

38

AWARD
Tech Report
Series

Summary of Natural Resource Management Laws & Policies Relevant to the Olifants Catchment

[South Africa & Mozambique]

Clara Bocchino

2016



USAID
FROM THE AMERICAN PEOPLE

SOUTHERN AFRICA



Acknowledgements

The USAID: RESILIM-O project is funded by the U.S. Agency for International Development under USAID/Southern Africa RESILIENCE IN THE LIMPOPO BASIN PROGRAM (RESILIM). The RESILIM-O project is implemented by the Association for Water and Rural Development (AWARD), in collaboration with partners. Cooperative Agreement nr AID-674-A-13-00008.

© Association for Water and Rural Development (AWARD)

Authors

Clara Bocchino

2016

Association for Water and Rural Development (AWARD)

P O Box 1919
Hoedspruit 1380
Limpopo, South Africa
T 015-793 0503
W award.org.za

Company Reg. No. 98/03011/08



Table of Contents

International Documents	3
1 Convention on Wetlands of International Importance (Ramsar), 1975.....	3
2 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1975 .	3
3 Convention on Migratory Species of Wild Animals (CMS - Bonn Convention), 1983	4
4 Convention on Biological Diversity (CBD), 1993	4
5 Convention to Combat Desertification, 1996	7
6 Protocol to the CBD on Biosafety (Cartagena), 2003.....	9
7 International Treaty on Plant and Genetic Resources for Food and Agriculture, 2004	9
8 UNESCO World Heritage Convention, 1972.....	10
9 Stockholm Convention on Persistent Organic Pollutants, 2001.....	10
10 Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 1998	10
11 Kyoto Protocol to the United Nations Framework Convention on Climate Change, 1992	11
12 Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation to the CBD, 2010.....	11
Non Binding Instruments	13
13 Declaration of the UN Conference on the Human Environment (Stockholm), 1972	13
14 World Charter for Nature 1982	13
15 Nairobi Declaration on the State of the Worldwide Environment, 1982	13
16 Rio Declaration on Environment and Development, 1992.....	14
17 Millennium Development Goals, 2000	14
18 Johannesburg Declaration on Sustainable Development, 2002	14
19 Beijing Declaration of the second Global Environment Facility Assembly 2003	15
20 Rio+20 Declaration on Justice, Governance and Law for Environmental Sustainability, 2012	15
21 The Future We Want, UN Resolution from Rio+20, 2012.....	15
African Union	16
22 African Charter on Human and Peoples' Rights, 1986.....	16
23 African Convention on the Conservation of Nature and Natural Resources 1968 (revised in 2003, Maputo Convention, but revised Convention not yet in force)	17
24 Bamako Convention on the Ban of the Import into Africa and the control of Transboundary Movement of Hazardous Wastes within Africa, 1991	20
25 Treaty of the African Economic Community, 1994.....	21
26 The Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora, 1996	22



Southern African Development Community	24
27 Treaty of the Southern African Development Community, 1993	24
28 SADC Protocol on Tourism, 1998	24
29 Protocol on Wildlife Conservation and Law Enforcement, 1999	26
30 Protocol on Shared Watercourses (Amended), 2000	27
31 Protocol on Fisheries, 2001.....	27
32 Protocol on Forestry, 2002	29
33 Phakalane Declaration, 2012	30
34 Regional Indicative Strategic Development Plan	31
35 SADC Regional Biodiversity Strategy	32



International Documents

1	Convention on Wetlands of International Importance (Ramsar), 1975	
Status of ratification	South Africa 1975 Mozambique 2002	
Relevant section	Summary	Implications
Article 2	This section requires parties to the convention to designate wetlands and to compile a list of Wetlands of International Importance, where the boundaries are clearly demarcated. The importance of the wetland for ecology, botany, zoology, limnology or hydrology should be noted.	Mozambique has 2 areas listed, South Africa 21. None of them is in the Olifants catchment area.
Article 3	Places duty on parties to formulate and implement planning to promote conservation of wetlands that are included in the list.	This places a clear duty on members to conserve the wetlands that are on the list. NB: Makuya Wetlands should be taken into consideration for listing in South Africa
Article 4	Conservation of wetlands and waterfowl must be promoted whether they are on the list or not.	Focus is on waterfowl protection, whether the wetland is on the country's list or not. The areas used by waterfowls are to be treated as Ramsar sites, for the protection of ecological systems supporting the species.
Article 5	Transborder co-operation encouraged.	The States should consult with each other on the planning and management of Ramsar sites, to ensure continuity of processes and policy frameworks.

2	Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1975	
Status of ratification	South Africa 1975 Mozambique 1981	
Relevant section	Summary	Implications
Article 2	Threatened species that are affected by trade must be strictly regulated.	This is the general philosophical aims of the convention.
Article 3, 4 & 5	Regulates the terms on which the listed species may be traded and exported.	Elephants and Rhinoceros are the flagship species. The full list contains about 1200 plants and animals, which requires special regulation and protection.
Article 8	Places an obligation on parties to take appropriate measures to enforce the provision of the Convention, including penalising trade in listed fauna and flora and confiscation.	Read with section 2, states have an active duty to monitor the trade and export of the about 1200 listed species. This implies cooperation amongst various organs of state, including at least agencies for the protection of biodiversity, police force and customs officials.



3	Convention on Migratory Species of Wild Animals (CMS - Bonn Convention), 1983	
Status of ratification	South Africa 1991 Mozambique 2009	
Relevant section	Summary	Implications
Article 2	The fundamental principle underlying this document is to acknowledge and preserve migratory species and their habitat to prevent them from becoming endangered. The convention aims to promote conservation by co-operation agreements between two or more countries.	South Africa listed the conservation of migratory species as “medium” in relation to other biodiversity-related issues. Great emphasis seems to be placed on birds and saltwater fish. The Department of Environmental Affairs lists TFCAs as a method to comply with the convention, implying that the principles of the Conventions should be built in the establishing treaties.
Article 3	This article deals with endangered migratory species	If species are identified that falls under either list, it is possible to lobby with the governments to sign an agreement or an MOU. Currently the MOUs and Agreements focuses mainly on sea turtles, sharks and some birds. The principle of the Convention, regardless of the species list, apply to the protection of all cross-border migratory species.
Article 4	This article deals with species with an unfavourable conservation statues that requires international co-operation to protect them.	
Article 5	Lays down the guidelines of what should be the content of the agreements between states.	South Africa and Mozambique have three transboundary agreements in terms of the convention on marine species only.

4	Convention on Biological Diversity (CBD), 1993	
Status of ratification	South Africa 1995 Mozambique 1995	
Relevant section	Summary	Implications
Article 1	Sets out the objectives of the Convention, namely to conserve biological diversity and sustainable use of its components, as well as fair and equitable sharing of the benefits that arise from the use of genetic resources.	In-situ conservation projects must, in the least, not prevent Sustainable Use practices for local people living within the boundaries or in the buffer areas of the Protected Area.
Article 3	This principle recognises the sovereign right of states to exploit their own resources and to also ensure that the activities in their jurisdictions does not impact negatively on the environment of other states.	Read with the principles of the CMS1983, it reinforces the concept of ecosystem management across national boundaries, and the need to conserve the ecological systems as well as the species within, for conservation and sustainable use purposes.



