

# UN Watercourses Convention

## User's Guide Fact Sheet Series: Number 7

### Protection and Preservation of Ecosystems

#### Introduction to the protection and preservation of ecosystems

Article 20 of the UN Watercourses Convention provides an obligation upon States to protect and preserve the ecosystems of an international watercourse. However, the “ecosystem” concept was used by the International Law Commission (ILC) when they drafted the text of the Convention because it was seen to have a narrower scope to that of the “environment”. “Ecosystem” was accordingly defined by the ILC as “an ecological unit consisting of living and non-living components that are interdependent and function as a community”.

#### The obligation to protect and preserve

Under the Convention, the obligation to protect and preserve ecosystems in Article 20 is seen as an extension of the requirement that States utilise their waters in an equitable and reasonable manner. In other words, it can be said that any activity which threatens the protection and preservation of ecosystems of an international watercourse might potentially be considered inequitable and unreasonable because it threatens the long-term viability of the resource.

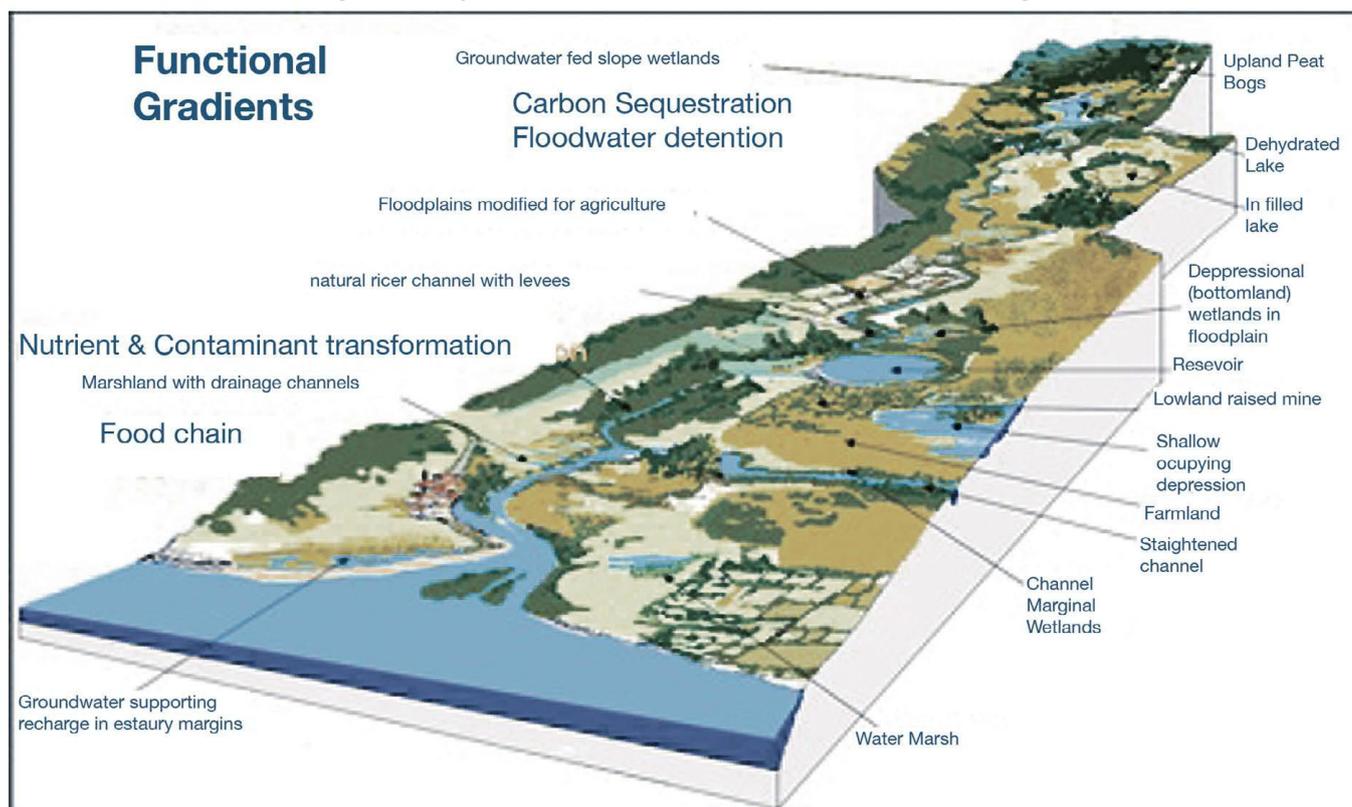
#### UN WATERCOURSES CONVENTION TEXT

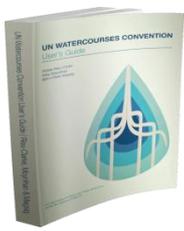
##### ART. 20 - Protection and preservation of Ecosystems

Watercourse States shall, individually and, where appropriate, jointly, protect and preserve the ecosystems of international watercourses.

