

The case of the Agreement for the Establishment of the Orange-Senqu Commission, including establishment of a multi country cooperation mechanism for the Stampriet Aquifer

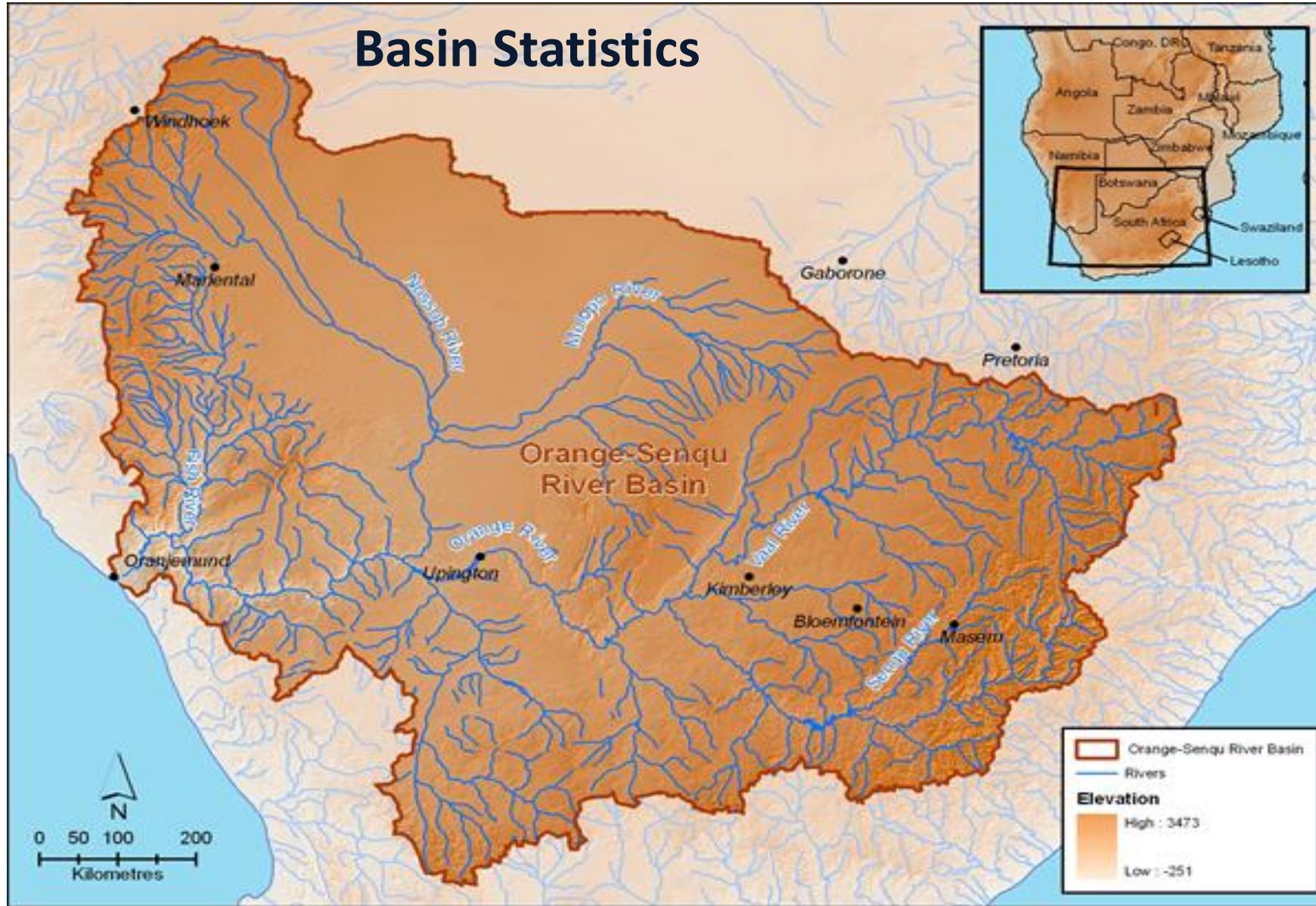
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Virtual Workshop on designing legal frameworks for transboundary water cooperation

