

Mandates in the context of Shared Water Course Institutions in SADC

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Why consider mandates in the context of Shared Watercourse Institutions (SWI's)?

- Considering the characteristics and manifestation of a mandate is at the heart of answering the question:
 - “What can a SWI realistically achieve?”
- Many stakeholders are asking questions related to mandates.
 - **The Assumption?**
A strong, clear, and independent mandate (whatever this may mean) is the ideal type which will allow for the most effective outcomes for all stakeholders involved.

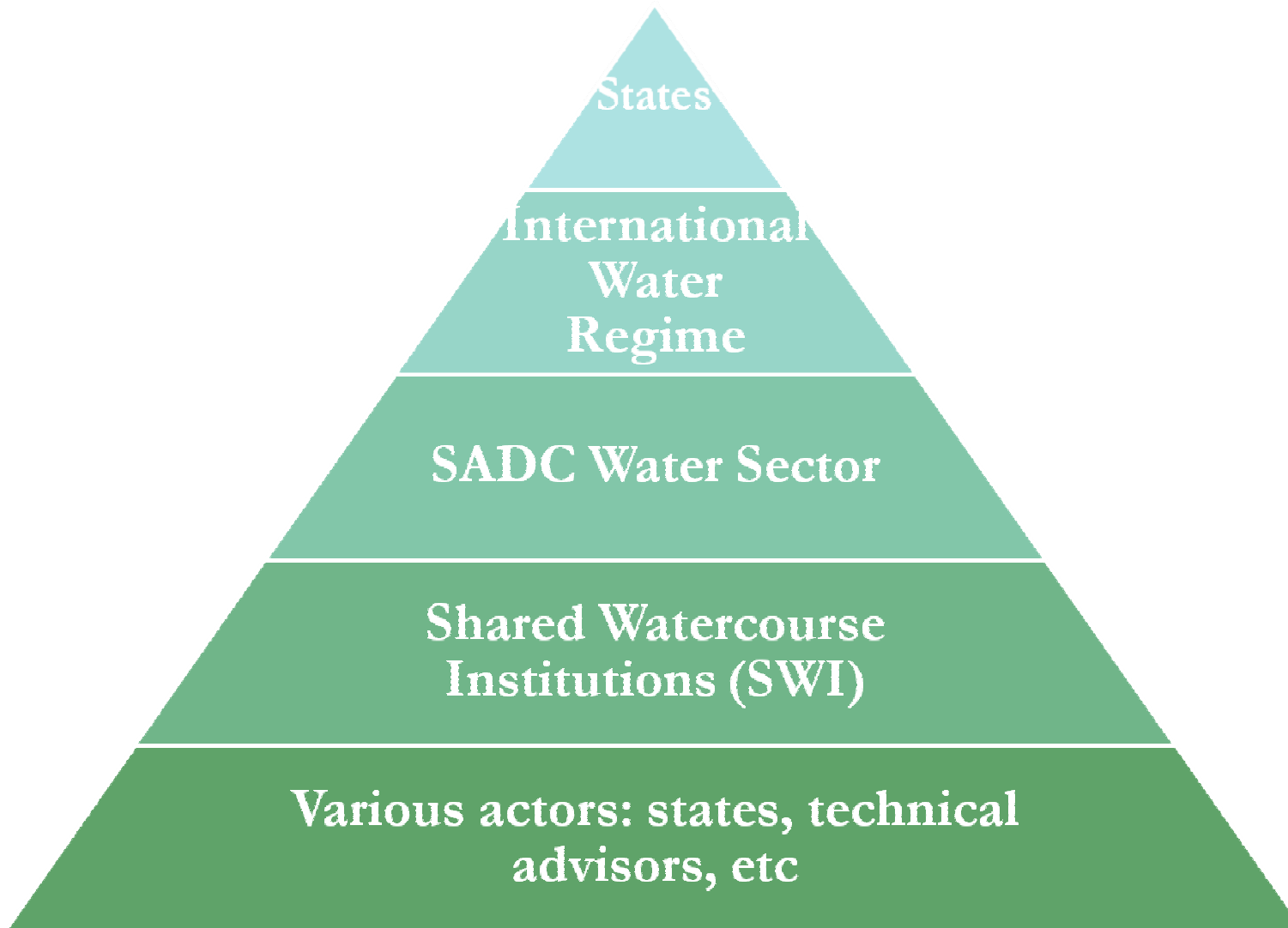
How do we conceptualize mandates?