(continue)		Convention on Biological Diversity (CBD), 1993
Relevant section	Summary	Implications
Article 4	A State is responsible to conserve biodiversity and ecological systems within their own borders, even when positive or negative actions only affect neighbouring countries.	Read with CBD1993 Art 3 and with CMS1983, this duty of care principle places the duty on each country to ensure that ecological systems are conserved for the benefit of the ecosystem, even when this is transboundary.
Article 5	This article obliges parties, where it is appropriate, to cooperate with other contracting parties if matters are beyond national jurisdictions on conservation and sustainable use of biological diversity, where of mutual interest to the parties.	Setting the basis for the establishment and joint management of TFP and TFCAs, including active cooperation to protect biodiversity across the borders and ensure sustainable use practices.
Article 6	Places a duty on the contracting parties to develop national strategies and plans for the conservation and sustainable use of biodiversity and to incorporate these plans across various sectors.	Countries must prepare and update national strategies and plans for biodiversity conservation that include sustainable use practices for the benefit of both ecosystems and local communities. The plans must involve all the department sectors affected by the conservation programme.
Article 7	Places duty on contracting parties to identify components of biodiversity that are important for conservation and sustainable use based on a list of categories. The conservation of these components must be monitored. Activities that might have an adverse impact on the conservation and use of biodiversity must be identified.	States must identify components that are useful for the implementation of the Convention within their boundaries, including activities having negative impacts and monitor them. States can also be informed of such components, hence be able to comply with the Convention.
Article 8	Set down the rules for in-situ (on the site) conservation.	Under the ecosystems conservation and management principle, states must identify areas for in-situ protection. Their management must take into consideration adjacent areas, for both conservation and sustainable use, and include restoration of ecosystems and their services, where applicable.
Article 8(j)	This subsection has its own commission that looks into the protection of traditional knowledge for biodiversity conservation and gives recognition to local community's customs and traditions in biodiversity conservation.	The States must recognise the role of traditional indigenous knowledge in the management of ecosystems and the natural resources within. Thus, communities are required to be directly involved in conservation planning through the use of traditional knowledge, and sustainable use practices for economical and spiritual benefit sharing.
Article 9	Of the site conservation mechanisms that includes rehabilitation of species.	The States must protect all biodiversity species when their survival or genetic variety is threatened in situ



(continue)		Convention on Biological Diversity (CBD), 1993
Relevant section	Summary	Implications
Article 10	Places duty on parties to use biodiversity sources in a sustainable manner.	The States must adopt sustainable use practices as part of conservation programming, specifically to include and enforce the rights of local communities through traditional knowledge and customs. The States must ensure that all biodiversity utilisation is sustainable and not threatening species or systems survival.
Article 11	Duty to implement economic and social incentives for in-situ conservation.	Recognising the existence of communities in and around conservation areas, and recognising the need for incentives to conservation, the States must create mechanisms to incentivise people towards the conservation effort.
Article 12	Duty to implement scientific and technical research and training programmes.	The States must promote and facilitate training and research to support the implementation of the Convention.
Article 13	Duty to educate and raise awareness on the conservation and sustainable use of biodiversity.	The States must use all media available to educate people and raise awareness on the importance of biodiversity conservation and sustainable use.
Article 14	Duty to use Impact Assessment principles in the establishment and management of conservation and sustainable use sites.	The States must conduct EIAs and other relevant scoping exercises to ensure all environmental and social measure are taken into account for conservation and sustainable use programmes, including disaster risk reduction.
Article 15,16,17, 18, 19	Duty to ensure lawful access to genetic resources and access to and transfer of (bio)technology, as well as to guarantee information sharing, technical and scientific cooperation.	The States must provide the necessary legal framework to ensure access to genetic resources for analysis, research and legal propagation within and outside the national boundaries. The States must facilitate information-sharing as well as cooperation within and outside of national boundaries to support biodiversity conservation and sustainable use practices.
Article 20	Duty to provide the necessary financial resources for implementation of the Convention.	The States must provide financial resources for the implementation of all aspects of the convention, with a bigger onus being placed on developed countries towards others.
Article 22	Duties in respect of other Conventions and Treaties.	The States must incorporate the provisions of the CBD with those of other international legal instruments where there is no conflict between them. Where a threat to biodiversity is possible, the CBD supersedes any other international legal instrument.



(continue) Convention on Biological Diversity (CBD), 1993		
Relevant section	Summary	Implications
Article 26	Duty to report back to the CoP	The States must provide reports to the CoP on implementation of the CBD as required by the CoP.
Article 27	Dispute Resolution mechanisms	The States must resolve disputes primarily by negotiation. Failing this, arbitration can be sought from a third Party and eventually submit to the International Court of Justice.

5 Convention to Combat Desertification, 1996		
Status of ratification South Africa 1997 Mozambique 1997		
Relevant section	Summary	Implications
Article 2,3 and 4	Lays down the objectives, principles and general provisions of the Convention namely to combat and mitigate the effects of drought and desertification in affected African countries.	The states should adopt these objectives in the national programmatic and ad hoc planning, including multi lateral partnership and cooperation.
Article 5	Obligations of affected countries are the prioritisation of combating desertification and reducing effects of drought in planning, by addressing root causes, promoting awareness and provide an enabling legal and operational environment for implementation.	South Africa and Mozambique must implement provisions in Article 5, in relation to desertification and environmental degradation through unsustainable economic and commercial practices along water courses to maintain and restore riverine habitats.
Article 7	Establishes the priorities for the African continent.	All parties to the Convention shall priorities the African continent for implementation and financial support.
Article 10	Defines the requirements of National Action Programmes in defining the roles and responsibilities of governments, local communities and land users, promote a legal enabling environment considering prevention mechanisms and effective participation of local communities in all phases of programmes and levels of governances.	States are required to create, through participatory mechanisms, National Action Plans focussed on the precautionary principle to ensure a legal and implementing enabling environment is established to redress the adverse impacts of desertification and prevent further damage to environment, through a disaster risk reduction approach including early warning systems and food security with alternative livelihoods programme.
Article 11	Defines the requirements for regional programmatic cooperation.	The provisions under Art. 10 applies to the creation of a regional Programming Framework supporting both national action and multi-lateral cooperation. This regional framework is subject to review and update.



(continue)	Convention to Combat Desertification, 1996	
Relevant section	Summary	Implications
Article 12	Defines principles for international cooperation.	International cooperation includes the facilitation of research, training, information sharing and technological exchange to implement the objectives of the Convention.
Article 13	Defines the mechanism for planning and implementation. Africa is a priority area, as well as other countries heavily affected by drought and desertification.	The States have an obligation to ensure financial resources for implementation, while recognising that planning has to be reviewed frequently to ensure it is able to respond to the actual situation.
Articles 14 and 15	Planning implementation and the regional context.	The States have an obligation to see through the implementation of the plans, and their updating. At the regional level, the guidelines provided must be adapted to the regional geographic and socio-economic context.
Articles 16,17,18 and 19	Defines needs and mechanisms for research, training and technological exchange.	The States have an obligation to promote research, information sharing and the exchange of knowledge and technology to support the implementation of the Convention, by cooperation and providing the necessary legal environment.
Articles 20 and 21	Defines the mechanisms for financing.	Besides the usual obligations placed on states, particularly developed countries, and on the role of multi-country cooperation, the article places a specific obligation on Global Environment Facility to prioritise programmes and activities under this Convention. Funding states and agencies must provide and disseminate information on funding mechanisms widely.
Article 24	Established the Committee on Science and Technology	Under the COP, the Committee is tasked to provide information to the COP on activities, and act as scientific and technological advisor to the COP. It also creates and updates a roster of experts to support it in the advisory role on ad hoc issues.
Article 25	Role of networking institutions, agencies and bodies.	Under the Committee on Science and Technology and the COP, relevant existing regional network shall be identified and supported to promote knowledge generation and information dissemination. Note: a survey should have been carried out already.



(continue)		Convention to Combat Desertification, 1996
Relevant section	Summary	Implications
Article 26	Defines the mechanisms for communication from parties to COP.	The States have a duty to inform the COP on existing projects, programme and operations undertaken under the aegis of this Convention, regularly and timely.
Article 28	Dispute Resolution mechanisms	The States must resolve disputes primarily by negotiation. Failing this, arbitration can be sought from a third Party and eventually submit to the International Court of Justice.

