What is the difference between a “watercourse” and a “drainage basin”?

The UN Watercourses Convention uses the term “international watercourse” - meaning a “watercourse, parts of which are situated in different States” (Art. 2(b)). A “watercourse” is defined as “a system of surface waters and ground waters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus” (Art. 2(a)).

This definition differs from the approach of the International Law Association’s (ILA) Helsinki Rules on the Uses of the Waters of International Rivers, which uses the term “international drainage basin” - defined as “a geographical area extending over two or more States determined by the watershed limits of the system of waters, including surface and underground waters, flowing into a common terminus”.

It has been maintained that, through its use of the term “drainage basin”, the scope of the Helsinki Rules is more expansive than that of the UN Watercourses Convention. A question has therefore been raised over whether the approach of the Convention is restrictive in only applying to the waters, whereas the Helsinki Rules adopted a seemingly more expansive definition of the entire drainage area meaning the land and water of a river basin.

What are the relevant factors?

During the drafting of the Convention, the International Law Commission (ILC) gathered State opinion on whether the concept of an “international drainage basin” should be the appropriate basis for their study. Some States objected to the concept arguing that it could result in regulation not only of the use of the water but also of the land territory. Ultimately, the expression “international watercourse” was chosen by the International Law Commission (ILC) and supported by States.

Whilst the “international watercourse” approach taken by the UN Watercourses Convention was supported by most States based on its more restrictive scope, some leading academics refute the argument that such an approach is actually less expansive in scope than the “international drainage basin”.

The use of the term “watercourse” should be considered within the wider context of the Convention, which is focused on the protection, preservation and management of international watercourses. In many situations, it may therefore be necessary to consider land-based activities beyond the watercourse itself in order to ensure its protection, preservation and management.
Overlap with the concept of “ecosystem”?

Such an expansive approach can be most clearly seen in the inclusion of the concept of ecosystem protection pursuant to Article 20 of the UN Watercourses Convention, which obliges States to protect and preserve the ecosystems of international watercourses. The ILC defined an “ecosystem” as an “ecological unit consisting of living and non-living components that are interdependent and function as a community”. In this context, land-water interactions may be included within the scope of the Convention.

Ultimately, what the Convention seeks to achieve is respect for the principle of limited territorial sovereignty. Hence, the question to be asked whenever the rights and obligations or a watercourse State are being examined is: Does an activity by one watercourse State affect, or potentially affect, the rights of another State to use an international watercourse in an equitable and reasonable manner? If the answer is yes, then the Convention will apply regardless of where in a drainage basin the activity takes place.

Diagram representing a drainage basin system including some of the main watercourse ecosystems


**FURTHER READING**


**ADDITIONAL RESOURCES**

Visit our on-line resource at [www.unwatercoursesconvention.org](http://www.unwatercoursesconvention.org)

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: [http://wwf.panda.org/what_we_do/how_we_work/policy/conventions/water_conventions/un_watercourses_convention/](http://wwf.panda.org/what_we_do/how_we_work/policy/conventions/water_conventions/un_watercourses_convention/)