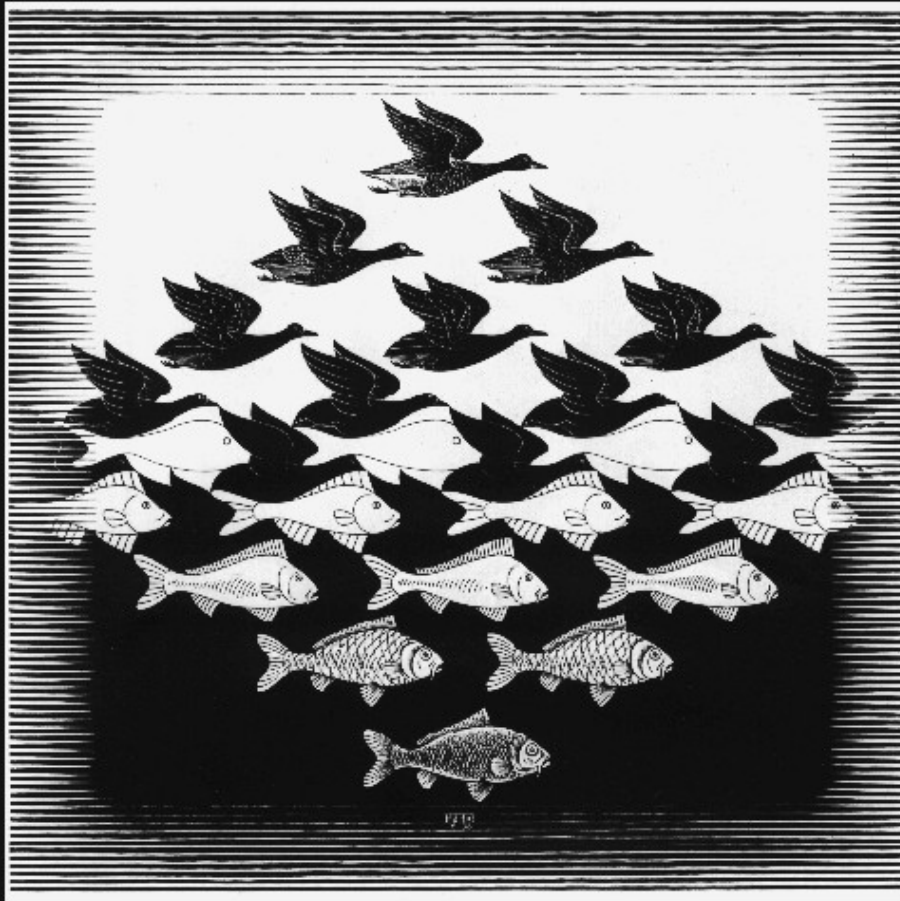"Normative Vagueness"

"Constructed Uncertainty"