6		Protocol to the CBD on Biosafety (Cartagena), 2003
Status of ratification	South Africa 2003 (accession) Mozambique 2002	
Relevant section	Summary	Implications
General	Regulate trade in living GMOs, prior informed consent. It advocates a precautionary approach towards GMOs, being mindful of the adverse effects on conservation, sustainable use of biodiversity and risks to human health, with a specific focus on transboundary movements.	The focus of the Protocol is on living GMOs. The States must take a precautionary approach for any activity involving the use of living GMOs and their movement across the national boundaries. The States are in the least tasked with: ensuring that the use and transport of GMOs do not negatively impact on biodiversity conservation efforts, nor on sustainable use practices that are, under the CBD, complimentary to conservation where local communities are adjacent to conservation areas.

7		International Treaty on Plant and Genetic Resources for Food and Agriculture, 2004
Status of ratification	No ratification from South Africa and Mozambique.	
Relevant section	Summary	Implications
General	Regulates the use of Plant and Genetic Resource to establish and improve food security and alternative agriculture in areas where local communities are malnourished and unable to ensure sufficient harvest production for subsistence and local trade. It established the rights of farmers and local communities to preserve, use and sell own plant and genetic resources.	This treaty recognises the rights of all scales of famers to own plant and genetic resources, with the provisions that their use and trade needs to be regulated to ensure improvement of food security through (alternative) agricultural practices. Although non ratified, subsistence and commercial farms in the Olifants River basins may be subject to the treaty by effect of its multilateral systems of access to resources and benefit sharing. The use of Plant and Genetic resources may negatively or positively affect biodiversity conservation in the basin.



8	UNESCO World Heritage Convention, 1972	
Status of ratification	South Africa 1997 Mozambique 1982	
Relevant section	Summary	Implications
General	Identify, protect and preserve places of extraordinary natural or cultural significance, in the effort to preserve the people-nature relationship.	This is only applicable to recognised and established World Heritage Sites, and there are none in the Olifants River Basin.

9	Stockholm Convention on Persistent Organic Pollutants, 2001	
Status of ratification	South Africa 2002 Mozambique 2005	
Relevant section	Summary	Implications
General	Prohibits and regulates the use and disposal of POPs that can cause environmental and human health issues. The Convention lists all the chemicals recognised as POPs.	The States must profit and/or take legal and administrative measures to eliminate production and trade of POPs. Where applicable, States must regulate the disposal of waste containing or composed of POPs. In River Basin, the implementation of this Convention is essential to ensure the reduction or elimination of POPs pollution into aquifers.

10	Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 1998	
Status of ratification	South Africa 2002 (Accession) Mozambique 2010	
Relevant section	Summary	Implications
General	In an effort to support Sustainable Development, human and environmental health, the Convention provides for the rights of any receiving countries to refuse further imports of selected hazardous chemical and pesticides. The list provided in Annex III concerns all chemicals and pesticides that can no longer be freely exported and/or traded. All other hazardous chemicals and pesticides are at the discretion of the receiving country.	The States, under this Convention, must respect decisions of receiving countries (if exporting) and defines the rules for import (if importing). No information from the Convention could be retrieve on the status of South Africa and Mozambique.



11		
Kyoto Protocol to the United Nations Framework Convention on Climate Change, 1992		
Status of ratification		
South Africa 2005 Mozambique 2005		
Relevant section	Summary	Implications
Article 2.1.a (iii)	Elaboration of national policies and measures to support and establish sustainable forms of agriculture.	The States must ensure that national agricultural and food security law and policy support the implementing principles of the Protocol.
Article 2 (iv)	Elaboration of national policies and measures to promote and develop renewable forms of energy.	The States must ensure that national energy law and policy focuses on renewable forms of energy to support the implementing principles of the Protocol.
Article 3.3	When establishing plans to reduce the combined anthropogenic production of carbon dioxide, afforestation has a specific measures and regulations of impact.	The States must consider the role in deforestation and afforestation activities to maintain or improve their emission status.
Article 3.4	Determines factors to be including in first country reports to the COP.	The States shall compile first report to the COP as a baselines study on national carbon emissions, and present at the COP the activities planned to reduce emission, by - amongst others - improving land use planning and manage human-induced activities producing greenhouse gasses emissions.
Articles 7, 8, 9, 10, 11	Establish the relation between the Protocol and the Conventions and other international instruments.	The States have a duty to consider and integrate the provisions of the protocol to reduce CO ₂ and other green house gasses emissions with the Convention on Climate Change and other relevant conventions, to support environmental and human health.

12		
Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising form their Utilisation to the CBD, 2010		
Status of ratification		
South Africa 2013 Mozambique 2014		
Relevant section	Summary	Implications
Article 2	Sets out the objectives of the convention, namely to regulate the fair and equitable sharing of the benefits arising from the utilisation of genetic resources.	Read with CBD1993 Art. 8(j) and World Health Organisation regulations of 2005, the Protocol establishes that local genetic resources are locally owned, thus owners should benefit from their use by third parties.



(continue) Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation to the CBD, 2010		
Relevant section	Summary	Implications
Article 7	Specific mention is made to traditional knowledge associated with genetic resources and that prior informed consent or approval for involvement of the communities is needed before the TK can be used. Specific reference is made in Article 11 about the transboundary nature of TKs.	States must ensure that genetic resources, including Indigenous Knowledge, are protected from extraction and use from third parties, without equitable sharing in the socio-economic benefits derived. International knowledge is recognised as a transboundary resource and, where applicable (such as in the Olifants River Basin) must be protected as such, through multilateral agreements.
Article 19, 20 and 21	Encouragement to develop model contractual closes to protect the rights enshrined in this Protocol, alongside guidelines, codes of conducts and standards, as well as promote awareness.	States should develop and enforce model contractual closes to protect the rights of genetic resources owners and of indigenous people. The States are also encouraged to raise awareness with all stakeholders and produce any relevant voluntary implementation document.
Annex	Determines both monetary and non-monetary benefits.	In providing the legal frameworks for the implementation for the Protocol, States must include all benefits listed in the Annex, as applicable, and including both financial and intellectual recognition.



Non Binding Instruments

** Although these are not binding instruments, the provisions made and principles established should guide law and policy development in the countries party to the UN system and the relevant conventions and treaties. As signatory parties to the conventions and treaties listed above, both South Africa and Mozambique have a duty to ensure that national legislation and planning does not conflict with the provisions in these documents, and that the goals set as MGDs and SDGs are included in their policy framework(s).*

13	Declaration of the UN Conference on the Human Environment (Stockholm), 1972	
Status of ratification	Non binding	
Relevant section	Summary	Implications
Whole document	UNEP was established. The Declaration also promotes environmental conservation, research and co-operation. Placed environment on international agenda and defined common principles.	<i>*see note above</i>

14	World Charter for Nature 1982	
Status of ratification	Non binding	
Relevant section	Summary	Implications
Whole document	This is a UN Resolution establishing the general principles for natural conservation, including the need to protect genetic diversity, species and habitat survival. The main threat identified to conservation are warfare and hostile activities.	<i>*see note above</i>

15	Nairobi Declaration on the State of the Worldwide Environment, 1982	
Status of ratification	Non binding	
Relevant section	Summary	Implications
Whole document	Progress review of the Stockholm conference. Special focus on the prevention of environmental harm. This document states clearly that the prevention of harm is preferred to the repair of damages: precautionary principle. It also established that poverty plays an important part in environmental degradation as does human insecurity due to conflicts. Similarly, unsustainable consumption patterns degrade the environment and its resources. It finally introduces the concept of transboundary ecological systems and their importance in environmental protection.	<i>*see note above</i>



16	Rio Declaration on Environment and Development, 1992	
Status of ratification	Non binding	
Relevant section	Summary	Implications
Whole document	Asserts human beings are the concern for sustainable development. It affirms important principles such as the right to sustainable development and the integral part that environmental protection plays in the development process with a just economic system; the eradication of poverty; the priority of the least developed; the international co-operation for the protection of the ecosystem; the inclusion of people and communities in decision-making; international cooperation for environmental protection.	<i>*see note above</i>

