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This fact sheet is based on the *UN Watercourses Convention User's Guide*:

- Electronic version available on-line at: www.dundee.ac.uk/water
- Hardcopy available to order by emailing: water@dundee.ac.uk

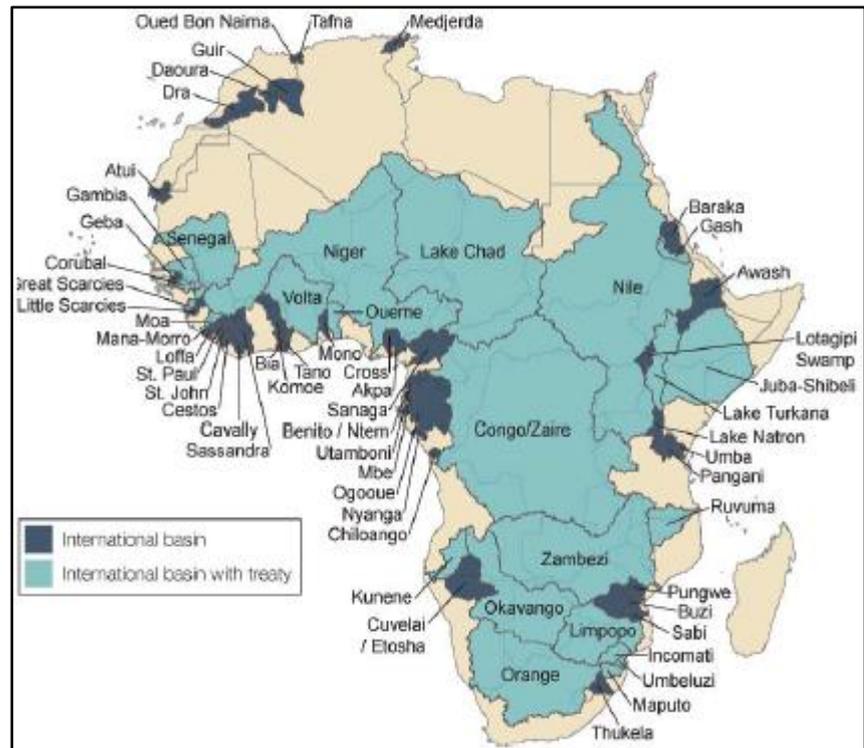
Differences between both legal instruments

To a large extent the SADC Revised Protocol sets forth the same principles and substantive rules as the UN Watercourses Convention, but **the Convention is more detailed on certain substantive and procedural issues and vice versa**. Hence, the Convention could be used to support the interpretation of the SADC Revised Protocol where it lacks the detail of the former instrument, such as procedures for a fact-finding commission to any dispute settlement failing negotiation (Art 33).

The same could be said for the SADC Revised Protocol supporting the Convention as regards establishing regional agreements and institutions in the SADC, along with prioritising dispute resolution in a regional context where required. However, **the SADC Revised Protocol's procedural requirement for SADC States to submit a dispute that cannot be resolved via peaceful negotiations directly to the SADC Tribunal for final and binding adjudication could be seen to conflict with the Convention's reference to International Court of Justice in such situations**. Ultimately, any conflict in the practical application of these procedures will depend upon such a scenario arising.

Notably, the **SADC Revised Protocol also places specific emphasis on prioritising the regional integration and poverty alleviation** of States when balancing competing uses of a watercourse (Art 2).

Map of key river basins in Africa and related watercourse agreements



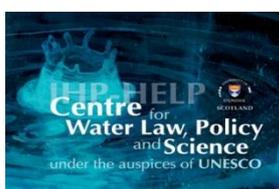
Source: Rieu-Clarke, A., et al. *UN Watercourses Convention – User's Guide* (2012), at 30

Finally, the main difference between the Convention and the SADC Revised Protocol concerns the relationship between the rule of no significant harm (NSH) and the principle of equitable and reasonable utilisation (ERU). The Convention is widely perceived to prioritise ERU over NSH as Article 7 concerning NSH obligates States to consider ERU whenever harm occurs to another State. Conversely, the related NSH obligation in the SADC Revised Protocol does not specifically refer to the principle of ERU whereby some argue that this instrument prioritises the duty of NSH. This distinction may have practical implications for the interpretation of laws regarding planned measures (see Fact Sheet #6) and disputes concerning allegations of significant harm being caused by another State (see Fact Sheet #5). However, **these are merely perceptions at present that are yet to be tested or confirmed.**

ADDITIONAL RESOURCES

FURTHER READING

Rieu-Clarke, A., Moynihan, R. and Magsig, B., *UN Watercourses Convention – User's Guide* (CWLPS 2012), at 234 - 258



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