28-29 July 2020

Basin Statistics

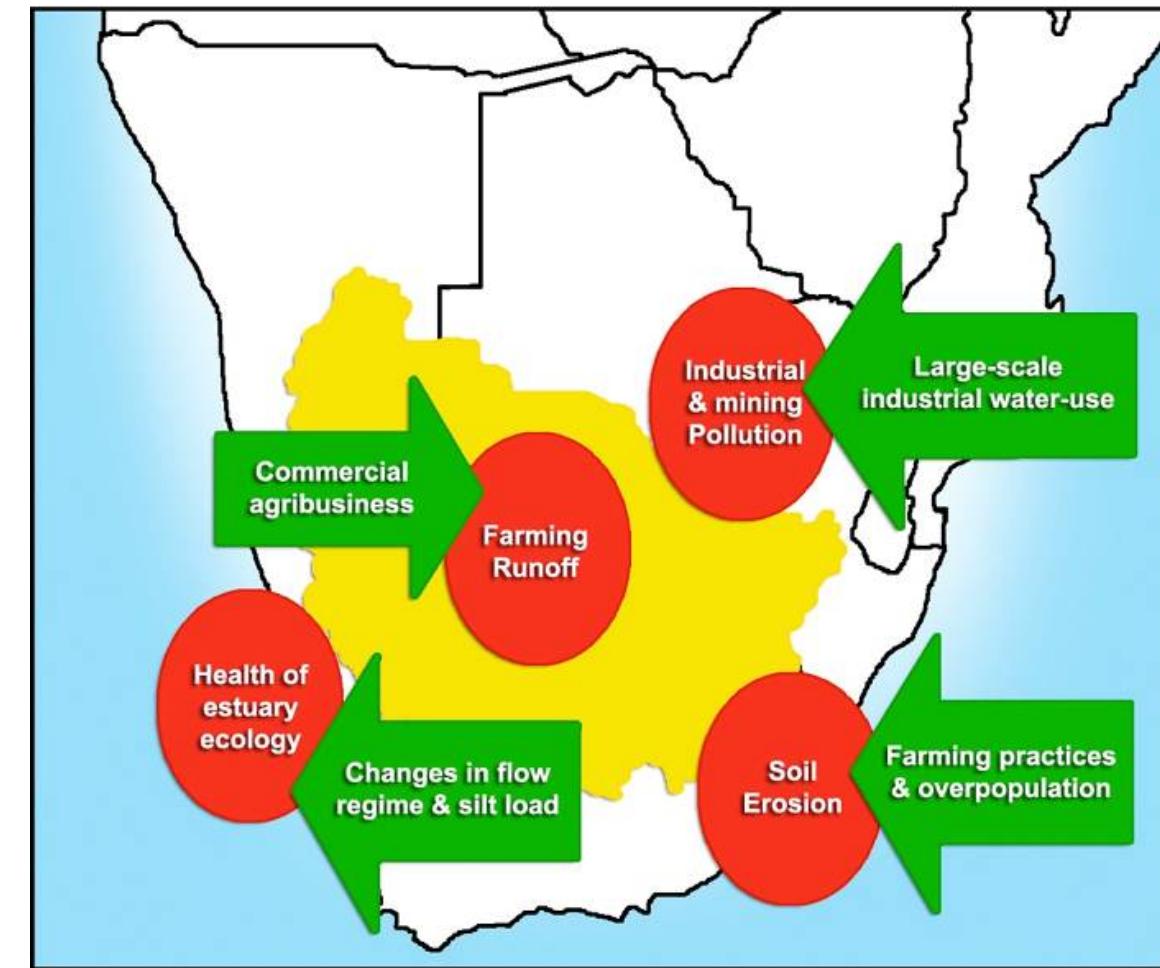