17	Millennium Development Goals, 2000	
Status of ratification	Non binding	
Relevant section	Summary	Implications
Whole document	Established the 8 MDGs to be achieved by 2015, these are: <ul style="list-style-type: none"> - To halve the number of undernourished people - To achieve universal primary education - To promote gender equality and empower women - To reduce child mortality - To improve maternal health - To combat HIV/AIDS, malaria, and other diseases - To ensure environmental sustainability - To develop a global partnership for development 	<i>*see note above</i>

18	Johannesburg Declaration on Sustainable Development, 2002	
Status of ratification	Non binding	
Relevant section	Summary	Implications
Whole document	Identifies the critical constraints to sustainable human development, including: chronic hunger and malnutrition; endemic, chronic and communicable disease; armed conflicts and occupation; corruption and illegal trafficking; natural disasters; intolerance and xenophobia.	<i>*see note above</i>



19	Beijing Declaration of the second Global Environment Facility Assembly 2003	
Status of ratification	Non binding	
Relevant section	Summary	Implications
Whole document	It expands the role of GEF to include land degradation, desertification and deforestation, and POPs. It confirms the role of GEF in supporting other international UN programmes such as the WSSD and NEPAD. It provides a set of financial resources for small grants in regional priority areas, including Least Developed Countries. Amongst others, it also provides for strategic planning, capacity building and technological exchange and engagement with the private sector.	<i>*see note above</i>

20	Rio+20 Declaration on Justice, Governance and Law for Environmental Sustainability, 2012	
Status of ratification	Non binding	
Relevant section	Summary	Implications
Whole document	It promotes the improvement of justice systems and legal environments to ensure environmental sustainability and highlights the role played by people through participatory processes and the focus on vulnerable people as an important element of sustainability.	<i>*see note above</i>

21	The Future We Want, UN Resolution from Rio+20, 2012	
Status of ratification	Non binding	
Relevant section	Summary	Implications
Whole document	Recognises poverty eradication as the greatest global challenge to sustainable development, thus reinforcing that people are at the centre of sustainable development and that peace, freedom and security are essential requirements for MDGs and sustainability, to be achieved through good governance and democratic principles. It renews the political will and the engagement of all stakeholders in the public and private sectors. The roles of women, indigenous people, the youth, small scale farmers, NGOs and public-private partnerships are considered critical, as scientific research through collaboration. It sets the foundation for the Green Economy as a driver for Sustainable Development.	<i>*see note above</i>



African Union

22	African Charter on Human and Peoples' Rights, 1986	
Status of ratification	Mozambique 1989 South Africa 1996	
Relevant section	Summary	Implications
Article 3	This article ensure the right to equal treatment before the law and protection of the law.	Every individual should enjoy equal and fair treatment and should not be subjected to unfair discrimination.
Article 5	The Right to Dignity extends primarily to legal protection, as well as fair and dignified treatment in all aspects of life.	Every individual should enjoy legal recognition of their dignity and dignity should be protected by law. The expropriation of land and rights of use and access is not single out as unfair treatment.
Article 7(1)	The Right to be heard in the Charter includes legal rights and access to a fair justice system.	Procedural rights should be facilitated in a national legal framework to afford interested and affected parties to participate in decision making and to influence decision making where they are affected or where they are going to be affected.
Article 9(1)	The Right to information is both passive and active.	Every individual should have a right to access information facilitated in the national legal framework, and to express themselves within the legal boundaries.
Article 16(1)	Right to health relates to both physical and mental health, but it only sets access to treatment as a baseline.	Every individual should be afforded the right to enjoy the best attainable state of physical and mental health. State parties are obliged to provide medical services to the sick. This right is to be read in conjunction with article 24 as per the SERAC communication.
Article 22(1)	The right to economic, social and cultural development is a progressive right, which States are responsible to ensure.	National legal frameworks must promote economic, social and cultural development, in an unbiased legal and social context.
Article 23(1)	The Right to international peace and security is understood as a basic human right and extends to inter-country relations.	This should be insured by States parties to the Charter, through the principle of solidarity and friendly relations between states which, amongst others, ensures basic human security.



(continue)		African Charter on Human and Peoples' Rights, 1986
Relevant section	Summary	Implications
Article 24	The Right to a general satisfactory environment, specifically refers to the natural environment and its resources, which are meant to promote healthy living for all categories of people.	Provides that a country needs to provide an environment that is not harmful to any individual in the state and according to the SERAC Communication by the African Commission, article 24 is coupled with article 16(1) - the right to health . This right needs to be entertained and facilitated within the national legal framework of a state. Para 53 of the SERAC Communication explains as follows: "Government compliance with the spirit of Article 16 and Article 24 of the African Charter must also include ordering or at least permitting independent scientific monitoring of threatened environments, requiring and publicising environmental and social impact studies prior to any major industrial development, undertaking appropriate monitoring and providing information to those communities exposed to hazardous materials and activities and providing meaningful opportunities for individuals to be heard and to participate in the development decisions affecting their communities"
Article 25	This article means to ensure that States comply to the requirements of this Charter ensuring that the rights entrenched in the Charter are communicated and understood by their citizens, in order to further enable their realisation.	Every state must promote the rights in the African Charter through education (providing education on the rights contained in the charter) and publication of the rights as contained in the charter. Member States have a duty to ensure that the rights and freedoms contained in the Charter are understood by the people in their respective jurisdictions.

23		African Convention on the Conservation of Nature and Natural Resources 1968 (revised in 2003, Maputo Convention, but revised Convention not yet in force)
Status of ratification	Mozambique 1981	
Relevant section	Summary	Implications
Article II	The Fundamental principle of the Convention is that nature and natural resources are to be (1) conserved; (2) used and (3) developed to the benefit of both nature and people.	States (in this case only applicable to Mozambique) are under the obligation to adopt legal measures for the conservation and use of natural resources keeping the best interest of people in mind. In other words, conservation for Africa includes that sustainable use of natural resource and places the interests of people and development at the same level as those of nature.



(continue)		African Convention on the Conservation of Nature and Natural Resources 1968 (revised in 2003, Maputo Convention, but revised Convention not yet in force)
Relevant section	Summary	Implications
Article III	The definitions include amongst others, the following: (a) natural resources are recognised as the renewable resources; (d)(2)(iii) the killing of animals in National Parks is allowed for scientific and management purposes;	Conservation areas object of this convention exclude sustainable use options requiring co-management with neighbouring communities. However, they accept the need for termination of wild animals under direct control of officers and to the benefit of ecosystem health, with the recognised role of trophies and their commercial value.
Article IV	Soil is recognised as the basic natural resource, hence its degradation in any aspect shall be prevented, including when damaging vegetation and the ability of wildlife to function as a system.	Measures must be put in place to prevent soil erosion and degradation by ensuring that the use of soil for any activity does not damage the resource directly, nor the natural systems it sustains.
Article V	Water is understood as both surface and underground water, in its value as a resource and as a natural system. The role of inter-State commissions for the management of shared water resources is hereby established.	The countries must actively ensure the maintenance of healthy and clear water systems, including through direct multi Country cooperation through the establishment of ad-hoc commissions to prevent and control water pollution.
Article VI	Flora is understood as a resource to be both conserved and utilised to the benefit of human and natural systems. Where human actions may impair the quality of flora, they shall be actively stopped or controlled. Afforestation, particularly with indigenous species is noted as an important phase of conservation.	The countries shall adopt any available scientific knowledge to implement practices aimed at protecting flora and improve the quantity and quality of indigenous species. Utilisation is part of the conservation strategies, with a note to ensure exploration and land clearing practices are not damaging the sustainability of the resources.
Article VII	Fauna is understood as a critical resource for ecosystem conservation and for socio-economic development, thus utilisation is part of conservation strategies, based on local quality and quantity of species and communities of animals. Hunting and extraction methods that are damaging in nature may not be used, even when the activities per se are allowed. The control systems shall focus on ensuring extraction is supportive of the conservation and management needs.	The countries shall ensure that the commercial and conservation values of fauna are aligned to ensure that, while serving the important socio-economic development objectives, the quantity and quality of animals and animal populations is not damaged.
Article VIII	Protected species that are threatened fall under a separate category and are listed in the appendix of the Convention. If belonging to Class A, the species may only be hunted or collected in the national interest of for scientific purposes. If belonging to Class B, hunting and collection may only be approved by the highest relevant national authority. New species may be added on request from a Contracting Party.	The article makes no distinction between species in protected areas, in private areas or in non-protected government owned land. This implies that each contracting party may decide to apply the article to any of the species in Class A and B, regardless of ownership status.