- We see a mandate as being a simultaneously legal and political concept.
- The legal element of mandate is contained within standard dictionary definition of the term and is a commonly accepted 'definition' of mandate.
- Dictionary definition:
 - "an authoritative order or command"
 - "a command or authorization to act in a particular way on an issue"
 - "a command from a superior body or official to a lower one"

What are the characteristics and processes implied by the standard, definition of mandate?

- Characteristics of the legal element of a mandate:
 - product of joint consultation and consensus;
 - provide a reason for an institution to exist;
 - provide the broad parameters for institutional action
- Process which produces this mandate is:
 - Hierarchical;
 - Rational;
 - Has a legal personality

The legal (hierarchical) picture of a mandate



The political element in mandates

Politics is a disputed term What do we mean?

Politics is an activity that demands constant consideration of:

- issues of power,
- bargaining,
- petitioning for support for particular views
- consideration of own and external interests

Politics is an activity that states consciously engage in. States are not, however, the only actors that engage in politics.

But what does politics have to do with mandates of SWI's?

- **What needs to happen for a mandate to be generated?**

A complex process of:

- (heated) debate,
- (difficult) compromise
- (nuanced) conversations about allotment of power

i.e. A political process

- **Who are the primary actors in this interaction? Why?**

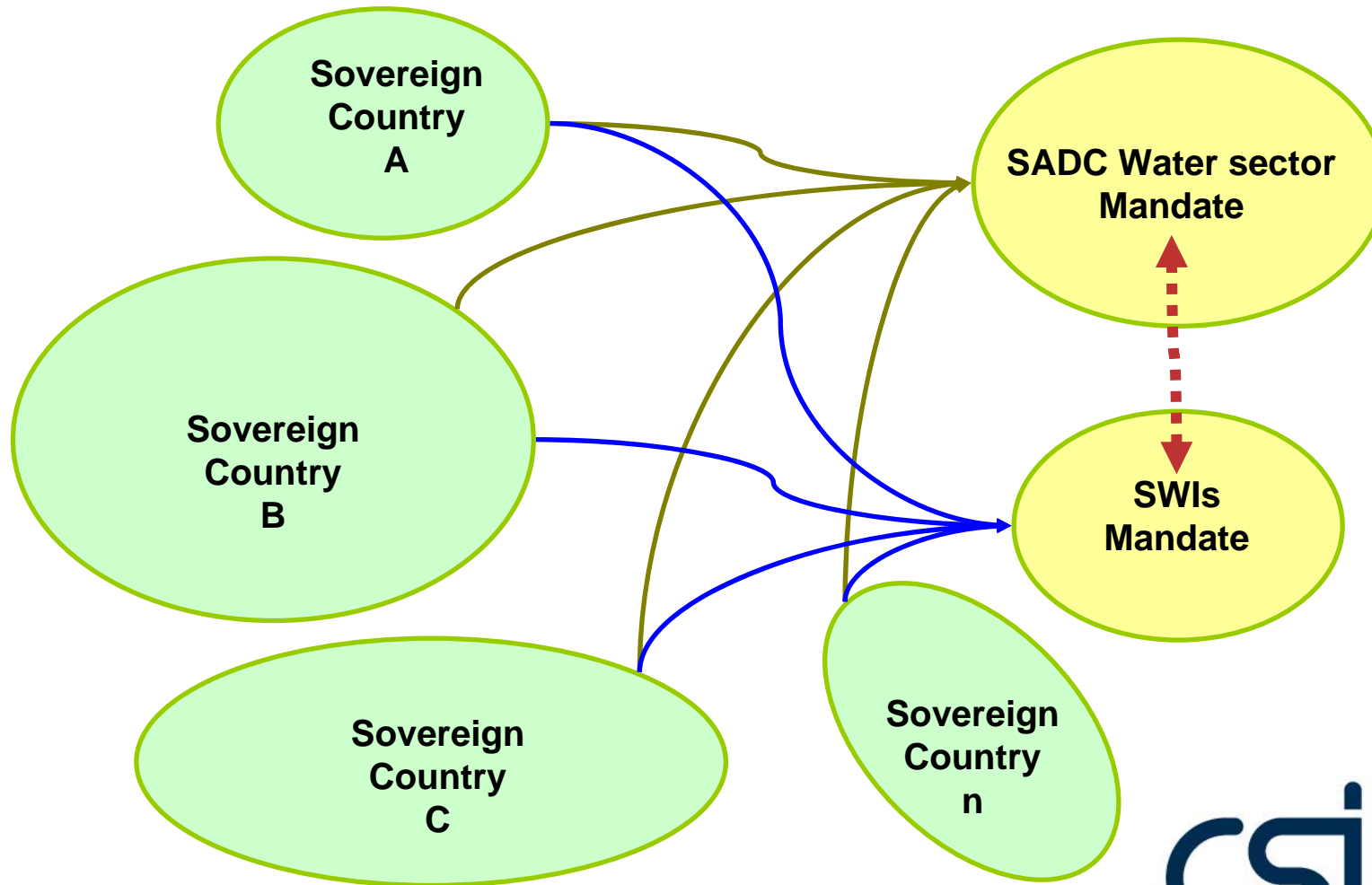
States are primary negotiators of mandates in the context of SWI's.

