



Change in ecological character of wetland sites – Ramsar guidance and mechanisms

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Executive summary

The Ramsar Parties at COP11 gave several tasks to the STRP on change in ecological character of Ramsar Sites, some of which had been rolled forward from the previous triennium. A consultant review was commissioned in 2014 on one of these, covering Convention Articles 2.5, 3.2 and 4.2, the Montreux Record, the Ramsar Advisory Missions process and aspects of the Ramsar Sites Information Service, and including a synthesis of existing guidance and interpretations. The present report is a summary of the discussion sections of the review.

Contracting Parties are at the beginning and end of Ramsar Site designation and management. Description by a Party of the ecological character of its Ramsar Sites is the baseline against which change is assessed for the purposes of Article 3.2. The expectations the COP has defined for this are now quite demanding and are not yet being followed by most Parties, which is hampering assessment of change.

Choosing the correct reference condition is challenging when there is incomplete knowledge about long-term natural variations and/or where the site shifts to a “novel ecosystem”. The Ramsar obligation to “maintain the ecological character” of sites can be an overly static concept if it is applied without factoring in these realities; yet at the same time robust (and clear) expressions of value are needed with which to defend designated sites against development threats and other unwanted change.

Reporting of change or likely change under Article 3.2 is generally inadequate. Possible improvements are discussed, including use of a risk-based approach rather than the exacting standards of proof seen in case-law thus far. The need to acknowledge that some change is not meaningful enough to count as change for the purposes of Article 3.2, while at the same time safeguarding the imperative to resist unjustified change, is also discussed.

Although instances of Article 2.5 (“urgent national interests”) being formally invoked for Ramsar Site deletion or boundary restriction are few, they have not been systematically recorded. There is no fixed understanding about the way in which a Party should make the formal notification, or what substantiation of its case may be required, and the Article is ambiguous about timing. These aspects are discussed, together with reflections on the legal interpretation of “urgent national interests” and principles for compensation under Article 4.2.

Parties are generally showing little enthusiasm for the Montreux Record, and in recent years it has been little used. There is however still scope for it to play a useful role in the right circumstances.

The Ramsar Advisory Missions process is a more successful tool, but it could have even greater impact, given secure resourcing, enhanced synergy with other MEA processes, better follow-up and better use of the accumulated case experience.

1. Recommendations

Recommendations arising from the present report are listed below. Requests to STRP concerning further attention to this area of work raised the possibility of further rationalisation and streamlining of the overall regime for detecting, reporting and responding to change in wetland ecological character. Given however that no draft Resolution on this subject will be tabled at COP12, no changes to guidance are proposed here. Instead an informal consolidation of some key guidance and interpretations is provided in the Annexes of the separate full review report.

Article 3.2

- R.1 Information on natural variability, referring to sufficiently long historical timeframes where data are available, should be incorporated as far as possible in all relevant data fields of the Ramsar Information Sheet (RIS) and Ecological Character Description (i.e. not only as a single overview statement).
- R.2 The Ramsar Wetland Risk Assessment Framework (Res. VII.10) should be updated, especially to embrace social and economic parameters which underpin the ecosystem services dimension of wetland ecological character.
- R.3 Concerning the “materiality” of change, Article 3.2 should be read as though it included a “*de minimis*” qualification. Such a qualification must not be misused as a broader derogation, and a generally precautionary approach should be taken (i.e. “if in doubt, report”).
- R.4 Capacity-building efforts should be directed towards increasing awareness in “reporting chains” from site managers to Administrative Authority focal points about the simple core of the Article 3.2 reporting requirement, and on recognising how existing processes using different routines and terminology in their own operational contexts are relevant to the Art. 3.2 process.
- R.5 In the absence for a period of more than six years of any positive information about the maintenance of ecological character at a Ramsar site (i.e. officially via RIS updates and national reports), the site should be deemed at that point to be at risk of changing or having changed until the Contracting Party concerned indicates otherwise, thus counting as a “default” Art. 3.2 report.
- R.6 The Standing Committee’s regular meeting agenda item on Ramsar site status should be enhanced, *inter alia* by tasking the regional representative members of the Committee with marshalling relevant information from their regions in advance of the Committee meetings, supported by a list of sites provided by the Secretariat indicating earlier Art. 3.2 reports in need of updating.
- R.7 A full, up-to-date and transparent record of Article 3.2 reports should be maintained by the Secretariat and used as input to relevant Ramsar site status & trends assessment processes at regional and global level. Past case experiences should also be used to help advise Parties in cases of doubt about what to report.

Articles 2.5 and 4.2

- R.8 To clarify Article 2.5, and to be consistent with Article 8 and Resolution IX.6, Article 2.5 reports should be submitted at the point when the Contracting Party concerned wishes to confirm its intent to delete or restrict the boundaries of the site concerned, and should detail the specific grounds on which “urgent national interests” are being asserted.
- R.9 Past case experiences of implementation of Article 2.5 should be documented and made available, and should be used where appropriate to help in providing guidance to Parties.
- R.10 Options should be explored for developing guidance on how to verify a lack of alternatives when Art. 2.5 is invoked, including on guidance on the “area of search” for alternatives, the standard of proof and the onus of proof.
- R.11 All cases where compensation has been either provided or attempted under Article 4.2 should be subject to follow-up monitoring at least every five years by the Contracting Party concerned and by the Ramsar Secretariat, to ascertain the outcomes achieved. The Secretariat should undertake periodic checks of information held on Art. 4.2 cases in the RSIS to ensure that its files are complete in this respect. Lessons learned should be documented and made available.

The Montreux Record

- R.12 Wherever applicable and appropriate the Montreux Record should be operated in a linked and harmonised way with the World Heritage Convention’s “List of World Heritage in Danger”.

The Ramsar Advisory Missions process

- R.13 A pragmatic and proactive approach should be taken to triggering Ramsar Advisory Missions (RAMs) where it is clear that they will add value, for example extending if necessary to candidate Ramsar sites as well as designated ones. The wider strategic benefits of a Mission should always be considered alongside its site-specific purposes.
- R.14 Awareness of the option of using a RAM, and the process for triggering it, should be more actively promoted. The Secretariat should regularly review the list of Article 3.2 reports to consider where RAMs should be suggested.
- R.15 The linkage between RAMs and the Montreux Record should not be given any particular importance unless the Party concerned in a given case sees value in making this link.
- R.16 In cases of sites with relevant multiple designations or where other obvious mutual interests are at stake, RAMs should more often be undertaken on a joint basis with other MEAs and analogous processes. When a RAM or other MEA’s equivalent is under consideration in any of the relevant fora, the “joint approach” option should be prompted automatically as a matter of routine.

- R.17 An adequate allocation of funds for RAMs (of the order of CHF 150,000 per annum) should be reinstated in the Ramsar core budget. Opportunities to raise additional funds should also be explored.
- R.18 The Contracting Party concerned, when accepting a final RAM report, should make clear its intentions and the nature of the commitments it is making to implement the recommendations. A simple but systematic approach should be developed for following up recommendations made in RAM reports, evaluating the outcomes, and providing follow-up advice and support if required.
- R.19 More use should be made of the case experiences documented in RAM reports, for example by synthesising key messages and lessons learned according to selected themes, and providing more language translations of the reports (or at least of their summaries).
- R.20 Based largely on enhancements of existing activities, the Ramsar Advisory Missions tool should be expanded into a broader systematic Ramsar (sites) Advisory *Service*, with a spectrum of response options to choose from.