(continue)		African Convention on the Conservation of Nature and Natural Resources 1968 (revised in 2003, Maputo Convention, but revised Convention not yet in force)	
Relevant section	Summary	Implications	
Article IX	Traffic in specimens and trophies is to be regulated regardless of the status of the species. There are two objectives to this article: 1) illegal traffic is to be minimised, penalised and, by all means eradicated; 2) legal traffic is to be regulated according to the classification of the species in this Convention. The article is to be read with Article VIII and Article XVI.	By no means had the Convention acknowledged the halt of legal trade in trophies as a means to its objectives. It relies, however, on sustainable use principles and the implementation of regulation supporting legal traffic, to reduce and eradicate illegal traffic.	
Article X	Duty to establish and maintain conservation areas for the purposes of ecosystems protected and threatened species protection.	States have a duty to protect existing conservation areas and to establish new ones, mindful of Article II.	
Article XI	Duty to establish an agency responsible for the enforcement of the Convention.	Where possible within the national governance systems, States have a duty to establish an agency able to enforce the provisions of the Convention.	
Article XVI	Duty to establish inter Country collaborative mechanisms for conservation.	The African Union and the Contracting States have a duty to collaborate to facilitate the implementation of this Convention, by provision of information, reporting and updating the Convention.	
Article XVII	This Article provides for the exception to the implementation of the Convention, when other national priorities shall overcome. Notably, it mentions 1.(c) the defence of human life; 2. time of famine, protection of public health and defence of property.	In recognition of the human development priorities African countries face, the Convention places conservation needs as secondary to human security needs, understood both as safety and well being.	
Article XXII(2)	Whenever a natural resource or an ecosystem is transboundary, the Parties concerned shall undertake to cooperate in the conservation, development and management of such resource or ecosystem and if the need arises, set up interstate commissions for their conservation and sustainable use.	This is applicable to areas such as Transfrontier Conservation Areas or Shared Watercourses within the SADC region. It is a general mandate for affected state parties to cooperate in the management of these areas. The establishment of LIMCOM responds directly to this Article and the SADC Protocol on Shared Watercourses.	



24	Bamako Convention on the Ban of the Import into Africa and the control of Transboundary Movement of Hazardous Wastes within Africa, 1991	
Status of ratification	Mozambique, 1999	
Relevant section	Summary	Implications
Article 1	The Definitions section, for the purpose of this register, includes notably: 10. Environmentally sound management of Hazardous Waste; 11. Area under the national jurisdiction of a State; 15. States concerned; 22. Illegal traffic.	Article 1 provides a list of all of the terms used in the Convention and defines them in the context of the Convention. See the Convention attached to the Register.
Article 2	The Scope of the Convention further defines which substances are to be considered as hazardous waste and substances.	Provides that the Convention applies to "hazardous wastes" as defined in the Convention (and as listed in its Annexes) Wastes that are not covered under the Convention but are defined as, or considered to be hazardous wastes by the domestic legislation of the State of export import or transit; Hazardous substances which have been banned, cancelled or refused registration by government regulatory action, or voluntarily withdrawn from registration in the country of manufacture, for human health or environmental reasons; and radioactive waste.
Article 3	Countries are allowed 6 months since becoming party to the convention to provide the Secretariat with all relevant documentation on their status and regulation.	After becoming a party to the Convention a state is obliged to inform the Secretariat of any other waste (not covered by the scope of the Convention) deemed to be hazardous in terms of their national legislation.
Article 4(1)	Import of all hazardous waste shall be banned in the countries party to this convention.	Any import from a non-contracting party of hazardous waste is seen as illegal and criminal and is banned.
Article 4(3)(a)-(e)	Waste generation "(a) ensure that hazardous waste generators submit to the Secretariat reports regarding the wastes that they generate in order to enable the Secretariat of the Convention to produce a complete hazardous waste audit; (b) impose strict, unlimited liability as well as joint and several liability of hazardous waste generators; (c) ensure that the generation of hazardous wastes within the area under its jurisdiction is reduced to a minimum taking into account social, technological and economic aspects; (d) ensure the availability of adequate treatment and/or disposal facilities, for the environmentally sound management of hazardous wastes which shall be located, to the extent possible, within its jurisdiction; (e) ensure that persons involved in the management of hazardous wastes within its jurisdiction take such steps as are necessary to prevent pollution arising from such wastes and, if such pollution occurs, to minimise the consequence thereof for human health and the environment;"	Concerning the generation of waste, each Member State is compelled to provide reports on their country status to the secretariat, whilst imposing liability measure on any party to the Convention disregarding the provisions concerning the generation and management of hazardous waster. This document adopts the principles of the Environmental Management Systems, particularly the life cycle and the cradle to grave responsibilities affecting the entire chain of waste management, including environmental pollution.



(continue)		
Bamako Convention on the Ban of the Import into Africa and the control of Transboundary Movement of Hazardous Wastes within Africa, 1991		
Relevant section	Summary	Implications
Article 4(3)(f) and (g)	The Precautionary Approach in the handling of hazardous waste shall inform the national legislation and operations with the aim of reducing potential and actual pollution caused by substances used in any sphere of human life, that may pose a risk to environmental quality.	Parties are obliged to implement the precautionary principle where waste is generated and to promote clean production methods throughout the entire project life-cycle
Article 4(3)(i) onwards	The obligations in Transport and Transboundary Movement of Hazardous Wastes from Contracting Parties also respond to the Precautionary Approach.	Obligations listed see article 4(3)(i)-(u) and then sub-paragraphs a-e that follows in the attached Convention: these focus on transboundary movement of hazardous waste and its potential to pollute the natural environment. Read with Article 6 on regulations for transboundary movement including the consent of the receiving Party and its ability to dispose of the waste in an environmentally sound fashion.

25		
Treaty of the African Economic Community, 1994		
Status of ratification	Mozambique 1992 South Africa 2001	
Relevant section	Summary	Implications
Article 4(1)(a)-(d)	The stated objectives of the AEC are to improve integration between African countries, with a specific focus on economy, although including all parts of socio-economic development.	The States are required to achieve these objectives in all spheres of their regulating and/or implementing activities.
Article 4(2)(a) - (p)	The States are required to remove all constraints to effective and integrated economic development in their relations with other African countries, in order to ensure a free movement of people goods and services. This process begins with the harmonisation of policies, and continues with the removal of Trade barriers, to a common policy vis a vis third party countries.	The States are required to progressively remove all barriers to regional trade and the movement of people good and services, in order to build the foundations for a integrated economic community. In Article 3, sanctions may be used as an enforcing mechanism.
Article 35	Exceptions to the free movement do apply and shall be considered in cases of national security; control of weapon; human health, animal health and ecosystem health; strategic natural resources; historical artefacts; hazardous waster and materials.	The States may request or enforce restrictions to trade in specific instances. For the purpose of this Register: health and security are to be noted.
Article 54	Requirement for the harmonisation and integration of policy and programs with regards to energy and natural resources.	State parties should harmonise and integrate policy and programs on energy and natural resources. It is however unclear what "harmonisation and integration" entails as it is not defined or described by the Convention. It can generally be accepted that harmonisation and integration proposes to eliminate discord between national legal regimes where certain rules or policy are applied.