Gets less clear
when water is transboundary

1997 UN Convention
includes vague norms/provisions

Often deliberately embedded in
water negotiations and treaties

☝ POS OF USING AMBIGUITY

Ambiguity CAN
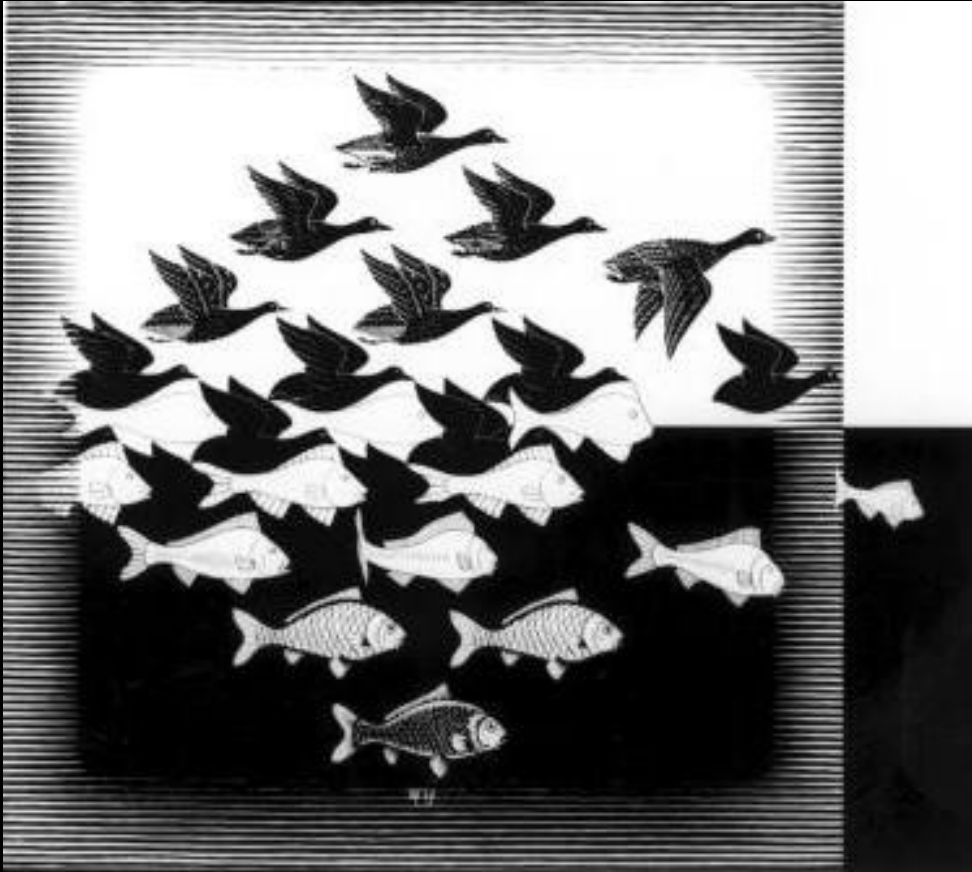

☝ Increase flexibility in stiff negotiations

☝ Accomodate divergent interests

☝ Defuse conflictive positions

☝ Create room for political compromise

☝ Resolve long-lasting deadlocks

☝ Facilitate conclusion of agreements

CONSTRUCTIVE AMBIGUITY

👎 CONS OF USING AMBIGUITY

Ambiguity CAN ALSO

- 👎 Induce different and divergent interpretations

- 👎 Increase legal controversies

- 👎 Difficult implementation of agreement

- 👎 Encourage **non-compliance**

- 👎 Contribute to prolongation of conflicts

DESTRUCTIVE
AMBIGUITY

DELIBERATED AMBIGUITY
IN WATER NEGOTIATIONS & AGREEMENTS

1994
Israeli-Jordan
Water
Agreement

1993-1995
Israel-Palestine
water
negotiations
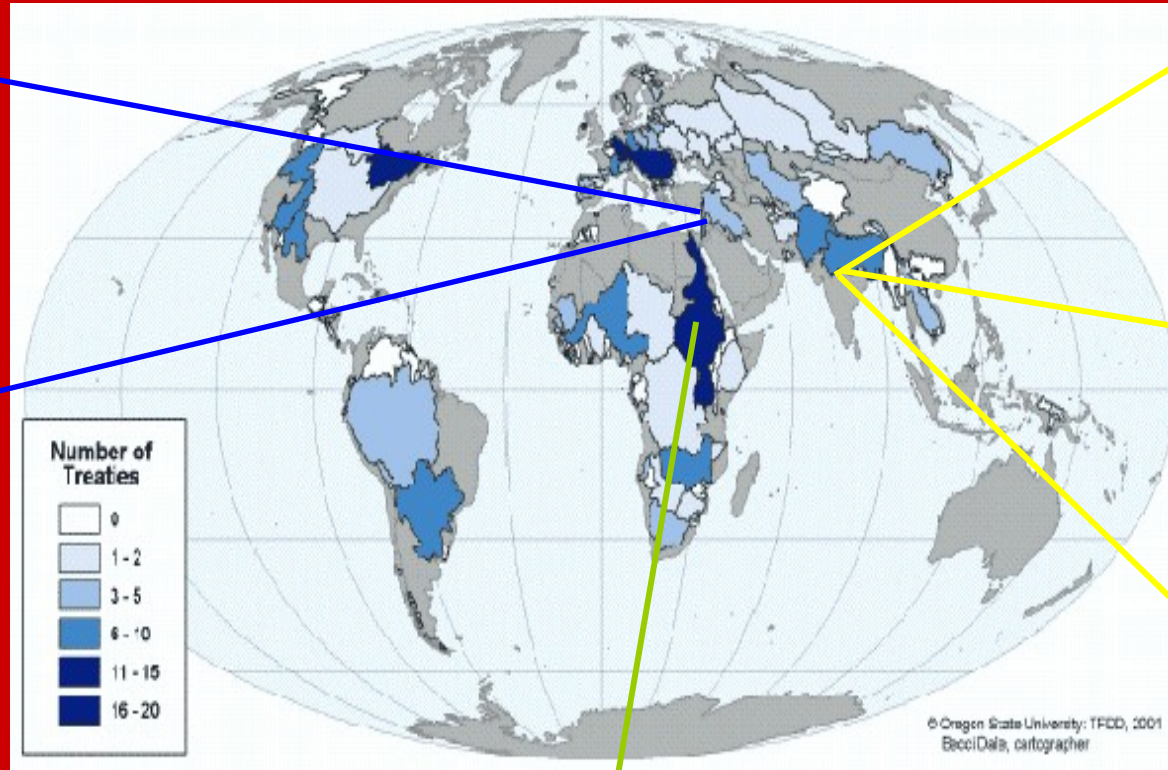
1954
India-Nepal
water
agreement on
the Kosi River

