

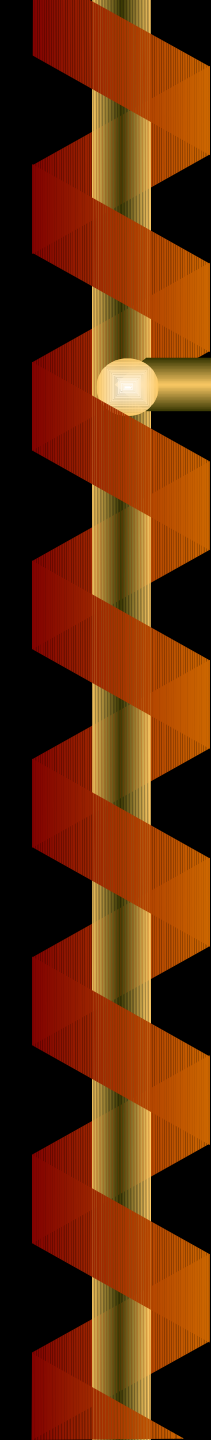


**Shared Watercourses  
in the Southern  
African Region:  
Challenges and  
Opportunities**

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Azimuthal Equal-distant 1 2 3 4 5 6 7 8 9  
 West from Greenwich East from Greenwich  
 ● Dakar Capital Cities  
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# Structure of Presentation

- About the SADC Region
- History and Organizational Structure of SADC
- Shared Watercourses in SADC
- The 1995 Protocol
- The UN Watercourses convention
- The Revised Protocol
- Conclusions

# About the SADC Region: Variations



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Climatic zones

Size, Population,

AIDS

GNP, Growth rate

# About the SADC Region



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*Water Availability*

*Droughts – 1988 and 1990, 2002*

*Floods – 2000*

*Water-borne Diseases*

# Organizational Structure of SADC

- The Gaborone meeting 1979
- The Arusha Conference
- The Lusaka meeting 1980
  - The Lusaka Declaration
  - Southern African Development  
Coordination Conference
  - Facilitating Economic Development  
– Apartheid

# Organizational Structure of SADC

*SADC Treaty – Signed in August  
1992 in Windhoek*

*Namibia 10<sup>th</sup> member, SA 11<sup>th</sup>  
member in 1994*

*Establish SADC as a legal Entity*

# Main features of the Treaty

SADC as a International organization

Basic principles

Sovereign equality, solidarity, peace and security,

Human rights, democracy, rule of law and peaceful settlement of disputes

Objectives (art. 5)

Achieving development and economic growth

Alleviating poverty, and enhancing standard and quality of life



# Main features of the Treaty

## Objectives

Achieving sustainable utilization of natural resources and protection of the environment

## Areas of Cooperation (art. 21)

Food security

Land and agriculture

Natural resources and environment

Politics, diplomacy, international relations, peace and security

# Organizational Structure of SADC

Headquarters in Gaborone

Summit of head of states

Council of Ministers

Commissions

Standing Committee of Officials

The Secretariat

The tribunal

# Organizational Structure of SADC



## Protocols – 8

Transport and Communications

Energy

Trade

Mining

Tourism

Wildlife

Tribunal

Shared Watercourses

# Shared Water Resources in SADC

Large number of transboundary rivers

Table 1

Table 2

Except for the Congo, all are SADC  
rivers

Other rivers: Buzi, Umbeluzi, Pungwe,  
Chiloango, Songwe

# Challenges Facing SADC

Spatial and temporal variations  
Drought, Floods

Steady increase in population

200 million in 1999

350 million in 2025

Large number of international  
rivers

Floods from international rivers

# Challenges Facing SADC

## Existing disputes

M'njoli dam in Swaziland over Umbeluzi river – effects on Mozambique

Driekoppies dam in SA over Incomati – effects on Swaziland

Diversion of the Okavango by Namibia

Kasikili Sedudu dispute

Orange river dispute

# The 1995 Protocol

Signed in Johannesburg 3/95  
International Law at that time  
Entered into force in 9/98  
Use of the term "Shared"  
Mixes the terms "Drainage  
Basin" and "Watercourses  
system"  
Adopts the Helsinki Rules

# The 1995 Protocol

Concept of equitable utilization

Helsinki Rules factors

Requirement of a permit for  
water use

Notification in case of  
emergency



# The 1995 Protocol



Institutions to be established

Monitoring unit

River basin commissions

River basin management  
institutions

Settlement of disputes

# The Revised Protocol

*Why was the 1995 Protocol revised*

*UN Convention was adopted*

*Nine out of the 14 SADC members voted for it. One abstained 3 did not participate*

*Limitations of the 1995 Protocol were apparent*

*Mozambique insistence on incorporation of the obligation not to cause significant harm*

# The Revised Protocol

*Objectives (art. 2)*

*Recognition of the unity and coherence of the watercourse*

*Equality of rights of riparian states*

*Respect for the rules of customary international law*

*Sharing of benefits not just water*

# The Revised Protocol

## Main similarities with the UN Convention

Use of the term “watercourse”

Equitable and reasonable utilization and the obligation not to cause significant harm

Lack of clarity in dealing with the two concepts

To what should “due regard” be given?  
Which principle subordinates which?



# The Revised Protocol

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Planned measures

Environmental provisions

Management of Shared  
Watercourses

Cooperation for regulation of the  
flow of shared watercourses

Floods

# The Revised Protocol

## Watercourse Agreements (fnote 116)

Existing agreement

Not affected

Call for harmonization

Future agreements “apply and *adjust*”

Flexibility v. certainty

23 existing agreements among SADC

Treaty on the Zambezi River

Lesotho Highlands Water Project

# Katse Dam - Lesotho Highlands Project - November 1996



# The Revised Protocol

## Main Differences from UN Convention

*Navigational uses*

*Institutional framework*

*Committee of Water Minister*

*Committee of Water senior Officials*

*Technical Committee*

*Water Sector Coordinating Unit*

*Commissions as necessary*



# The Revised Protocol



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*Dispute settlement*

*Amicable resolution*

*Tribunal – Decisions final and binding*

*Other Provisions*

*Signature, ratification, entry into force*

*Accession, amendment, withdrawal*

*Status of the 1995 Protocol*

# Conclusion

Large number of transboundary rivers could be a cause for conflict or a catalyst for cooperation

The Revised protocol is a significant step in the direction of cooperation

Recent events points in the direction of cooperation

Kasikili Sedudu

# Conclusion



Despite lack of clarity, equitable and reasonable utilization is the guiding principle

Addressing navigation is another positive aspect

Challenge is in implementation

**THANK YOU**