2. Background and purpose of this report

- 2.1 Successive COPs have generated a large body of global guidance on implementation of those Articles of the Convention which deal with change in ecological character of Ramsar sites and other wetlands (Articles 2.5, 3.2, 4.2 and 8.2). The STRP has produced a variety of supporting information on this, and the Secretariat and Parties have accumulated valuable experience from individual cases, including those where the Convention's supporting mechanisms (such as the Ramsar Advisory Missions) have been used.
- 2.2 Several aspects of the further guidance seen by COP10 (2008) as being required on detecting, reporting and responding to change in ecological character were included in the STRP programme for 2009-2012, but little progress was made on those due to lack of resources. They were rolled forward into the 2013-2015 programme and combined with a refined view of the overall issue which developed during the 2009-2012 period, as well as a revised version of another task from COP10 concerning the Montreux Record.
- 2.3 At the STRP's 17th meeting in 2013, the Panel decided to consolidate several of the COP11 requests that relate to this area (from Resolutions XI.4, XI.8, XI.14 and XI.17) and to focus on four interrelated tasks (describing, monitoring, reporting and responding to change in ecological character). The Standing Committee at its 46th meeting in April 2013 identified one sub-element (on reporting change) to progress, and a funding allocation was approved by the STRP Oversight Committee in November 2013.
- 2.4 Some aspects of this sub-task depend on other sub-tasks which were not funded. For the aspects it has been possible to progress, a consultant was appointed in March 2014 to undertake a review covering the following issues:
- Article 3.2
 - The Ramsar Sites Information Service and the Article 3.2 process
 - Articles 2.5 and 4.2 (urgent national interest and compensation)
 - The Montreux Record
 - The Ramsar Advisory Missions process
 - Recommendations concerning the overall regime for detecting, reporting and responding to change in wetland ecological character.
- 2.5 The Standing Committee at its 47th meeting in April 2014 then determined that draft Resolutions for COP12 would not include this subject area.
- 2.6 The review was completed in August 2014, in the form of a 103-page report. The report includes, as appendices, a consolidated synthesis of existing guidance and interpretations on the issues listed above¹. It also addresses a further request rolled forward from COP10 concerning the Montreux Record questionnaire. The part of the review which addresses the Ramsar Sites Information Service has been used in the redevelopment of the RSIS during 2014. The present short report is derived from aspects of the other sections of the full review (i.e. excluding the RSIS), and the full review has been revised so that the two documents are aligned.

¹ The list of sources consulted for the present report is also provided in the full review.

3. At a glance: summary statement on handling wetland ecological change issues in Ramsar

The Ramsar List of Wetlands of International Importance

- Each site has its international importance described, against the Ramsar criteria
- Each site has its ecological character described, according to a set list of attributes
- The List as a whole (and sub-lists, e.g. at regional or national level) also has attributes & values (number of sites, extent, diversity, representativeness, distribution, ecological coherence, etc.)

Supported by:

Criteria, ECD, conceptual models for wetland ecosystems, concepts & models of ecosystem value (including ecosystem services), analysis of underrepresented wetland types

Action priorities:

- Designate to fill gaps and make the list more complete
- Describe each site fully, and keep updating whenever things change

The Convention's primary aims for the List

- "To stem the progressive encroachment on and loss of wetlands"
- Conservation of listed sites, and wise use of all wetlands, both interpreted as "maintenance of ecological character" of the individual wetlands
- Normally this means trying to protect and enhance, and not degrade or lose, any of the values described for the sites in their RIS and ECD
- Encroachment and loss are still occurring and still need stemming

Supported by:

Site management planning, status & trends assessments, indicators

Potential problems:

- If the values for a site are incompletely described, or the description is based on a mis-reading of the evidence (ie is ecologically misguided), protection efforts may be mis-targeted
- If the values were correctly described but the description is no longer applicable because of underlying ecological change, the wrong reference framework will be being used for conservation efforts (and for performance assessment)

Warning when achievement of the primary aims may be at risk

- Article 3.2 - inform the Secretariat immediately if the ecological character has changed, is changing or is likely to change adversely due to human influence

Informed by:

Monitoring & surveillance systems, risk assessment, Limits for Defining Change in Ecological Character (LDCEC), early warning indicators, EIA, taking a precautionary approach

Is all about

alertness, sensitivity, skilled discrimination, communication and awareness

Supported by:

Article 2.5 - tests to meet to decide whether a superior interest can legitimately override the Ramsar primary aims
Res IX.6 - sites losing interest for unpreventable reasons other than Art 2.5
Res X.16 – framework of processes

Secretariat:

- Maintains overview of all such instances in database
- Ensures Parties as a whole are aware, have opportunities to share advice & assistance, and to safeguard their collective interest in the state of the global list, including holding each other to account by ensuring fair & equitable observance of the Convention's requirements (Standing Committee and COP processes)

Action priorities:

- Report all cases that merit it, including rapid/summary initial alerts, with minimal bureaucracy
- Organise a full & transparent & searchable central database of reported instances

Responding to issues that jeopardise achievement of the primary aims

- Includes mutual support between countries, provision of technical advice
- Includes Montreux Record, Advisory Missions, collaboration between MEAs, role of the Ramsar STRP
- Has some funding implications

Supported by:

Res XI.9 (AMC sequence), Res VIII.16 (restoration)
Art 4.2 and Res VII.24 - framing compensatory measures when tests have been met regarding superior interests, or when mitigation/restoration efforts will not be enough
Res X.16 – framework of processes

Action priorities:

- Put this whole system more centre-stage; refresh the imperative
- Provide a pragmatic spread of options (doing more with RAMs, broadening to a "Ramsar Advisory Service" including "rapid response" options, providing more *ad hoc* support channels)
- Make the overview more complete; do more lesson-learning

Today's evolving perspectives

- How ecosystems behave in the face of change is a set of “capability” values in its own right - the science of ecological resilience, adaptation, regime-shifts etc

Challenge:

- Understanding cycles of change on a much longer timescale; putting current ecological evaluation systems and “defensive” safeguarding policy frameworks in that context

Action priorities:

- Legal & policy checks & balances for distinguishing genuine natural long-term shifts or novel stabilities from spurious claims by vested interests that something has changed in this way when it hasn't (can't let greater enlightenment about inherent dynamism of wetland ecosystems be a basis for so much flexibility that we lose the core values and jeopardise the primary aims)
- Formula-driven, criteria-based decision-making for Articles 3.2, 2.5 and 4.2 is not always possible or appropriate: need therefore to develop approaches based more on risk management, precaution, and a graduated spectrum of response options

Leadership from Ramsar

- Ramsar has some extensive thinking and well-evolved systems in this subject area, which are crucial for the Convention's own success and have much to offer to wider interests
- On-going accumulation of implementation experience and reflective analysis continues to generate ideas for refinement, and new challenges are emerging too

4. Article 3.2

- 4.1 Article 3.2 of the Convention provides that “each Contracting Party shall arrange to be informed at the earliest possible time if the ecological character of any wetland in its territory and included in the List has changed, is changing or is likely to change as the result of technological developments, pollution or other human interference. Information on such changes shall be passed without delay to the [Ramsar Secretariat]”.
- 4.2 This requirement is strict and unqualified. A key part of its force is that it envisages a “real time” or “as it happens” communication system, so that responses to specific issues can be prompt and effective. The phrase “without delay” is critical to this, and yet it is extremely poorly observed by most Parties, or in many cases even ignored.
- 4.3 The Article 3.2 sentence includes several concepts and component parts which have been tested or analysed over the years. Guidance on various aspects has been adopted at different times by the COP, and is summarised in a consolidated form in the full review report under the following headings:
- “Arranging to be informed”
 - Ecological character
 - Change in ecological character
 - Actual change and likely change
 - Human-induced change and “natural” change
 - Positive change and negative change
 - Change that is meaningful enough to count as change for the purposes of Article 3.2
 - Novel ecosystems
 - Limits of Acceptable Change/Limits for Defining Change in Ecological Character
 - The role of management plans
 - Reporting change (“passing information without delay”).