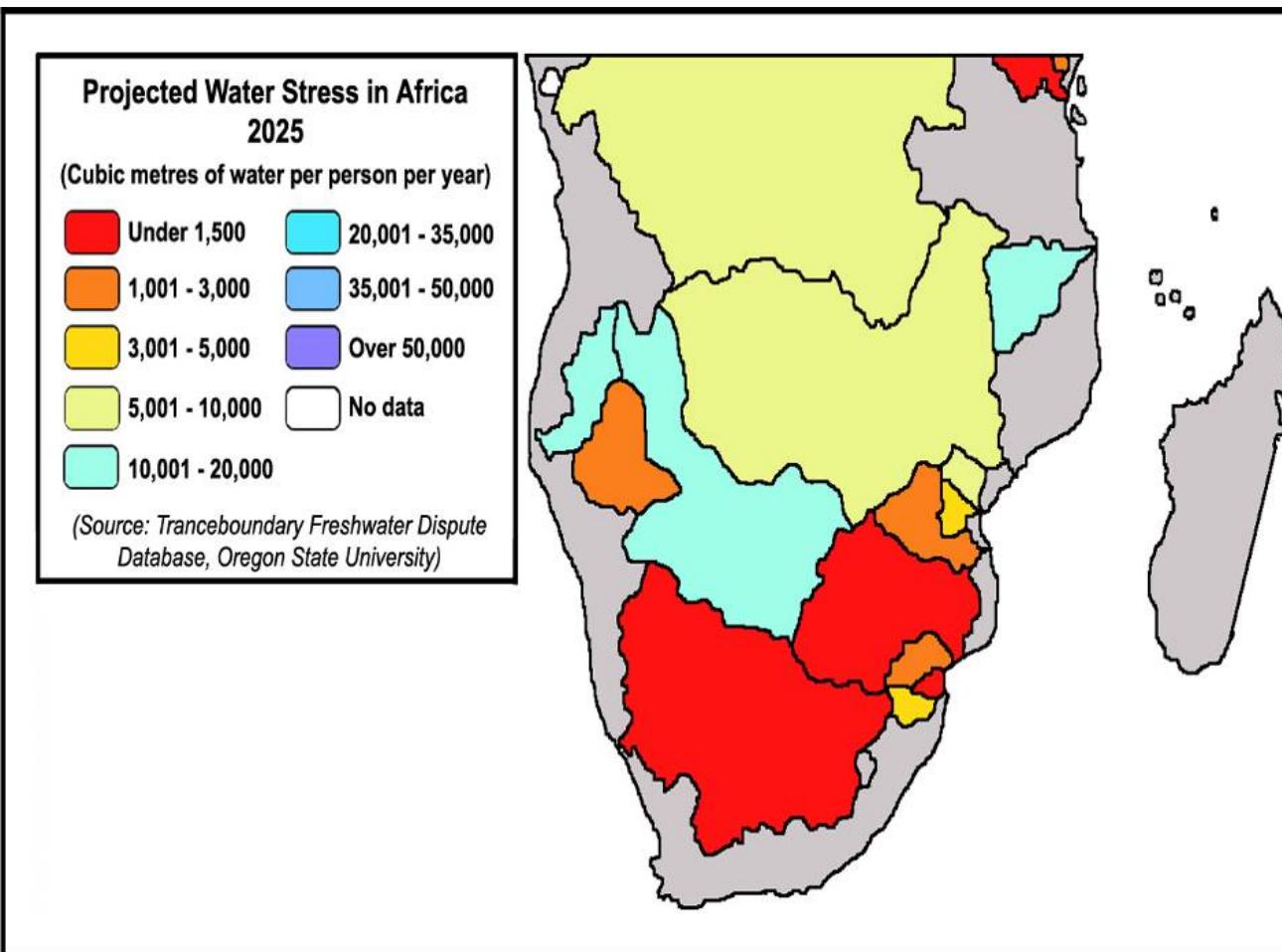