1954
India-Nepal
water
agreement on
the Mahakali
River

1996
India-
Bangladesh
Ganges Treaty

2007
Nile Cooperative
Framework Agreement

Number of Treaties

0
1 - 2
3 - 5
6 - 10
11 - 15
16 - 20

© Oregon State University: TFDD, 2001
BecciDale, cartographer

NILE RIVER BASIN — A LEGAL DEADLOCK

Downstream Riparians

Upstream Riparians

Old agreements

New agreement

"Prior Use"

"Equitable Utilisation"

10Years of Negotiations

Legal Deadlock

Ambiguity

AMBIGUOUS "WATER SECURITY"

NILE COOPERATIVE FRAMEWORK AGREEMENT

Article 14:
"(...) the Nile Basin States therefore agree,
in a spirit of cooperation, to work together to ensure
that all states achieve and sustain water security
and **not to significantly affect the water security**
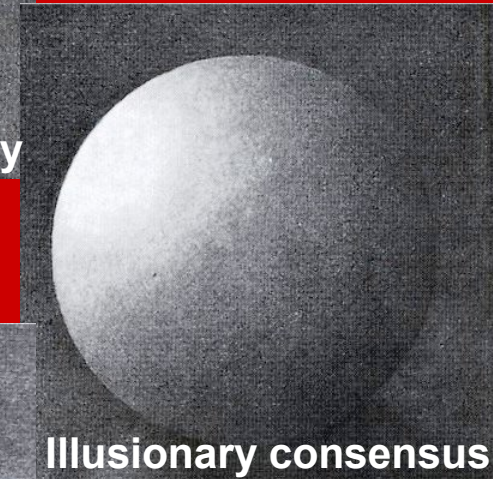**of any other Nile Basin State**."