Describing ecological character

- 4.4 The description of ecological character² for each Ramsar site is the baseline against which change is assessed for the purposes of Article 3.2. The aspect of this on which most uncertainty remains is how to identify the correct reference condition to use.
- 4.5 A single assessment at the moment of designation, or at some later moment when an ecological character description (ECD) sheet³ is completed, may not necessarily characterise the site in the most accurate or meaningful way for the purpose if, for example, underlying conditions fluctuate from time to time or if they are evolving in a particular direction.
- 4.6 ECD field 3.9 asks about “trends”, but only in the sense of an assumed negative pressure on the site’s values. The sheet does not ask about any multi-annual cycles in the site’s environmental context, or trends that are not

² The current Ramsar definition of wetland ecological character is given in Resolution IX.1 Annex A; and guidance on describing ecological character for individual sites is given in the Annexes to Resolutions X.15 and XI.8.

³ Template provided in the Annex to Res. X.15.

necessarily negative. The COP11 revision of the Ramsar Information Sheet (RIS, also compiled for each site)⁴ asks about natural variability and trends in the site's ecological character.

- 4.7 Apart from this, what may be needed is a more conscious reading of any of the ECD fields as potentially including some degree of natural variability. In the definition of ecological character, the "combination of ecosystem components, processes and benefits/services" can include such variability and adaptation as part of the "processes".
- 4.8 Descriptions of ecological character for individual sites should always aim to consider an appropriate temporal context in order to embrace these aspects. COP9 advised that "essential to wetland management is baseline data that establishes the range of natural variation in components, processes and services at each site within a given time frame, against which change can be assessed"⁵. No guidance was given however, on establishing a relevant time frame.
- 4.9 Both the Convention's objectives for "conservation" (of listed sites) and "wise use" (of all wetlands) are nowadays defined in terms of the "maintenance of ecological character"⁶. This presents a somewhat static idea of the values at stake, which does not easily accommodate changing natural baseline conditions.
- 4.10 With more understanding about the history and functioning of a site, the "bandwidth" of natural fluctuations, and what it means to maintain its ecological character, may need to be reappraised. At the same time there still needs to be a robust expression of value that can be used to defend the site against obviously unwanted change (e.g. from development threats).
- 4.11 Paleo-ecological studies suggest that we may have significantly underestimated long-term historical changes in wetlands⁷. The ecological character of some Ramsar sites that we currently value may even represent a state that is no longer viable. Rather than being a target to be maintained, the ecological character in these circumstances ought to be changed by management measures, i.e. to avoid ultimate loss and restore the site's true value as seen in a longer-term perspective. The Annex to Resolution VI.1 (1996) recognises that "in some instances a Contracting Party may decide to restore a wetland to re-establish the ecological character that existed prior to the date of designation", and they would then compile a revised RIS as "a new baseline for assessing any future change".

The concept of change in ecological character

- 4.12 The Convention's most recent definition of change in ecological character is given in Resolution IX.1 Annex A: "For the purposes of implementation of Article 3.2, change in ecological character is the human-induced adverse alteration of any ecosystem component, process, and/or ecosystem benefit/service".

⁴ RIS 2012 version, annexed to Res. XI.8.

⁵ Res. IX.1 Annex A.

⁶ The history of the evolution of these concepts in the Convention, and the convergence of the adopted definitions that relate to them, is discussed in Pritchard (in press) and Finlayson *et al.* (2011).

⁷ See for example Gell *et al.* (2013).

- 4.13 Although ecological character is defined as the *combination* of the site's ecosystem components, processes and benefits/services, the "trigger" for reporting under Article 3.2 need only concern any one of these ingredients, and does not depend on deciding that there has been or is likely to be a loss of the site's overall integrity. Given the COP9 definition, a change or likely change in the ecosystem *services* delivered by the site is sufficient reason for an Article 3.2 report, even if there has been/will be no change in the ecosystem components and processes.
- 4.14 Maintenance of ecological character is the management objective, not maintenance of international importance. Only some wetlands have international importance, but every wetland has ecological character⁸. The ecological character of an internationally important site will often include values that far exceed the minimum thresholds in the criteria for international importance, and the obligation is to maintain these values, not merely to preserve the minimum. In fact, in relation to sites designated under Criterion 6 for supporting 1% or more of a waterbird population, allowing a site's bird numbers to reduce to the minimum would result in a population decline which could then lead to a reduced 1% threshold number for that population, then maintaining only the new 1% could allow a further decline, and so on until the species becomes extinct.
- 4.15 A site can therefore experience change in its ecological character without necessarily experiencing a change in its international importance. Moreover, as shown in Resolution IX.6⁹, a site can experience change in international importance without necessarily experiencing change in ecological character. Hence the two things have different meanings; and Art. 3.2 is concerned only with ecological character.
- 4.16 The Ramsar Convention makes two different provisions for reporting changes affecting Ramsar sites. Article 3.2 asks Parties to inform the Secretariat about changes in ecological character, but when a restriction of designation boundaries is in prospect, the Party concerned is asked to inform the Secretariat under the separate requirement in Article 2.5.

"Likely" change

- 4.17 Part of the power of Article 3.2 is its precautionary nature, in covering changes deemed "likely" to happen. No guidance has been given however on what degree of "likelihood" is sufficient to trigger a report.
- 4.18 Some case examples of court judgements and national guidance (discussed in the longer review upon which this report is based) have set a standard of proof that is quite exacting for the purposes of Art. 3.2. It would probably not be wise for Ramsar to devise its own legalistic interpretation of "likelihood" of change, but it could emphasise the importance of not demanding too high degree of certainty before taking the basic step of reporting. The problems reported at the site then may or may not need deeper investigation.

⁸ These points were also discussed in COP10 document Doc. 27 (2008). Although ecological character and international importance are different things (as explained in the text above), they are both relevant to communicating the value of a site.

⁹ Paragraphs 6(vi) and 6(vii) of the Annex to the Resolution; see also paragraphs 59-61 of COP9 document Doc. 15 (2005).

- 4.19 The Ramsar Wetland Risk Assessment Framework adopted by Resolution VII.10 (1999) gives detailed advice on “early warning indicators” which is relevant to this. It pre-dates and no longer completely addresses the definition of “change in ecological character” as revised in 2005 however, so would benefit from some updating, and perhaps simplifying. There would also be a case for better integrating the thinking on risk assessment (primarily in Resolutions VII.10 and XI.9) with that on monitoring (primarily in Resolutions VI.1 and VIII.8).

Change that is meaningful enough to count as change for the purposes of Article 3.2

- 4.20 Article 3.2 implies that any change, no matter how trivial, should be reported. Clearly to do so would be neither practical nor helpful, but the Convention has never spelled out a way of deciding how big a change is a “real change” for this purpose, nor how to take account of naturally fluctuating baseline states. Existing Ramsar thinking on this is set out in the full review, and further points are made below. There are two main parts to the problem: (a) absolute magnitude/triviality and (b) significant departures from the baseline norm.