(continue)		Treaty of the African Economic Community, 1994
Relevant section	Summary	Implications
Article 58	Requirement to promote healthy environments for the benefit of natural and human systems.	This article places a duty on states to promote the concept of sustainable development through national law as it requires states to "take the necessary measures to accelerate the reform and innovation process leading to ecologically rational, economically sound and socially acceptable development policies and programmes". Read with the Protocol on the Environment (Article 60), and para 53 of SERAC as quoted under the discussion of article 24 of the African Charter above
Article 61	Requirement to promote tourism by enacting the necessary legislation for transport and movement of people and related facilities to the industry.	This article places an duty on States to support integrated tourism by facilitating policy harmonisation leading to the regional cooperation for the movement of related human, financial and physical resources. The Article is funded in the need to improve the transport network and to integrated plans for modernisation.

26	The Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora, 1996	
Status of ratification	SA signed but not ratified. Mozambique did not sign or ratify	
Relevant section	Summary	Implications
Article 1	The Definitions establish, inter alia, the following: <ul style="list-style-type: none"> - Biological diversity, all organisms forming ecosystems and all complex systems - Conservation, the 'management of human use of organisms or ecosystems to ensure such use is sustainable' - Illegal trade, 'any cross-border transaction [...] in violation of national law [...] for the protection of wildlife and fauna - Wild fauna and flora, are wild species subject to legislation on their conservation, protection and trade. 	The Agreement clearly establish conservation as a component of biodiversity and ecosystems management, which is primarily guided by sustainable use of wild natural resources. Illegal trade only refers to cross-border unauthorised trade.
Article 4(1)	Parties shall take appropriate measures to investigate and prosecute cases of illegal trade in fauna and flora	Taking into account that the parties have certain duties in terms of CITES, they may have a duty under the Lusaka agreement to investigate and prosecute cases of illegal trade (this will be if and when both parties have ratified the agreement).



(continue)	The Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora, 1996	
Article 4(2)	Parties shall cooperate towards the implementation of the Agreement	State parties must cooperate with each other and with the Task Force established under the Agreement. This Task Force is established under article 5 and the process and structure can be described there. (see the Lusaka Agreement as attached to the Register).
Article 4(3)	Parties are required to provide relevant information to the Task Force to support their mandate.	Each party is obliged to provide information to the Task Force on a regular basis related to illegal trade.
Article 4(4)	Parties are required to provide technical assistance to the Task Force to support their mandate.	Each party must provide technical assistance to the Task Force relating to its operations.
Article 4(7)	Public awareness is necessary to make people aware of the Agreement and support crime reporting from the public.	Each Party shall encourage public awareness campaigns aimed at enlisting public support for the objective of this Agreement, and the said campaigns shall be so designed as to encourage public reporting of illegal trade.
Article 4(8)	National law shall reflect the requirements of this Agreement and support its implementation.	Parties must adopt law and administrative measures to implement and effect the Agreement.
Article 5	Establishment of the Task Force: composition, functions, mandate and exceptions for prosecution.	The Agreement establishes the Task Force for Co-operative Enforcement Operation to support the inter-country collaboration in the reduction and eradication of illegal trade. The LATF has international legal personality but can only act upon request from a Country party to this Agreement.
Article 6	The creation of a National Bureau for the implementation of the Treaty.	Parties must establish or designate a government department/entity as its National Bureau in order to facilitate the implementation of the Agreement.
Article 7	A Governing Council is established to enact the Agreement.	A governing Council is established between all of the parties to the agreement which will: review the implementation of the Agreement; consider and take additional action to achieve the objectives of the Agreement; and adapt the Agreement as required (subject to the provisions set out in article 11).
Article 10	The mechanisms for the settlement of disputes are based on negotiation and arbitration within the institutions of the Agreement.	Disputes regarding the interpretation and implementation of the Agreement are referred for negotional, conciliation or other peaceful means. If these means fail the dispute is referred to the Governing Council. Failure before the Governing Council is to be referred to an arbitral body.



Southern African Development Community

27	Treaty of the Southern African Development Community, 1993	
Status of ratification	South Africa 1994 Mozambique 1993	
Relevant section	Summary	Implications
Article 5	SADC Mission statement: promotion of sustainable and equitable economic growth and socio-economic development through <i>inter alia</i> co-operation and integration, good governance, as well as competitiveness of the region.	The States parties to the SADC Treaties are required to work towards the achievement of the mission statement, both in internal and international affairs.
Article 5 (1)(a)	SADC Common Agenda: Eradication of poverty, enhancement of standard and quality of live of SADC people, support of socially disadvantaged through sustainable and equitable economic growth and socio-economic development	The common agenda places an obligation on Member States to ensure that they meet the objectives of Article 5(1).
Article 5(1)(g)	SADC Common Agenda: Sustainable use of natural resources and effective protection of the environment is one of the objectives of SADC	The recognition of sustainable utilisation of natural resources as key objective in the SADC common agenda places an obligation on Member States to that sustainable use of natural resources becomes part of their conservation planning.
Article 5(1)(g)	SADC Common Agenda: synergising poverty eradication in all SADC activities and programmes	Poverty alleviation should also be mainstreamed in all activities and programming of Member States, including biodiversity conservation initiatives.
Article 21(3)(e)	Agreement by states to cooperate in the areas of natural resources and the environment	Member States are legally obliged to cooperate on issues relating to natural resources and the environment.

28	SADC Protocol on Tourism, 1998	
Status of ratification	South Africa 1998 Mozambique 1998	
Relevant section	Summary	Implications
Preamble	Recognition of sustainable tourism development	Recognition of the environmental as an important component to be considered together with economic and social sustainability in tourism development.
Article 2(3)	Collective efforts and cooperation in resource usage in an environmentally sustainable manner is a key objective of the Protocol.	Tourism development in the region to be governed, <i>inter alia</i> , by the principle of sustainable utilisation of resources.



(continue)	SADC Protocol on Tourism, 1998	
Relevant section	Summary	Implications
Article 2(4) and (5)	Involvement of small and micro enterprises, local communities, women and youth in the development of tourism in the region as well as job creation and skills development are key objectives	Social sustainability which incorporates rural and local socio-economic development and human resource development is also a key objective of the Protocol. Member States are required to involve and promote the involvement of local people and businesses in their tourism planning.
Article 3(4);(5);(6) and (7)	Principles: (4) formulation of policies and strategies to promote local communities and local authorities involvement in tourism planning and development; (5) promoting environmentally and socially sustainable tourism development based on sound management practices; (6) preservation and promotion of natural cultural and historical resources; (7) promoting a culture of human rights, gender sensitivity and involvement of people with disability.	These principles, which are consistent with principles of sustainable development and biodiversity conservation, should guide tourism development and planning, and the overall tourism regulatory framework in the region. This places an obligation on States to ensure that these principles are adopted in their national tourism policies and strategies.
Article 11	Environmentally sustainable tourism, in implementing the objectives of the Protocol States, should pursue sustainable policies on utilisation and management of the natural and cultural resources and environment	Tourism development should be consistent with and supported by policies on environmental sustainability. However, this does not create a legal obligation on states to ensure that a regulatory framework on environmental protection and biodiversity conservation is a prerequisite for tourism development. It reinforces the role of sustainable use of natural and cultural resources in bringing together environmental and tourism objectives.
Article 12(b)	Promotion of incentives for inclusion of local communities in tourism development process by private sector	Member States are encouraged to ensure that their tourism investment policies and strategies include incentives that enable partnerships between private sector and local communities and thereby contributing to rural development and poverty alleviation
Article 12(c) and (d)	(c) involvement and beneficiation of local communities from tourism development; (d) facilitate establishment of tourism financial mechanism for meaningful participation of local communities	Member States are required to recognise local community involvement and beneficiation. However it does not necessarily create legal obligation for such. The facilitation by States of a tourism financial mechanism encourages the latter to recognise such a need but does not create a legal obligation on them to actually create such a mechanism.
Article 12(e)	Prioritisation of investment in sustainable development of transboundary natural and cultural resources	This article links sustainable tourism development with the objectives of TFCAs which include, inter alia, biodiversity conservation, and poverty alleviation.