1. Basin Area : 1 million sq km.
2. Rainfall : 1800mm in Lesotho highlands to 45mm at River mouth.
3. Population: 19 million (Earle et al. 2004).
4. Average annual natural runoff : 12,000 mill. cub. metres (quote flood and drought flows as well) less than half of the flow reaches the river mouth on the Atlantic Ocean.
5. Basin States: Botswana, Lesotho, Namibia and South Africa.

Data Sources:
Digital Elevation Model - CGIAR SRTM Database
Rivers - UNDP/GEF
Dams/Waterbodies - UNDP/GEF

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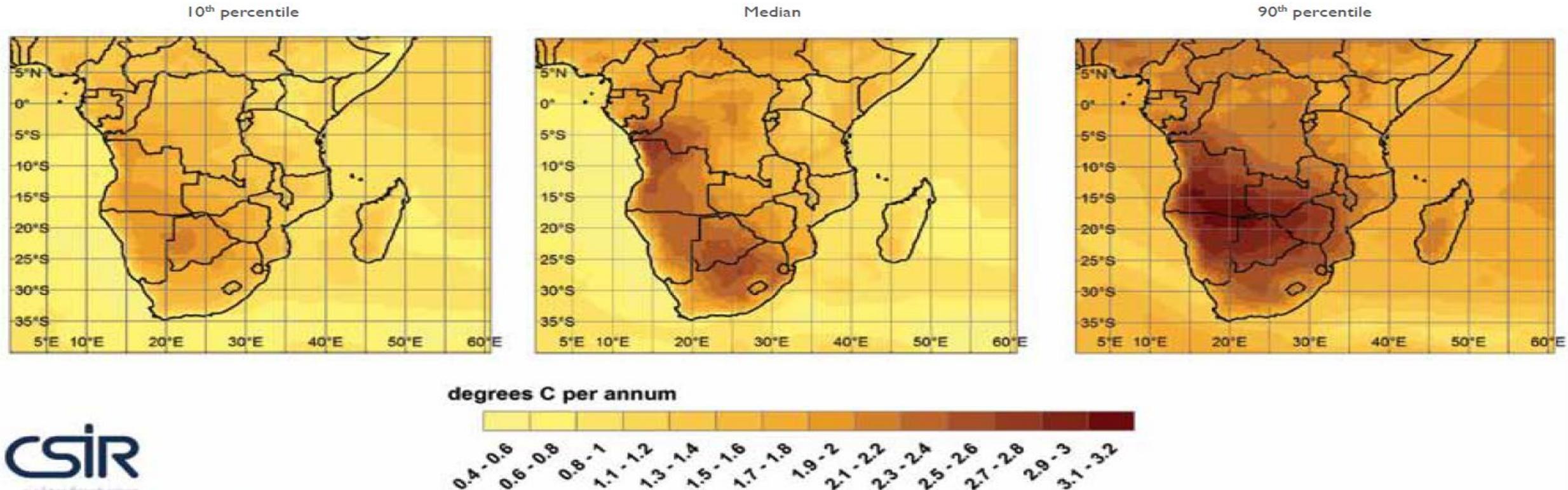
Water Stress and Management Challenges



Climate – temperature change

By 2050

Projected change in mean annual maximum temperature based on 6 dynamically downscaled GCMs



ORASECOM Agreement: Substantive and Procedural Features

a) Obligations , Rights and Principles

- Provides for collaboration and coordinated cooperation that contribute to mutual benefit, peace, security, welfare, and prosperity of the people;
- Embraces application of principle of equitable and reasonable utilisation, and sustainable development; including to prevent causing significant harm to any other party; including participation of inhabitants in planning, development and protection of the river system.
- Retains right to establish other forms of agreement on part of the river system; and has no effect on provisions under pre-existing agreements.
- Settlement of disputes, through consultations and negotiation, and then SADC Tribunal.

b) Overall aim to generate technical advise for Parties on development, utilisation, and conservation of water resources, including assessment, joint planning, protection, and monitoring of the resources.

c) Promotes standardised form of collection, assessing and dissemination of data and information., and exchange of same.

d) Prescribes process of notification on planned infrastructure measures which may cause significant adverse effect upon other Party(ies), including minimum information requirements, and timelines.

Challenges and Opportunities in Implementation

- Need to clarify role of the Commission in notification of planned infrastructure measures, together with potential financial burden.
- Limited inclusion of ground water in substantive provisions - Hence, interpretation of role in cooperation over transboundary aquifer system provided opportunity for nesting Multi-Country Cooperation Mechanism(MCCM) on the Stampriet aquifer between Botswana, Namibia and South Africa under ORASECOM.
- Disparity in economic capabilities among the Parties, leading to differing levels of readiness for water resources development in pursuit of equitable access and utilisation; including availability of skills and required resource management tools.

Lessons Learnt

- Regular interaction and collaboration with entities established through prior agreements (in the Basin) promotes confidence, and builds trust and transparency on water utilisation, and withdrawals; including respective roles in notification of planned measures.
- Efforts to pursue more equitable and reasonable access and utilisation of water resources lean more towards diplomacy, than natural science approaches and strict application of provisions of the agreement. This may imply need for explicit definition of the role for agencies responsible for international relations.
- Both conjunctive use of surface and ground water, and water conservation/demand management need more prominence in the Basin, and perhaps the agreement as well.
- Funding for generating the technical advise and recommendations espoused in the agreement is largely mobilised from international cooperating partners. But, there is substantial potential for mobilising significant financing, when the agreement is utilised to prepare and deliver infrastructure projects.

Thank you for your attention!