Absolute magnitude/triviality

- 4.21 The “absolute magnitude/triviality” aspect suggests that some instances of change ought to be regarded as too trivial to be regarded as change at all. Deciding the cut-off between trivial changes that can be ignored, and other changes that may be indicating something real that requires a response, will depend on the circumstances of the individual case.
- 4.22 “Materiality” and “*de minimis*” concepts for this are discussed in the full review. The most appropriate solution is probably to proceed as though Article 3.2 contained a qualification based on these, while emphasising at the same time that this must not be misused as a broader derogation, and that a generally precautionary approach should be taken (i.e. “if in doubt, report”).

Significant departures from the baseline norm

- 4.23 This second problem relates partly to correctly defining the baseline in the right temporal context (“describing ecological character” above); and partly to discerning change against baselines that fluctuate or shift (see below).

Baselines that fluctuate: distinguishing “signal” from “noise”

- 4.24 Ecological character descriptions for Ramsar sites should include information on the known natural range of variability in respect of the components, processes and services of the site¹⁰. This should not necessarily be taken as specifying the general *coarseness or fineness of resolution* with which change for Art. 3.2 purposes should be discerned, but only the *reference picture against which comparisons will be made*. Hence a small change that *does not fit the pattern* will merit reporting, even if its absolute magnitude is less than the normal amplitude of variation. Not “fitting the pattern” may also

¹⁰ Res. X.15 also suggests that any limits of acceptable change, where defined, might also be included.

relate to changes in the frequency or other timing characteristics of the baseline variability.

- 4.25 If human-induced adverse change was affecting the site at the time of designation (or at the time of subsequent RIS updates/Ecological Character Descriptions), this will be incorporated into the “baseline” description of the site. If such change is continuing to cause or to threaten changes in any aspect of the ecological character of the site thereafter, it should be reported under Article 3.2.

Baselines that shift: novel ecosystems

- 4.26 Many ecosystems show examples of transformations into new states or “novel ecosystems”¹¹, which poses great challenges for “protected area” regimes like Ramsar’s which depend on history to define their reference conditions for tolerance of change. There is probably a need to embrace such tendencies in a more enlightened way in protected area regimes, although some of the novel ecosystem trend is an undesirable one of overall “homogenization of biotas” and reducing diversity.

Implications for the objective to “maintain”

- 4.27 Whatever thinking may be developed on shifting baselines and novel ecosystems for the purposes of reporting under Article 3.2, it also needs to be applicable to Article 3.1. Art. 3.1 obliges Parties to “promote the conservation” of Ramsar sites and as far as possible the “wise use” of all wetlands. Both of these purposes have come to equate to “maintaining the ecological character” of the wetlands¹².
- 4.28 Where a novel ecosystem has emerged or there is some equivalent shift in the baseline state of a Ramsar site, maintaining the site’s ecological character as described at the time of designation might no longer be a wise objective. This suggests a move to objectives defined more in terms of coping with and adapting to certain kinds of change, rather than tighter control of change in systems assumed to be stable. It does not mean that “maintenance of ecological character” is the wrong aim, but rather that this might need to include maintenance of a site’s ability (where appropriate) to evolve and find new stabilities, *provided* that some statement of what is desirable or tolerable is made at the outset. This is discussed further in the full review.

No dilution of the imperative to resist unjustified change

- 4.29 Attempts to cater for baseline shifts as mentioned above are sometimes met with concern that they signal a more “laissez-faire” attitude to unjustified change that previously would have been resisted. The concern is valid; and it is not easy to design “checks and balances” in policy that will distinguish (a) genuine irreversible (and/or even desirable) shifts from (b) claims by vested interests that something has irreversibly shifted when it has not.

¹¹ See Hobbs *et al.* (2009) and Hobbs *et al.* (2013); the latter including expanded definitions of the concept.

¹² The most recent (2005) revised definition of “wise use” (Res. IX.1 Annex A) equates it to “the maintenance of [the wetlands’] ecological character”. By virtue of Art. 3.2’s requiring notification of change or likely change in ecological character of listed sites, and this then framing the Convention’s primary provisions for actions in response (e.g. those in Art. 8.2 (e), COP Recommendation 4.8 and Resolutions 5.4, VI.1, VIII.8 and X.16), “conservation” (of listed sites) is interpreted also as the maintenance of their ecological character.

- 4.30 In normal circumstances, Parties continue to be expected to avoid change where it can be avoided, mitigate (including restoration) where it can not be avoided, and compensate where it can not be avoided or mitigated. Extensive guidance has been adopted on decision-making for this¹³.
- 4.31 Changed baseline conditions at a catchment, national or regional scale may make it ecologically impossible to provide meaningful “like-for-like” compensation in some cases where it is also impossible (for reasons of the same shifted baseline) to prevent or restore a loss of wetland values in a Ramsar site. Compensation in the form of “unlike” measures may then have to be accepted. Such cases may arise under Article 2.5, Resolution IX.6 or Resolution VII.24 (acting in conjunction with Article 3.2), but in each of these different contexts there is provision for scrutiny by the Secretariat and the COP of the reasoning applied, which would extend also to the process of submitting a revised RIS and ECD (i.e. a new baseline) for the original site¹⁴.

Reporting change (“passing information without delay”)

- 4.32 One of the biggest continuing problems with Article 3.2 is that only a small minority of instances of change or likely change as defined by the Article are reported in the way that it requires. The Parties at COP 8 felt that the situation might be improved by creating a simple standard reporting format, and a request was made in Res. VIII.8 for such a format to be developed.
- 4.33 Two proposed formats were drafted, but ultimately the issue was tackled by suggesting that Parties use the “change” column in the Ecological Character Description sheet (Resolution X.15). A copy of the ECD sheet itself, with change/threat information included, can then simply be submitted to the Secretariat each time an Art. 3.2 report is required. In practice this process has seldom been used.
- 4.34 One common tendency is for Parties to be prompted by the occasion of submitting a triennial national report for a COP, to include Ramsar site ecological character change information there. This however is not sufficient for compliance with Art. 3.2.
- 4.35 A majority of instances of change/likely change are first brought to the Secretariat’s attention by third parties. The Secretariat then always contacts the national Administrative Authority (AA) for verification. Much other intelligence, although relevant, does not necessarily refer to Article 3.2 or use the language of the official process of the Convention. A key part of getting the Article to work fully will be to equip those who are conversant with the system to spot the relevance of information coming from those who are not.
- 4.36 Organisations and individuals with Ramsar site-related responsibilities within a country, including those at local level such as site managers, may not always be aware of the Article 3.2 requirement, even though these are the

¹³ See the synthesis in the full review report.

¹⁴ This point is spelled out partly as a response to an argument in Pittock *et al.* (2010): writing about six Ramsar sites in the Murray-Darling basin in Australia which have been subject to synergistic effects of water diversion/abstraction and climate change, they suggest that there is a lacuna in the Convention’s provisions for responding to (and scrutiny of) unavoidable and unrestorable change which requires a re-writing of a site’s RIS and ECD but does not require a triggering of Art. 2.5. The text above suggests instead that provisions for this do exist, and the deficiency lies instead with inadequate implementation of Articles 3.2 and 8.2 (in combination with Res. VII.24).

people most likely to detect the issues it is designed to address. In-country awareness of the requirement, and clarity about chains of communication for operating it, should be a priority issue for capacity-building efforts.