29	Protocol on Wildlife Conservation and Law Enforcement, 1999	
Status of ratification	South Africa 1999 Mozambique 1999	
Relevant section	Summary	Implications
Preamble	Aimed at establishing a common framework for the conservation and sustainable use of wildlife resources in the region and law enforcement thereof	Member States agrees that the conservation and sustainable use of wildlife resources must be combined to ensure both environmental and development objectives are met in the region.
Article 1	Definitions: Community based wildlife management; conservation; sustainable use; transfrontier conservation areas (TFCAS)	These definitions specify how these concepts are to be understood within the region and how they should be adopted into national efforts.
Article 2	Protocol applies to conservation and sustainable use of wildlife and not forestry and fisheries	Limits the scope of the treaty to wildlife only.
Article 3	Principles: conservation and sustainable use of wildlife resources within jurisdictions; prohibition of transboundary harm to wildlife resources. (a)&(b)cooperation among states and by stakeholders within a state; (c) collaboration to achieve international obligations.	Places an obligation on Member States to adhere to these principles. A legal obligation is placed upon states to implement and enforce measures to meet the objectives of this Protocol, through the adoption of the Principles.
Article 4	Objectives: Primary objective - common approaches to wildlife conservation and sustainable use through, <i>inter alia</i> , harmonisation, enforcement.	Member States obliged to harmonise and enforce normative framework on wildlife conservation and sustainable use. State parties encouraged to facilitate exchange of information, capacity building and cross-border cooperation for conservation and law enforcement.
Article 4(f)	Promotion of establishment of TFCAs.	State parties encouraged to participate in TFCA programmes.
Article 4(g)	Facilitation of community-based natural resources management (CBNRM) practices	State parties encouraged to enable CBNRM.
Article 6 & 7	Legal instruments for the conservation and sustainable use of wildlife; and wildlife management and conservation programmes	Member States are obliged to adopt, enforce, harmonise legislation and programmes on conservation, management and sustainable use of wildlife.
Article 8	Information sharing on a regional database on status and management of wildlife	State parties are obliged to create this database, and maintain it updated.
Article 9	Cooperation in wildlife law enforcement	An obligation is placed upon Member States to cooperate as specified, amongst each other.
Article 10	Capacity building for effective wildlife management	An obligation is placed upon Member States to cooperate in the establishment and promotion of capacity building initiatives.



30	Protocol on Shared Watercourses (Amended), 2000	
Status of ratification	South Africa 2000 Mozambique 2000	
Relevant section	Summary	Implications
Preamble	Environmentally sound management principles and sustainable development necessary in the equitable utilisation of shared watercourses	Member State are obliged to include these principles in decisions pertaining to shared watercourses
Article 1	Definitions: Environmental use, Management of a shared watercourse; Pollution of a shared watercourse; significant harm	The definitions elevate sustainability within the context of resource conservation and will be useful in interpreting duties and responsibilities
Article 2(a)-(e)	Objectives: Closer co-operation for sustainable and co-ordinated management, protection and utilisation of shared watercourses through the establishment of shared watercourse agreements and the promotion of research and technology development and information exchange	Member States are obliged to cooperate with each other and to share best practices as the aspiration of sustainable utilisation of shared watercourse cannot be achieved without cooperation.
Article 3(1), (4), (7) & (10)	General Principles: Necessary interventions must be consistent with sustainable development; (4) use of shared watercourses should be balanced between need and conservation; (7) intergenerational equity to be observed in the utilisation of shared watercourses; (10) prohibition of transboundary harm	Member States have an obligation to meet these principles as they are hinged on the need to responsibly use and also conserve shared watercourses. States cannot opt out of these principles given that a failure by one state to meet these could create injuries consequences in another state
Article 4(2)	Environmental protection and preservation	Member States have an obligation to individually and jointly protect and preserve ecosystems of or around shared watercourses.
Article 4(4)	Prevention and mitigation of harmful conditions	Member States must not engage in measures that result in harmful conditions, where it so happens, states have a responsibility to mitigate these. The provision is meant to protect both humans and species that are found in shared watercourses.

31	Protocol on Fisheries, 2001	
Status of ratification	South Africa 2001 Mozambique 2001	
Relevant section	Summary	Implications
Preamble	Joint cooperation and integrative actions a necessity for sustainable use of living aquatic resources	Member States are required to include regional concerns in the use of living aquatic resources and this is to be done with a people oriented goal to increment sustainable use practices.



(continue)	Protocol on Fisheries, 2001	
Relevant section	Summary	Implications
Article 1	Definitions: Critical habitat, excess fishing capacity, illegal fishing, highly migratory species, subsistence fisheries	The definitions also qualify these critical issues, by indicating acceptable and sustainable methods of fishing, and the prohibitions in terms of foreign species being introduced into aquatic resources.
Article 3 (a)-(e)	Objectives: The promotion of responsible and sustainable use of living aquatic resources and aquatic ecosystems; promotion of social, economic and environmental goals	The underlying goals are the attainment of social, economic and environmental sustainability through the cross-cutting implementation of the objectives. It is thus the responsibility of states to operationalize these objectives and to act within an anthropocentric approach.
Article 4	Principles: cooperation in pursuance of responsible sustainable use of living aquatic resources; stakeholder inclusion; responsible use and prevention of over-exploitation of aquatic resources; skills and technology transfers relating to conservation	Implementation of the Protocol's objectives to be done nationally in an all inclusive manner that offers the participation of all relevant stakeholders. Social and economic sustainability an underlying principle which states must bear in mind
Article 5	Living aquatic resources must not be over-exploited; both natural and juridical persons to use living aquatic resources in a responsible manner	Member States are obliged to legislate for the purposes of use and conservation. States must also consistently monitor such use.
Article 7	Cooperation and coordination in management of shared resources in a politically, environmentally and economical manner	Member States must cooperate with each other and must not engage in plans that might be injuries to other states' aquatic resources. States to prioritise use that allows for benefits to all stakeholders in an equitable manner
Article 8 & 9	Harmonisation of laws and optimisation of law enforcement	Member States cannot sustainably protect and conserve biodiversity without regional harmony and law enforcement. Thus Member States must to legislate in line with regional benchmarks.
Article 12	An equitable balance between social and economic objectives in the exploitation of living aquatic resources	Member States to ensure there is an environment suitable for the realisation of equitability in use and conservation. This to be achieved through, among other considerations, legislation and policies
Article 14	Aquatic ecosystems and their biodiversity to be conserved through principles like the precautionary principles;	Member States have a legal obligation to protect the biodiversity within and around aquatic ecosystems.
Article 15 & 16	The promotion of awareness of sustainable and responsible use of aquatic resources; promotion of sustainable trade and investment in fisheries.	Member States obliged to promote awareness programs and to sanction trade and investment that brings and returns benefits.



32	Protocol on Forestry, 2002	
Status of ratification	South Africa 2002 Mozambique 2002	
Relevant section	Summary	Implications
Preamble	Natural forests and unique forms of life within them must be safeguarded; forest communities have a role to play in the conservation process.	The use of forests and their biodiversity must not overshadow the need for their conservation. Member States are obliged to protect biodiversity. They are also required to facilitate and enhance CBNRM practices to include forest communities in the management and conservation systems, as a means to enhance both conservation and development.
Article 1	Definitions: community-based forest management; ecosystem; sustainable forest management; traditional forest-related knowledge	The definitions reveal the context within which the terms must be understood in relation to sustainable use and conservation of forested areas.
Article 3	Objectives: promotion of conservation, sustainable management and utilisation; community involvement in management; intergenerational equity; cooperation in forest related matters; information gathering and exchange	Member States obliged to realise the objectives progressively and, in the interim, avoid the implementation of any activity which can harm forestry ecosystems and, as such, contravene the objectives of this Protocol.
Article 4	Principles: prevention of transboundary harm through use; development that does not lead to long-term degradation; improvement of sustainable forest management laws and policies; mitigation of deforestation where it occurs; facilitation of public participation and community involvement in decision making;	These principles are to guide states in the planning and implementation of programs and policies relating to forests. Communities must be included in such processes, non just as economic beneficiaries, but as active society groups for the conservation and sustainable use of forested areas.
Article 5	Security of tenure so as to create incentives for sustainable forest management	Member States are encouraged to facilitate security of tenure of land and natural resources and the basis for any sustainable process of conservation for biodiversity and human development.
Article 8 & 9	National policies and programmes in forest management to be consistent with the protocol; such policies to include, among other issues, evaluation measures and assessments for biological diversity in forests, social functions of forests, socio-economic benefits to communities.	Member States obliged to align their own policies with the protocol such that there is a convergence and harmonisation of laws and policies, leading to a regional protection systems that supports human life.
Article 10 & 11	Collaborate in the establishment and maintenance of a regional database on forest resources; creation of forest related laws within states.	Member States must assume responsibility for use, management and conservation of forests and their biodiversity, in addition to their responsibility to contribute to the regional database.
Article 12 & 13	Community based forest management plans that involve local people and communities to benefit; facilitation of participation of women.	Member States have an obligation to involve communities and women so as to incentivise these groups to sustainably use forests and their biodiversity.