Egypt/Sudan proposal:
"(...) the Nile Basin States therefore agree,
in a spirit of cooperation, to work together to ensure
that all states achieve and sustain water security
and **not to adversely affect the water security**
and current uses and rights
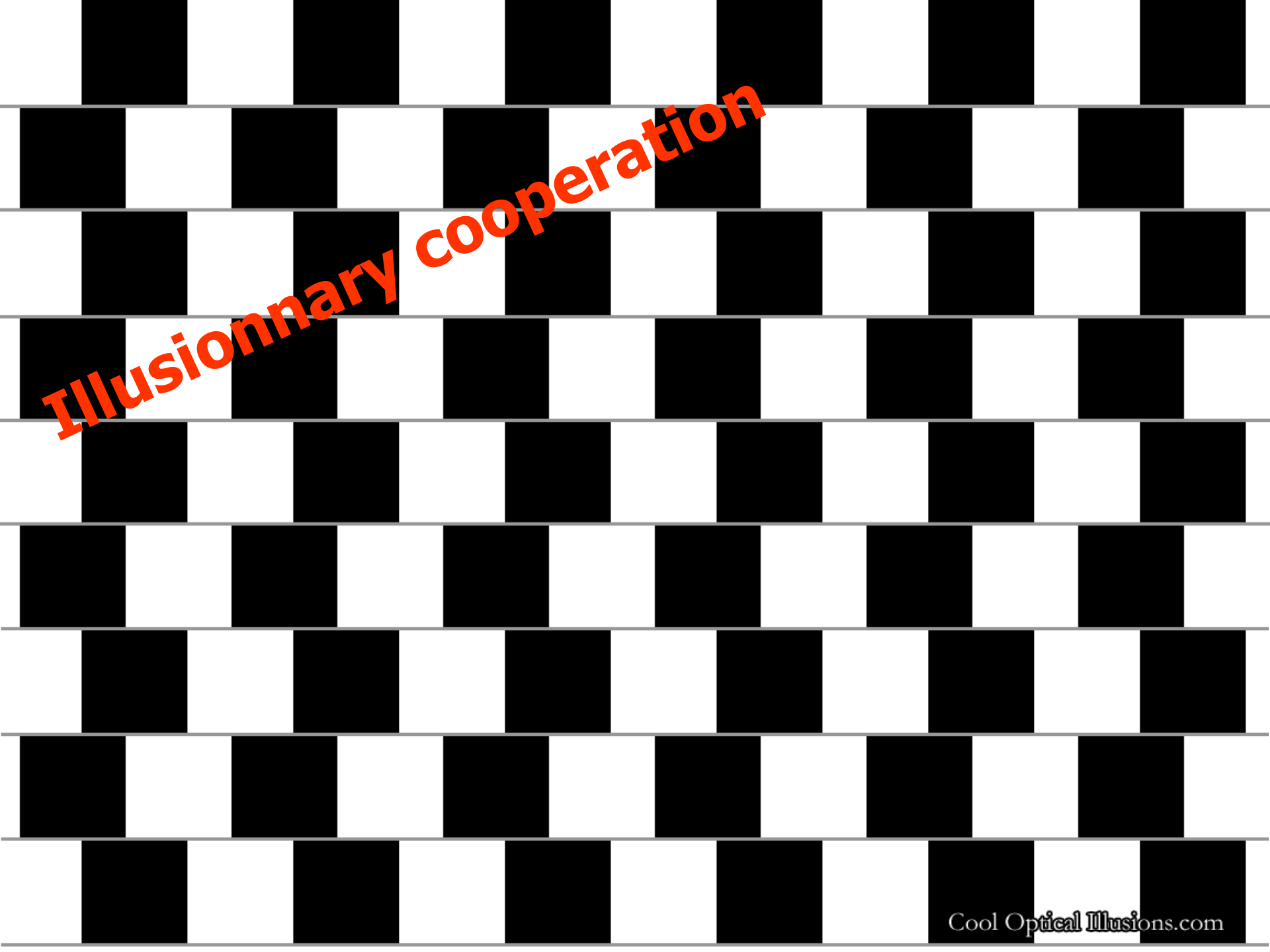**of any other Nile Basin State**."

Entebbe, June 2007
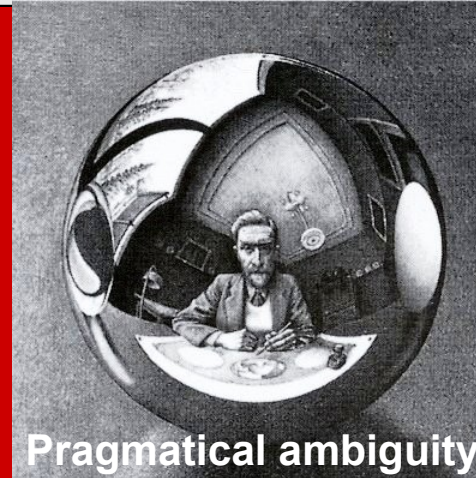
Pragmatical ambiguity

Illusionary consensus

Status quo **maintenance**

Illusionnary cooperation

Cool Optical Illusions.com

Thanks for your attention!

I am available to reply any ambiguous or precise question

ana.cascao@kcl.ac.uk