- 4.37 Article 3.2 focuses on the presence of negative information. It might also be relevant to consider the absence of positive information. Provisions have been defined for describing the ecological character of Ramsar sites¹⁵ and the periodic updating of Ramsar Information Sheets¹⁶, with the latter seen as having a role in monitoring change¹⁷. These provisions are not followed by all Parties, which sometimes means there is no positive information to indicate that the ecological character of a country's Ramsar sites has *not* changed.
- 4.38 Some consultees have suggested that, in the absence for more than six years of any positive information (i.e. officially via RIS updates and national reports) about the maintenance of ecological character at a Ramsar site, it should be deemed at that point to be at risk of changing or having changed until the AA indicates otherwise, thus counting as a "default" Art. 3.2 report.

Risk-based approaches

- 4.39 Management of the variability of wetland ecosystems necessarily deals in probabilities rather than certainties. It would probably be valuable to develop more complete wisdom on modern "risk management" concepts and approaches as a shaping philosophy for the Ramsar regimes governing Article 3.2, ecological character monitoring, change assessment and associated response options. This would include ways of making explicit the chosen levels of risk which can or cannot be tolerated in given circumstances (the "risk appetite"); and ways of documenting the judgments made about management of identified risks.

¹⁵ Resolution X.15.

¹⁶ Resolution VI.1.

¹⁷ Mentioned for example in Resolution XI.8.

5. Articles 2.5 and 4.2

- 5.1 Article 2.5 of the Ramsar Convention states that “any Contracting Party shall have the right ... because of its urgent national interests, to delete or restrict the boundaries of wetlands already included by it in the List”. According to Article 4.2, “where a Contracting Party in its urgent national interest, deletes or restricts the boundaries of a wetland included in the List, it should as far as possible compensate for any loss of wetland resources”.

Article 2.5 - urgent national interests

- 5.2 Article 2.5 has been formally invoked on only around six occasions, although there is no fully definitive picture of this, since instances have not been systematically recorded. There is no standard understanding about the way in which a formal indication should be given by a Party that it is invoking Article 2.5. Nevertheless it would be desirable for all cases involving (or deemed to involve) Article 2.5 to be systematically documented as part of the Ramsar Sites Information Service.
- 5.3 There is also no standard understanding about the moment at which a formal indication should be given by a Party that it is invoking Article 2.5. The Article is clear that a report must be submitted to the Secretariat “at the earliest possible time” about the site deletion or boundary restriction changes concerned, but this could still be read as relating either to changes that are being contemplated or to changes that have been completed. For consistency with Article 3.2 and Resolution IX.6 (Annex, paragraph 30), and to enable the logic of Article 8 and Res. VIII.20 (Annex, para 7) to operate as intended¹⁸, such reports should be submitted well in advance of the change taking place.
- 5.4 Two routes for site deletion/boundary restriction have been defined under Ramsar. One is Article 2.5, and the other is the set of situations described in Resolution IX.6¹⁹. Debate has sometimes centred on which of these routes should apply in a given case, although close study of the guidance appended to Resolution IX.6 will usually provide the answer.
- 5.5 While in some cases the Party concerned has provided reasoning and substantiation when communicating its decision to the Secretariat, under the Article the only mandatory requirement is to report the decision itself. It would be more logical, again for example in the context of Article 8, for such reports to detail the specific grounds on which “urgent national interests” are being asserted in the given case. Resolution VIII.20 (paragraph 3) suggests some

¹⁸ Article 8 provides for alterations to Ramsar sites to be discussed by the Conference of Parties, and for the COP to make recommendations to the Parties concerned about such alterations. The recommendations in a given case might relate only to matters of post-alteration follow-up, but otherwise (and presumably more commonly) they could only be acted upon if the COP is in a position to make them before the alteration concerned takes place. Resolution VIII.20 (Annex, paragraph 7) states that “A Contracting Party, when notifying such changes to the [Secretariat], may request advice including from the Scientific and Technical Review Panel (STRP) and/or Standing Committee before any irreversible action is taken”. Resolution IX.6 (Annex, paragraph 30) describes a procedure which Parties have agreed should be followed in order to achieve consistency in cases where site deletion or restriction is being considered for reasons other than those provided for by Article 2.5. Under that procedure, the report is to be submitted when the Party “wishes to confirm” its “intent” to delete or restrict the site.

¹⁹ COP Resolution IX.6 (2005): Guidance for addressing Ramsar sites or parts of sites which no longer meet the criteria for designation. Supported by COP 9 Information Paper Doc.15: Issues and scenarios concerning Ramsar sites or parts of sites which cease to meet or never met the Ramsar criteria.

possible grounds, but fails to request that those applying in a given case be reported.

- 5.6 Legal analyses of Article 2.5 were discussed in 2000²⁰. This included discussion of the test of a “state of necessity”, whereby the act being challenged must be the “only means” of safeguarding the relevant essential interest of the State. This is equivalent to a “lack of alternatives” test, versions of which feature in some environmental impact assessment regimes and in the EU Habitats and Species Directive.
- 5.7 One aspect of this worth further attention is the expected “area of search” for alternatives. The scale of the area of search for an alternative to a development that would damage a site of ecological importance should be commensurate with the scale of that importance – for example a nationwide search in respect of a site of national importance. It may also be important to consider the onus of proof and the standard of proof of an absence of alternatives.
- 5.8 The COP has adopted some limited guidance on the circumstances for invoking Article 2.5. The full review report discusses this, along with various case examples, and considers ways in which the presence of the two distinct elements concerned (a national-scale interest and a degree of urgency) might be substantiated.
- 5.9 Three points arising from this can be mentioned here. One is that a change to national policies and procedures, which might enable an urgent national interest to arise where it had not done previously, is just a theoretical enabling step which is not sufficient to demonstrate an urgent national interest in the sense of Article 2.5.
- 5.10 Second, the national significance of the policy initiative or development sector or existing infrastructure providing the *context* for the proposed Ramsar site deletion or boundary restriction is not the issue. The issue is the significance of the *incremental difference* that will be made *by the specific change* being proposed.
- 5.11 Third is the increasing possibility that (in cases of “shifting baselines”), an ostensibly pro-conservation decision to favour a “do-nothing” option may result in more harm to the Ramsar site than acceptance of an Article 2.5/4.2 “package deal” would do, if the latter (assuming “urgent national interest” is proved) is a means of unlocking overall net gain (through “compensation plus”) that would not occur otherwise. Regimes relying too simplistically on forcing “zero damage” choices may therefore give rise to overall net loss and foregoing of gain. Changing such systems in a way that does not open the door to abuse, however, remains a difficult challenge.
- 5.12 The “urgent national interests” test only applies where a Party intends to delete or restrict the boundaries of a listed site. No such test is required where the Party may be planning to allow a change in ecological character without any intention to delete or restrict the boundaries of the site. The magnitude of change in ecological character could however be the same in both cases. This anomaly might usefully be addressed in future guidance.

²⁰ See principally di Leva and Tymowski (2000), Pritchard (2000c) and the full review on which the present report is based.