- Why?

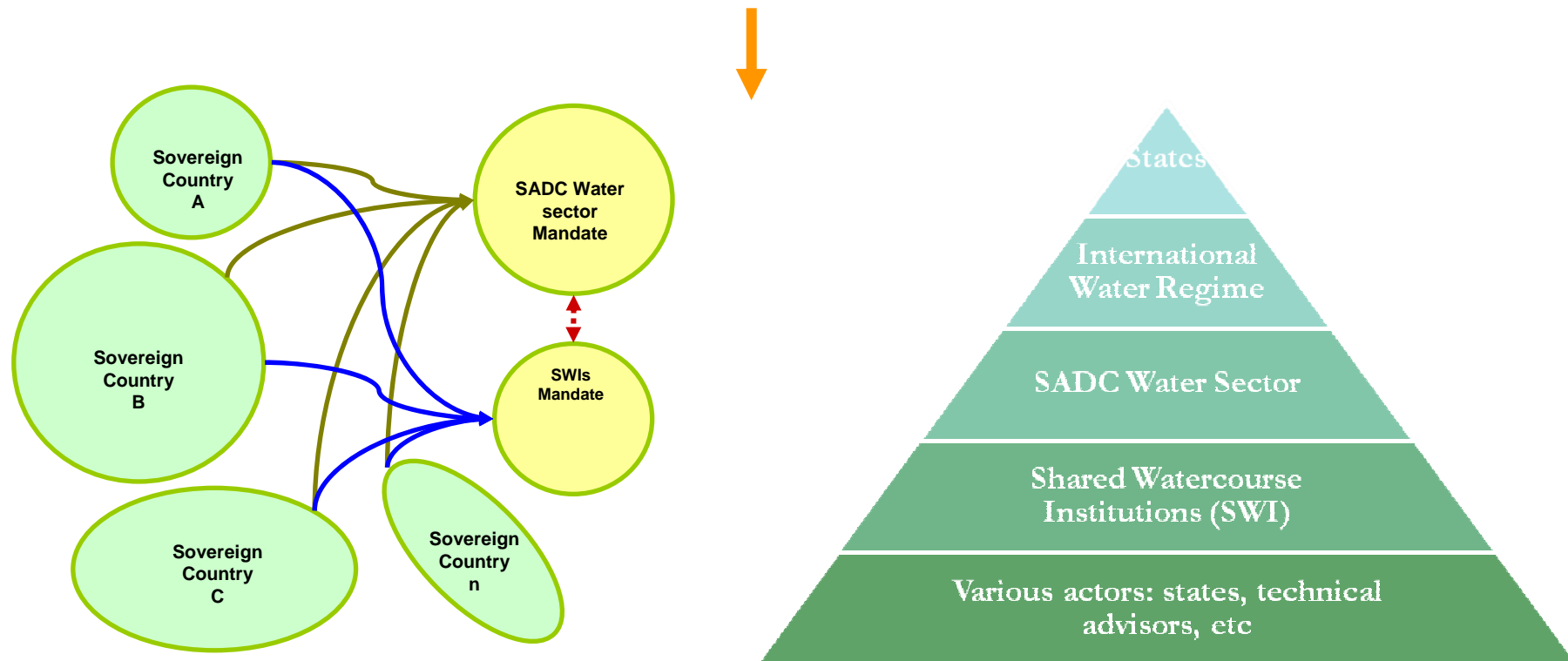
- Sovereign entities have the power to sign treaties, protocols etc.
- States exert control of resources within their territories – without their cooperation 'things' stagnate!

The Political (non-hierarchical)

View of Mandates



The complex reality and definition of a mandate



The political co-existing alongside the legal in an ongoing (contradictory) relationship

Some questions for consideration

1. Does the effectiveness of SWI truly depend on its mandate?
2. What do you think about the conceptualization of mandates as being simultaneously political and legal concepts?
3. What are the implications of this discussion for the SADC water sector and SWIs within the SADC?
4. ?

Thank you

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