

Original SADC Shared Watercourse Systems Protocol

The PROTOCOL

Water in the region is a scarce resource with 70 percent of the regional surface shared between two or more member states. At the same time, a good number of states are prone to devastating droughts which all leave a trail of misery in their wake, drastically affecting humans and animals alike.

It is also projected that in the next 20 to 30 years, three or four SADC States will be facing serious water shortages if nothing is done now. It was in recognition of the importance of a coordinated approach to utilisation and preservation of water that the SADC member States signed the Protocol on Shared Watercourse Systems at the 1995 Summit in South Africa. The main thrust of the Protocol which is a legally binding document, is to ensure equitable sharing of water and also ensure efficient conservation of the scarce resource.

Article 1: General Principles

For the purpose of this protocol, the following general principles shall apply:

1. The utilisation of shared watercourse systems within the SADC region shall be open to each riparian or basin State, in respect of the watercourse systems within its territory and without prejudice to its sovereign rights, in accordance with the principles contained in this Protocol. The utilisation of the resources of the watercourse systems shall include agricultural, domestic, industrial and navigational uses.
2. Member States undertake to respect and apply the existing rules of general or customary international law relating to the utilisation and management of the resources of shared watercourse systems and, in particular, to respect and abide by the principles of community of interests in the equitable utilisation of those systems and related resources.
3. Member States lying within the basin of a shared watercourse system shall maintain a proper balance between resource development for higher standard of living for their peoples and conservation and enhancement of the environment to promote sustainable development.
4. Member States within a shared watercourse system undertake to pursue and establish close cooperation with regard to the study and execution of all projects likely to have an affect on the regime of the watercourse system.
5. Member States within a shared watercourse system shall exchange available information and data regarding the hydrological, hydrogeological, water quality, meteorological and ecological condition of such watercourse system.
6. Member States shall utilise a shared watercourse system in an equitable manner. In particularly, a shared watercourse system shall be used and developed by member States with a view to attaining optimum utilisation thereof and obtaining benefits therefrom consistent with adequate protection of the watercourse system.
7. Utilisation of a shared watercourse system in an equitable manner within the meaning of paragraphs 4 and 6 requires taking into account all relevant factors and circumstances

including:

- a. Geographical, hydrographical, hydrological, climatical and other factors of a natural character;*
 - b. The social and economic needs of the member States concerned;*
 - c. The effects of the use of a shared watercourse system in one watercourse state on another watercourse state;*
 - d. Existing and potential uses of the shared watercourse system; and*
 - e. Guidelines and agreed standards to be adopted.*
8. Member States shall require any person intending to use the waters of a shared watercourse system within their respective territories for purposes other than domestic use or who intends to discharge all types of wastes into such waters to first obtain a permit from the relevant authority within the State concerned. The permit shall be granted only after such State has determined that the intended discharge will not have a detrimental effect on the regime of the watercourse system.
 9. Member States shall, without delay, notify other potentially affected States and competent international organisations, of any emergency originating within their respective territories.
 10. In the event that implementation or execution of any planned measures is of the utmost urgency in order to save life, or to protect public health and safety, or other equally important interests as a result of an emergency situation, the member State planning the measures may, notwithstanding the provisions of paragraph 9, immediately proceed with implementation or execution, provided that in such event a formal declaration of the urgency of the measures shall be communicated to other member States.
 11. Member States shall take all measures necessary to prevent the introduction of alien aquatic species into a shared watercourse system which may have detrimental effects on the ecosystem.
 12. Member States shall maintain and protect shared watercourse systems and related installations, facilities and other works in order to prevent pollution or environmental degradation.
 13. Shared watercourse systems and related installations, facilities and other works shall be used exclusively for peaceful purposes consonant with the principles enshrined in the SADC Treaty and in the Charter of the United Nations and shall be inviolable in time of international as well as internal conflicts.

Article 2:

Establishment of River Basin Management Institutions for Shared Watercourse Systems in the SADC Region

1. Member States hereby undertake to establish appropriate institutions necessary for the effective implementation of the provisions of this protocol.

2. Without prejudice to paragraph 1 above, member States undertake to the following institutions:

(a) A Monitoring Unit based at the SADC Environment and Land Management Sector (ELMS);

(b) River Basin Commissions between Basin States and in respect of each drainage basin; and

(c) River authorities or Boards in respect of each drainage basin.

Article 3:

Objectives of the River Basin Management Institutions

The River Basin Management Institutions shall have as their main objectives:

(a) To develop a monitoring policy for shared watercourse systems;

(b) To promote the equitable utilisation of shared watercourse systems;

(c) To formulate strategies for the development of shared watercourse systems; and

(d) To monitor the execution of integrated water resource development plans in shared watercourse systems.

Article 4:

Functions of the River Basin Management Institutions

In order to attain the objectives set out in Article 3, the River Basin Management Institutions shall, in consultation with watercourse, States, perform the following functions:

(a) With regard to National Water Resources Policies and Legislation:

(i) Harmonisation of national water resources policies and legislation; and

(ii) Monitoring compliance with water resource legislation and, where necessary, recommending amendments thereto and the introduction of new legislation.

(b) With regard to Research, Information and Data Handling:

(i) Collecting, analysing, storing, retrieving, disseminating, exchanging and utilising data relevant to the integrated development of the resources within shared watercourse systems and assisting member States in the collection and analysis of data in their respective States:

(ii) Reviewing the provisions of National Development Plans relating to the water course systems;

(iii) Designing and conducting studies, research and surveys relating to the environmentally sound development and management plans for shared watercourse systems;

(iv) Stimulating public awareness and participation in sound management and development of the environment including human resources development; and

(v) Promoting in accordance with the national development plans of the Basin States, the formulation of integrated master plans for shared watercourse systems.

(c) With regard to Water Control and Utilisation in shared watercourse systems:

(i) Recommending regulations of the flow and drainage;

(ii) Promoting measures aimed at flood and drought mitigation;

(iii) Recommending and promoting measures to control desertification, soil erosion and sedimentation;

(iv) Monitoring the utilisation of water and agriculture, domestic, industrial and navigational purposes;

(v) Monitoring the establishment of hydroelectric power installations; and

(vi) Monitoring the generation of hydroelectric power.

(d) With regard to Environmental Protection:

(i) Promoting measures for the protection of the environment and the prevention of all forms of environmental degradation arising from the utilisation of the resources of the shared watercourse systems;

(ii) Assisting in the establishment of a list of substances whose introduction into the waters of a shared watercourse system is to be banned or controlled;

(iii) Promoting environmental impact assessments of development projects within the shared watercourse systems; and

(iv) Monitoring the effects on the environment and on water quality arising from navigational activities.

(e) With regard to Hydrometeorological Monitoring Programme:

(i) Promoting a hydrometeorological monitoring programme in consultation with other SADC sectors.

A financial and regulatory framework for the River Basin Management Institutions referred to in Article 2 shall be annexed to this Protocol and shall constitute part of the Protocol.

(Note for further information of the Shared Watercourse Systems Protocol, the Annex to the Protocol and its respective articles please contact the SADC Sector Coordinator or SADC Secretariat.)

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