Article 4.2 - compensation

- 5.13 Article 4.2 provides as follows: “Where a Contracting Party in its urgent national interest, deletes or restricts the boundaries of a wetland included in the List, it should as far as possible compensate for any loss of wetland resources, and in particular it should create additional nature reserves for waterfowl and for the protection, either in the same area or elsewhere, of an adequate portion of the original habitat”.
- 5.14 The provision is clearly linked to the circumstances defined in Article 2.5, and consequently the trigger for compensation under Article 4.2 is not the ecological character change itself, but instead the administrative decision that the designation should be changed.
- 5.15 Article 4.2 has also been linked by subsequent COP decisions to certain other situations, namely those described by Resolutions 5.3 and IX.6 (sites which never met the Ramsar criteria or which cease to meet the criteria for reasons other than urgent national interests). Resolution VII.24 addresses compensation more generally: it may be relevant to these situations alongside Article 4.2, and in any event is applicable to all other cases of loss of wetland habitats and functions. Both Resolution VII.24 and the later Resolution IX.9 give guidance on following a strict decision-making sequence of “avoidance, minimisation and compensation, the latter only as a last resort”; which is also relevant to Article 4.2, since Art. 2.5 should only be invoked as a last resort.
- 5.16 The full review report summarises guidance on compensation and related principles in other Ramsar COP decisions, along with experiences from key individual cases. In situations where formal notifications are required under the Convention (cases involving Article 4.2 and/or the Montreux Record and/or a Ramsar Advisory Mission), there is currently no provision for following up and discovering the outcome of the compensation measures, and some simple extra guidance could help to fill this gap.
- 5.17 Compensation regimes generally, including Ramsar’s, naturally urge a “like for like” approach, where what is provided should approximate as closely as possible to what has been lost (with the addition of safety margins for inevitable uncertainty)²¹. This is a logical way of aiming for no net loss of value. The principle may however sometimes need to be adjusted, where the “shifting baselines” issue (discussed in section 4 above) applies.
- 5.18 Again the discipline of step-wise decision-making will be important (e.g. first substantiate the unworkability of a “like-for-like” solution, and only then move to considering alternatives). This is necessary to guard against abuse, for example by “like-for-like” solutions being abandoned prematurely for unjustifiable reasons (such as speed or cost).

²¹ See Resolutions VII.24 and VIII.20.

6. The Montreux Record

- 6.1 The Montreux Record was established by the Parties in 1990, by Recommendation 4.8. It was initially seen as “the principal tool of the Convention for highlighting those sites where an adverse change in ecological character has occurred, is occurring, or is likely to occur, and which are therefore in need of priority conservation attention”; and its purpose was defined as “to identify priority sites for positive national and international conservation attention, to guide implementation of the [Ramsar Advisory Missions] procedure, and to guide allocation of resources available under financial mechanisms”²².
- 6.2 Listing in the Record is not based on an alleged breach or potential breach of the Convention, but rather on an issue of ecological change where help or advice may be required²³. A site can only be included with the approval of the Contracting Party concerned; and when the risk of change in the site’s ecological character has ceased or has been averted, it can be removed.

The scale of the aspiration

- 6.3 The wording of Recommendation 4.8 suggests that at that stage, the aspiration was for the Record to include every case of “Article 3.2” change that arose. At the time of COP4 the Ramsar List contained approximately 500 sites (less than a quarter of today’s number); and a review of sites facing relevant change listed just 46 sites in 23 Contracting Parties²⁴.
- 6.4 Even though Article 3.2 reporting takes place on far fewer sites than truly merit it, the volume of such information has increased since 1990. Following a review in 2000²⁵, Resolution VIII.8 (2002) advised that the Record would be useful to highlight “particularly serious cases”, to demonstrate national commitment to resolving the change concerned, to bring “positive national and international conservation attention” to the case, and to provide guidance in the allocation of resources available under financial mechanisms.
- 6.5 This confirmed that it was no longer the intention (if indeed it originally it had been) for the Montreux Record to be a comprehensive list of sites facing “Article 3.2” change, but only to list those chosen for particular attention in this way. The obligation to report all instances under Article 3.2 remains unaffected; hence a comprehensive list must continue to be maintained in addition to the selective (Montreux Record) list.

Adjusting the questionnaire

- 6.6 The Montreux Record process includes a questionnaire²⁶ that is submitted by a Party when requesting inclusion/removal of a site in/from the Record. COP8 defined a task for the STRP to advise on redesigning the questionnaire, *inter alia* to harmonise it with the RIS and with Article 3.2 report

²² These quotations are taken not from Rec. 4.8 but from Resolutions 5.4 and VI.1, which elaborated the COP’s original intentions for the Record and set out guidelines for its operation.

²³ Positive response options have been set out, for example in Resolution VIII.8 (2002).

²⁴ COP4 Document Doc. C.4.18, Review of implementation of the Convention.

²⁵ Pritchard (2000b).

²⁶ Appended to Resolution VI.1.

forms²⁷. This task has been rolled forward in successive STRP Work Plans but never given high priority and thus never completed. The opportunity was taken during the present review to develop suggestions for amending the questionnaire, and these have been provided separately to the Secretariat.

The process for removal from the Record, and the role of the STRP

- 6.7 Prior to removing a site from the Record, the questionnaire in Res. VI.1 asks the Contracting Party concerned to summarise the rationale for its removal. According to the guidelines, completed questionnaires are then forwarded to the STRP for its advice. In the 2008-2010 triennium in particular, the Panel considered in some depth the most effective way of contributing to this²⁸.
- 6.8 In several cases the Panel found itself ill-equipped to make a critical scientific judgement of whether the conditions for removal from the Montreux Record had been met, because of a lack of adequate technical information. This relates partly to the workload involved, both for the Party and for the Panel itself. There is also a language implication given that the STRP (formally at least) operates only in English. Resourcing and turnaround times for this therefore both need careful thought.
- 6.9 As one way of speeding up the collation of relevant information, at the STRP's 15th meeting in 2009 it was agreed to devise an internal tracking sheet to accompany the questionnaire for Montreux Record removals. Following consultations on a draft with the Secretariat in February 2010 the tracking sheet was finalised in March of that year. The relevant Secretariat desk officers were to use it to provide the STRP with their own comments about the completeness etc of the questionnaire information, the status of the case, the main issues at stake in considering removal from the Record, and a Secretariat recommendation. The relative dormancy of the Montreux Record in recent years (see below) means that it is not yet possible to know whether use of the tracking sheet will reduce the need for multiple time-consuming exchanges with the originating Party as a basis for the STRP's advice.
- 6.10 In some cases there may be a need for on-the-ground verification/assessment to support the advice. Where Montreux Record removal is proposed following a Ramsar Advisory Mission, the Mission report (assuming it addresses the same issues) should be adequate for this. In other cases, options from among the potential spectrum of "advisory services" discussed in section 7 below might also be considered.
- 6.11 Examples of removal from the Montreux Record, provided they have followed best advice as discussed above, might constitute case studies worth disseminating; and thought could usefully be given to ways of capitalising on the Record's positive potential in this way.

Interaction with analogous processes of other MEAs

- 6.12 A number of other MEAs and international processes operate procedures for giving attention to conservation issues arising from time to time on important sites. Ramsar Convention interactions with these are mainly discussed in the

²⁷ STRP Work Plan 2003-05 (approved by Standing Committee, May 2003), task 5.3.

²⁸ Under the terms of Res. VI.1 the STRP also has an analogous role in relation to decisions to *add* a site to the Record, particularly with regard to determining appropriate actions to address the problems affecting the site.

section of the full review on the Ramsar Advisory Missions process. The example of the World Heritage Convention however (where the interaction with Ramsar can concern wetland sites with both Ramsar and World Heritage designations²⁹) is mentioned here, since the “List of World Heritage in Danger” is a more direct analogue of the Montreux Record³⁰.