The obligation to protect ecosystems encompasses measures relating to conservation, security and water-related disease, as well as technical and hydrological control mechanisms, such as the regulation of flow, floods, pollution, erosion, drought and saline intrusion. Additionally, the obligation to protect includes the duty to shield ecosystems from a significant threat of harm and therefore by the need to adopt a precautionary approach.

#### The range of ecosystem services associated with different river gradients





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

- Electronic version available on-line at: [www.dundee.ac.uk/water](http://www.dundee.ac.uk/water)
- Hardcopy available to order by emailing: [water@dundee.ac.uk](mailto:water@dundee.ac.uk)



The obligation to preserve ecosystems of international watercourses refers to **maintaining freshwater ecosystems in a “pristine or unspoiled condition”** and can be seen as **subordinate to the obligation to protect**. Sometimes the preservation of watercourse ecosystems involves setting aside of a portion or the entirety of a river flow based on its condition or beauty. It should be noted though that such decisions **must be weighed against all relevant factors applicable to the principle of equitable and reasonable utilisation**, as well as the duty of no significant harm.

### *The “ecosystem services” approach*

The ecosystem services approach is based upon the understanding that there are economic benefits to healthy ecosystems (see diagram on previous page). In this respect, the protection and preservation of ecosystems is not only environmentally important, but also economically beneficial. It is a relatively new approach in freshwater management but is increasingly used by scientists in order to quantify and in-turn seek to harness the economic benefits that healthy watercourse ecosystems can provide both directly and indirectly to riparian States.

An extension of this approach - **“payment for ecosystem services”** - involves assessing the financial value of specific ecosystem services to economic and social development. Policy mechanisms can then be developed that seek to integrate these financial values into water management strategies, including providing compensation for preserving ecosystems. Notably, the UNECE Water Convention has codified a strategy to implement this approach.

### ADDITIONAL RESOURCES

#### **FURTHER READING**

Rieu-Clarke, A., Moynihan, R. and Magsig, B., *UN Watercourses Convention – User’s Guide (CWLPS 2012)*, at 164-172

Brels, S., Coates, D., and Loures, F. *Transboundary Water Resources Management: the role of international watercourse agreements in implementation of CBD* (CBD 2008)

Brunnée, J. and Toope, S.J. *Environmental Security and Freshwater Resources: A Case for International Ecosystem Law* Yearbook of International Environmental Law (Oxford University Press 2004)

McIntyre, O. *Environmental Protection of International Watercourses under International Law* (Ashgate 2007)

Tarlock, D. *Ecosystem Services in the Klamath Basin: Battlefield Causalities or the Future?* (2007) *Journal of Land Use* 207

UNECE, *Guidelines on the Ecosystem Approach in Water Management*, <[www.unece.org/index.php?id=12847](http://www.unece.org/index.php?id=12847)>

UNEP, *The Greening of Water Law – Managing Freshwater Resources for People and the Environment* (UNEP 2010), 58-63

#### **RELATED UN WATERCOURSES CONVENTION SECTIONS**

**Art 21** – Prevention, reduction and control of pollution

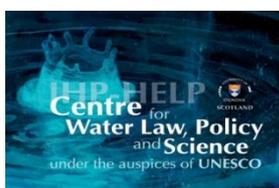
**Art 22** – Introduction of alien or new species

**Art 23** – Protection and preservation of the marine environment

**Art 24** – Management

**Art 25** – Regulation

**Art 26** – Installations



This fact sheet series, online resource and User’s Guide have been produced through generous financial support from the **Norwegian Ministry of Foreign Affairs**, and in partnership with **WWF**. Since 2006, WWF has promoted the UN Watercourses Convention through a global initiative that encompasses a wide range of partners and activities. For further details visit:  
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