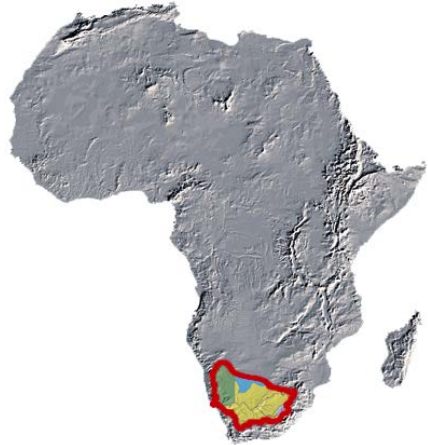




From Practitioner to Practitioner: training on how to use the two global Water Conventions to promote cooperation on the ground



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By: Lenka Thamae – Executive Secretary

lenka.thamae@gmail.com

or lenka.thamae@orasecom.org

**ARTICULATION OF THE DUTY TO COOPERATE IN
THE TWO GLOBAL WATER CONVENTIONS**

UNECE WATER CONVENTION ARTICULATION OF THE DUTY TO COOPERATE

Article 2 – Under Provisions relating to all Parties – General Provisions subsection 6. *“The Riparian Parties shall cooperate on the basis of equality and reciprocity, in particular through bilateral and multilateral agreements in order to develop harmonized policies, programmes and strategies covering the relevant catchment areas, or parts thereof, aimed at the prevention, control and reduction of transboundary impact and aimed at the protection of the environment of transboundary waters or the environment influenced by such waters, including the marine environment.”*

hence codifies the duty to cooperate

UNECE WATER CONVENTION ARTICULATION OF THE DUTY TO COOPERATE

And

Article 9 – Under Provisions relating to Riparian States – Bilateral and Multilateral Cooperation. *“The Riparian Parties shall on the basis of equality and reciprocity enter into bilateral or multilateral agreements or other arrangements, where these do not yet exist, or adapt existing ones, where necessary to eliminate the contradictions with the basic principles of this Convention, in order to define their mutual relations and conduct regarding the prevention, control and reduction of transboundary impact. The Riparian Parties shall specify the catchment area, or part(s) thereof, subject to cooperation. These agreements or arrangements shall embrace relevant issues covered by this Convention, as well as any other issues on which the Riparian Parties may deem it necessary to cooperate.”*

hence providing mechanisms and scope of the cooperation.

UN WATERCOURSES CONVENTION ARTICULATION OF THE DUTY TO COOPERATE

Article 5 – General Principles subsection 2. *“Watercourse States shall participate in the use, development and protection of an international watercourse in an equitable and reasonable manner. Such participation includes both the right to utilize the watercourse and the duty to cooperate in the protection and development thereof, as provided in the present Convention.”*

links the duty to cooperate with equitable and reasonable participation in use, development and protection of a transboundary watercourse.

UN WATERCOURSES CONVENTION ARTICULATION OF THE DUTY TO COOPERATE

And

Article 8 – Under the same General Principles – General Obligations to Cooperate.

“1. Watercourse States shall cooperate on the basis of sovereign equality, territorial integrity, mutual benefit and good faith in order to attain optimal utilization and adequate protection of an international watercourse.”

“2. In determining the manner of such cooperation, watercourse States may consider the establishment of joint mechanisms or commissions, as deemed necessary by them, to facilitate cooperation on relevant measures and procedures in the light of experience gained through cooperation in existing joint mechanisms and commissions in various regions.”

Codifies the duty to cooperate and also reflects on the mechanisms to attain the cooperation in transboundary rivers.

REFLECTIONS FROM THE ORANGE SENQU AGREEMENT

DUTY TO COOPERATE IN ORANGE SENQU RIVER COMMISSION AGREEMENT

Within the ORASECOM agreement, the duty to Cooperate is articulated under Article 7 Obligation of the Parties, Section 1 – *“The Parties shall give their full cooperation and support to the implementation of this Agreement as well as the recommendations of Council”*.

The subsequent Articles 7.2 on Equitable and reasonable utilisation; 7.3 Prevention of Significant harm and 7.4 Exchange of information and data, serve to support the obligation articulated in Article 7.1

Articles 7.5 to 7.10 Oblige Parties to notify regarding planned measures, and for responses to be availed within reasonable time period – hence also emphasising the need to cooperate, and in good faith.

Article 7.12 – *“The parties shall individually and jointly take all measures that are necessary to protect and preserve the River System from its sources and headwaters to its terminus”* is also reflective of the need to cooperate and apply integrated approaches to management of the river system.

OTHER CONTRIBUTING FACTORS (REGIONAL/BASIN LEVEL)

- Regional economic integration and recognition of the common future – sectoral cooperation in trade, energy, agriculture, environmental management.
- Cross Border water supply projects. E.g. Namibia and Angola
- Solidarity – prominently in addressing impacts of climate variability and change. E.g. emergency cross border water supply projects. Between South Africa and Botswana.