- 6.13 Where a site is designated under both the Ramsar and World Heritage Conventions (assuming this is on a basis of shared recognition of at least some of the same aspects of value³¹), it could be anomalous for it to be listed on the Montreux Record without also being included in the List of World Heritage in Danger, and *vice-versa*.
- 6.14 This depends on how similar the rationales for inclusion in each list are to each other. The Ramsar rationale has been discussed above. For World Heritage, the Convention text (Article 11) provides for Heritage in Danger listing for properties (= sites) “threatened by serious and specific dangers”³², “for the conservation of which major operations are necessary and for which assistance has been requested”. Expanded criteria have been defined by the World Heritage Committee³³.
- 6.15 These expanded criteria cover both “ascertained danger” and “potential danger”, hence mirroring the Ramsar system’s coverage of actual and “likely” change in ecological character; although “likely” may be a more exacting test to meet than “potential”, and hence the World Heritage approach may be more liberal in this respect. The World Heritage criteria include non-anthropogenic changes, so in this respect too they are broader. On the other hand they use terms such as “major”, “serious decline”, “severe deterioration”, “threatening integrity” and “deleterious effects on inherent characteristics”, making the Ramsar approach potentially more liberal in this respect.
- 6.16 In general, harmonising processes of this kind helps to avoid divisive attack from opposing interests, and taking a joint approach helps to avoid duplication of effort. Based on the criteria above however, sometimes there might be reasons why a threatened wetland site with both Ramsar and World Heritage designations is only listed on the Montreux Record or the List of World Heritage in Danger and is not listed on both. Depending on the circumstances, it may be either the Ramsar system or the World Heritage system which takes the more restrictive approach.
- 6.17 For any site which is included on both lists, it would perhaps be more surprising for there to be any difference in the decision as to eventual removal. This has nevertheless happened in the case of at least two Ramsar sites which were removed from the List of World Heritage in Danger while remaining on the Montreux Record³⁴. It will be important to manage very carefully the public presentation of the reasoning behind any such situations.

²⁹ See Pritchard (2013).

³⁰ BirdLife International’s global list of Important Bird Areas in Danger is another analogue, with numerous wetland IBAs also being designated Ramsar sites.

³¹ As opposed, for example, to a World Heritage property designated under that Convention’s cultural criteria, where the site happens to overlap spatially with a Ramsar site but where wetland ecological importance forms no part of the basis for its World Heritage status.

³² Examples of such dangers are given in the Article.

³³ Published in the Operational Guidelines for the Implementation of the World Heritage Convention (World Heritage Committee; latest version 2013).

³⁴ Ichkeul (Tunisia) and the Everglades (USA).

- 6.18 By contrast to the inclusion criteria mentioned above, where removal from the lists is concerned, the World Heritage guidance says less than the equivalent Ramsar guidance, referring only to the property being “no longer under threat”, and to “all efforts [having been] made to restore the site's values”. This therefore gives no indication of a basis for a difference between the two lists in their rationales for removal. There is a procedural difference, however, in that both addition and removal decisions in the Ramsar context rest with the Contracting Party concerned, while in the World Heritage context they rest instead with the World Heritage Committee. Apart from anything else this might make for a difference in timing, given that decisions in the World Heritage context would need to wait for a meeting of the Committee.
- 6.19 There are therefore some valid reasons for differences between these two systems; but in principle all efforts should be made to operate them in as harmonised a way as possible.

Negative perceptions of the Record, and under-use

- 6.20 There are cases where Contracting Parties have warmly embraced Montreux Record listing as a valuable tool for problem-solving and assistance, and have publicly promoted positive experiences of its use³⁵. In Resolution VIII.8 (2002) the Parties re-emphasised its potential benefits. A site can only be listed on the Record with the approval of the Contracting Party concerned: a stipulation designed to allay fears of its use as an "enforcement" sanction.
- 6.21 Despite this, there has been a tendency in many places to perceive the Record as a form of "blacklisting" of "guilty" countries, and hence a reluctance by some Parties to add sites to it. This is also despite the fact that many of the same countries are Parties to other processes (such as World Heritage) where attention is drawn to threatened sites by decision of an international body rather than the Party itself, and where language such as “sites in danger” is used with the agreement of all concerned.
- 6.22 In the Montreux Record's case the problem began at COP4 when it was first established. Although drawn from information provided by Parties in their National Reports, the initial list of sites for inclusion was compiled by the Secretariat. Some of the Parties concerned felt that they had not been sufficiently consulted about it and refused to have their sites listed³⁶. The COP did not quite solve the problem by providing (in Rec. 4.8) only that the Record should be maintained (by the Secretariat) “in consultation with” the Parties concerned; and it was not until the following COP that it specified (in Res. 5.4) that listing had to be with the Party's explicit *agreement*.
- 6.23 The Record currently includes only around 50 sites, some of which have been there since the 1990s with no apparent action being taken. Efforts made at COP8 to breathe new life into the process³⁷ apparently had little effect; and a mere three sites have been added since 2005³⁸. It is clear from National Reports to COPs and other sources that many more deserving cases exist

³⁵ See for example the case of Nariva Swamp, listed on the Record by Trinidad & Tobago soon after that country joined the Convention; and documented as a case study in Pritchard (1997).

³⁶ Account based on Jones (2013).

³⁷ In Resolution VIII.8, supported by COP8 document Doc. 20.

³⁸ Figures from Jones, op cit.

(and that actions in response to change in ecological character have often proceeded without the sites concerned being listed on the Montreux Record). Hence even with the eventual acceptance that the Record was only intending to cover a sub-set of Article 3.2 cases and not the whole span of such cases (see discussion above), it has failed even to cover this sub-set adequately.

The future of the Record

- 6.24 As noted for example at COP10 in 2008³⁹, if Article 3.2 of the Convention were operating fully as intended⁴⁰, there might be little need for the Montreux Record, since a record of “Article 3.2 reports” could largely fulfil the purposes for which the Montreux Record was designed.
- 6.25 Although some have suggested abolition of the Record, others consider that it still may be useful. Listing a site on the Record may add value as a statement of Contracting Party commitment to address the needs of the site, and this may assist in dialogues with potential funders. Ramsar Administrative Authorities (AAs) may be Ministries or agencies responsible for environmental affairs, competing for resources or political profile with other parts of government. The AA may find Montreux Record listing valuable in such circumstances, as an internationally recognised statement of the priority to be given to addressing change in the country’s Ramsar sites.

³⁹ See COP10 document Doc. 27.

⁴⁰ It is of course not yet fully doing so, as discussed in section 4 above.