(continue)	Protocol on Forestry, 2002	
Relevant section	Summary	Implications
Article 14	Cooperation and collaboration in promoting integrated management of transboundary forests and protected areas.	Member States are drawn to pay specific attention to transboundary resources, requiring further inter-country cooperation to safeguard the forest and its resources.
Article 15 & 16	All measure necessary for the protection of forests and the recognition, respect and protection of communities over traditional forest related knowledge.	Member States required to enact legislation and to adopt policies that see to the dual roles of sustainably protecting forests and also protecting traditional forest-related knowledge of communities.
Article 17	Access to forest genetic resources must be subject to prior informed consent.	Member States are required to obtain the consent of Interested and Affected Parties prior to allowing access to forests and their genetic resources by non-locals.
Article 18	Promotion of industry, trade and investment in a manner that encourages and facilitates traditional, community and private sector operators in the forestry sector; measures for the protection of the environment and the minimisation of environmental damage through the harvesting of timber.	Member States are encouraged to facilitate partnerships between traditional communities and private investors in the sector. Member States are obliged to adopt measures for environmental protection in forestry harvesting activities.
Article 19	Promotion of education, training, public awareness and capacity building in relation to forests and related activities.	Member States are obliged to implement education, training and awareness programmes to build capacity for the sustainable use and management of forests and their resources.

33	Phakalane Declaration, 2012	
Status of ratification	Non binding document	
Relevant section	Summary	Implications
Preamble	Foot and mouth disease management must be multi-sectoral in nature.	Member States required to adopt holistic approaches to addressing foot and mouth, and move away from disease-free zones and fencing.
Findings	Livestock and wildlife based activities as primary modes of sustenance, economic betterment and support for rural livelihoods.	Member States should take into account that interface areas require a kind of land use management based on the role both livestock and wildlife resources do and can play in rural economic development.
Findings	Management of biological hazards associated with food safety and animal disease spread can be effectively implemented in an integrated continuum across production (value) chains- from animals in the field to the consumer.	Member States should take into account the alternative management practices for biological hazards and disease spread, which ensure effective control and focus on the whole value chain of the animal production.



(continue)	Phakalane Declaration, 2012	
Relevant section	Summary	Implications
Recommendations	States must work together with private sector and civil society in targeting approaches to transboundary animal disease management and wildlife utilisation policies.	Member States are encouraged to work in partnership with other organisations, specifically civil society and the private sector to promote alternative disease management mechanisms for transboundary diseases, which include sustainable use of wildlife.
Recommendations	States should utilise socioeconomic and conservation opportunities of SADC's vision for TFCAs.	Member States should look at transfrontier conservation as a means to implement alternative land use plans and wildlife utilisation for conservation and development.

34	Regional Indicative Strategic Development Plan	
Status of ratification	Non binding document	
Relevant section	Summary	Implications
	The RISDP is designed to provide strategic direction with respect to SADC programmes, projects and activities through identification of cross-sectoral and sectoral priority intervention areas to be pursued over a 15 years period.	As a strategic direction it is non-binding on Member States, but guides the regional agenda to be adopted at national level for the set period.
	The RISDP embodies the ideals of the NEPAD and the MDGs	
	the ultimate objective of the RISDP is to deepen the integration agenda of SADC with a view to accelerating poverty eradication and the attainment of other economic and non-economic development goals.	
Poverty Eradication Priority Intervention Area	The RISDP accords top priority to poverty eradication with the aim to promote sustainable and equitable economic growth and socio-economic development that will ensure poverty alleviation with the ultimate objective of its eradication.	Regional and national efforts towards biodiversity conservation should be understood in this context. States should adopt same approach in their NDPs and filtering down to the local IDPs.
Environment and Sustainable Development Priority Intervention Area	The RISDP considers environment and sustainable development as a vehicle to ensure equitable and sustainable use of the environment and natural resources for the benefit of present and future generations	The pursuit of the strategic objectives under this priority areas forges the harmonisation of and compliance to environmental policies, standards and guidelines.



35	SADC Regional Biodiversity Strategy	
Status of ratification	Non binding document	
Relevant section	Summary	Implications
The whole document	It provides a framework for cooperation on biodiversity issues that transcend national boundaries. Premise: The state of the environment, including biodiversity, is a major determinant of the growth and development of the region and impacts on the lives of its citizens. It is therefore a vehicle for implementing the biodiversity components of the RISDP.	Sets platform for the pursuit of the TFCA biodiversity conservation objective. It also links biodiversity conservation into the greater socio-economic development agenda of the region thus guiding state parties to the same at national and local levels.
	<p>Objectives: Provide guidelines that build the region's capacity to implement provisions of the CBD;</p> <ul style="list-style-type: none"> • Provide a framework for obtaining regional consensus on key biodiversity issues; • Act as a vehicle for forming partnerships with development partners on trans-boundary biodiversity issues; and, • Provide a framework for cooperation between Member States and with relevant multilateral environmental agreements. 	



award
The Association for Water and Rural Development

AWARD is a non-profit organisation specialising in participatory, research-based project implementation. Their work addresses issues of sustainability, inequity and poverty by building natural-resource management competence and supporting sustainable livelihoods. One of their current projects, supported by USAID, focuses on the Olifants River and the way in which people living in South Africa and Mozambique depend on the Olifants and its contributing waterways. It aims to improve water security and resource management in support of the healthy ecosystems to sustain livelihoods and resilient economic development in the catchment.

P O Box 1919, Hoedspruit 1380, Limpopo, South Africa
T 015-793 0503 **W** award.org.za
Company Reg. No. 98/03011/08
Non-profit org. Reg. No. 006 - 821

About USAID: RESILIM-O

USAID: RESILIM-O focuses on the Olifants River Basin and the way in which people living in South Africa and Mozambique depend on the Olifants and its contributing waterways. It aims to improve water security and resource management in support of the healthy ecosystems that support livelihoods and resilient economic development in the catchment. The 5-year programme, involving the South African and Mozambican portions of the Olifants catchment, is being implemented by the Association for Water and Rural Development (AWARD) and is funded by USAID Southern Africa.

Copyright © 2018 The Association for Water and Rural Development (AWARD). This material may be used for non-profit and educational purposes. Please contact the authors in this regard, at:

info@award.org.za

The content of this publication does not necessarily reflect the views of AWARD, USAID or the United States Government.

Acknowledgements: Project funding and support

The USAID: RESILIM-O project is funded by the U.S. Agency for International Development under USAID/ Southern Africa RESILIENCE IN THE LIMPOPO BASIN PROGRAM (RESILIM). The RESILIM-O project is implemented by the Association for Water and Rural Development (AWARD), in collaboration with partners. Cooperative Agreement nr AID-674-A-13-00008



USAID
FROM THE AMERICAN PEOPLE

SOUTHERN AFRICA