7. The Ramsar Advisory Missions process

- 7.1 The Ramsar Advisory Missions process was created by a decision of the Standing Committee in 1988, which was later endorsed by the COP in 1990 in Recommendation 4.7. The system was originally named the “Monitoring Procedure”, then later the “Management Guidance Procedure”, and finally the “Ramsar Advisory Missions” (RAM).
- 7.2 Over 70 RAMs have been completed to date. As well as advisory interactions in the countries concerned, each Mission produces a report, which (as determined by Recommendation 4.7) is publicly available on the Ramsar website. The process is discussed in more detail in the full review report.
- 7.3 The RAM process is a powerful asset for the Convention: it assists implementation, reinforces standards and credibility, raises awareness and generates lessons learned. Individual Missions have tended to be very cost-effective. As a relatively infrequently-used mechanism, RAMs become a tangible focus for Ramsar-related issues in a country. Although the primary reason for a given Mission may be quite a specific question relating to one Ramsar site, often it will be an occasion for consideration of national policy and implementation of the Convention more generally, and an opportunity for profile-raising on wetland issues, with strategic and long-term benefits.
- 7.4 Despite these advantages, the number of Missions completed in the 25 years of their existence is limited. Their application has also been uneven, with particularly low numbers for example (relative to the number of Parties) in the Asian region⁴¹. Requests for Missions can also sometimes take a long time to come to fruition.
- 7.5 Aspects of the process have been reviewed on several occasions by the STRP, the Standing Committee and by two of Ramsar’s International Organisation Partners⁴². Overall it is not fulfilling its full potential, and there is a case for looking at how it might be revitalised and strengthened. No formal guidance has been adopted by the COP since the original brief parameters set out in 1990 in the annex to Recommendation 4.7.

The scope of the process

- 7.6 The trigger for initiating the process is defined by Rec. 4.7 in terms which echo those of Art. 3.2 of the Convention, namely cases of actual or likely human-induced adverse change in ecological character of a listed Ramsar site. This defines the trigger, but it does not define a limit to the scope of the process. In other words an Article 3.2 situation must be present as the basis for launching a RAM, but once launched it is not prevented from addressing other issues as well. Indeed the opportunity to do so is one of its benefits.
- 7.7 Notwithstanding this potential breadth of scope, some consultees in the 2014 review suggested that the initial grounds for launching may be too restrictively defined. If there is uncertainty for example about whether an ecological character change at a Ramsar site is human-induced or not, it could be

⁴¹ Data derived from the Ramsar website http://www.ramsar.org/cda/en/ramsar-documents-rams/main/ramsar/1-31-112_4000_0 - also summarised in Jones (2013).

⁴² See Pritchard (2000b) and Jones (2013).

perverse for this to make the case ineligible for a Mission. If advice on positive management issues (as well as negative impacts) would be best obtained by this method, this too should perhaps be allowed as a trigger. If ecological character change is casting doubt on whether a potentially qualifying Ramsar site should be designated, it might be perverse to make such a case ineligible on the grounds that the site is not yet listed.

- 7.8 Advisory Missions are one of the response options available for sites listed on the Montreux Record. Recommendation 4.8 which established the Record instructed that the RAM process should give priority to Montreux Record sites, and many have indeed related to such sites. Ramsar Strategic Plans⁴³ have gone further and have sought the activation of a RAM for every site listed in the Record. Given the discussion in section 6 above about the Record however, emphasis on this linkage is now less appropriate.

Initiating a Mission

- 7.9 The RAM process is triggered by the Ramsar Secretariat's becoming aware of a relevant case of ecological character change or potential change. The Secretariat can then propose to the Contracting Party concerned that a Mission be undertaken. Although not specified in Rec. 4.7, the formal practice has been that Missions are undertaken at the invitation of the Contracting Party concerned. This might be supported by more systematic consideration of where potentially deserving cases exist, based on existing regular processes for reviewing the status of Ramsar sites in general⁴⁴.

Analogous systems in other MEAs

- 7.10 A number of other MEAs and international processes operate analogous procedures. These include the Bern Convention's "case file" system, the African-Eurasian Waterbird Agreement's "Implementation Review Process", the World Heritage Convention's "List of World Heritage in Danger", the Council of Europe's "Diploma of Protected Areas"⁴⁵ and the European Union's legal enforcement processes for protection of "Natura 2000" sites.
- 7.11 The different régimes have different ways of striking a balance between incentive or assistance on the one hand, and assurance of compliance or enforcement on the other. A key point is whether the consent of the country concerned is required before the procedure can be progressed, or whether it is progressed by decision of the majority or by a supervisory body (e.g. a Convention secretariat or committee).
- 7.12 For an enforcement procedure to be effective, some kind of meaningful sanction must at least in principle be available. For an incentive/assistance procedure to be effective, it must be capable of meeting the need of the country concerned, for example by offering the right expertise within the right timescale to solve urgent problems. The systems with the most effective incentives are those which can draw on funds dedicated to the purpose.

⁴³ This refers to the second and third Plans, for 2003–2008 and 2009–2015 respectively.

⁴⁴ This includes the standing agenda items at every meeting of the COP (see most recently Resolution IX.15, 2012) and Standing Committee (since 2007, further to Decision SC35-28).

⁴⁵ The Diploma is relevant to the present discussion because it is awarded for a limited period, and can be renewed or withdrawn subject to a system of review and assessment. It has thus been able to function as an instrument for responding to threats and other problems at sites, where the high-profile decision as to renewal of the Diploma may be a key spur to securing resolution of the problem.

- 7.13 An example is the World Heritage Convention, where a List of World Heritage in Danger was provided for at the outset, in the Convention text (1972). Sites are entered on this list either where assistance is requested, or where the World Heritage Committee itself decides there is an "urgent need". Assistance can be provided in the form of advisory missions. Detailed eligibility guidelines have been adopted.
- 7.14 A key purpose of adding a site to the World Heritage in Danger list can be to help in securing financial assistance from the World Heritage Fund (although funding from this source is not limited to sites in danger). The provision in the Convention which affords States Parties rights of consultation is couched in terms of a possible decision to refuse addition of a site to the List, rather than to add it. This indicates the "incentive" nature of the mechanism, meaning that although in some cases listing might be viewed by a government as an adverse reflection upon their actions, more often governments are motivated to seek to apply the mechanism, and the role of supervisory bodies is to weigh up the deservingness of the given case for assistance.
- 7.15 Sometimes two or more of the processes mentioned might operate in a complementary manner. For example, it has been known for a Bern Convention "case file" to be influential in bringing about a European Court of Justice action on the case in question, producing an outcome which the Bern Convention could not have produced on its own, but which the European Union system may not have been sufficiently stimulated to reach otherwise.
- 7.16 No comparative evaluation of the effectiveness or rates of success of the different procedures in solving or averting harm to ecological interests appears to have been conducted. This would be a challenging question, but one worth investigating nevertheless, especially if it can be related to features which Ramsar might seek to emulate or reinforce in the RAM process.

Joint Missions

- 7.17 Many Ramsar sites are covered by other designations as well as Ramsar, including those operated by some of the MEAs mentioned above⁴⁶. Where the instruments concerned provide for a relevant process, it may often make sense to arrange any missions or equivalent interventions on a joint basis. This has occurred on at least seven occasions where a RAM has taken place, involving at different times (in addition to Ramsar) the World Heritage Convention, the Convention on Migratory Species and the African-Eurasian Waterbird Agreement. (Clearly there are no additional site designations involved in the case of these latter two, but in the instances concerned there were mutual interests in respect of wetland species and habitats).
- 7.18 The joint operation of these particular Missions appears to have been a very positive experience. Broader inputs are secured and the outcomes have broader impact. Complementary strengths of different instruments can be deployed according to need. There is, however, a risk that the extra complexity in decision-making and coordination could cause delays. There has, moreover, been no standard approach to considering whether a given RAM should be undertaken jointly with another process: this has instead been

⁴⁶ See for example Pritchard (2013) for a review of the overlaps between Ramsar sites, World Heritage sites and Biosphere Reserves.

opportunistic, has differed from case to case, and some opportunities may have been missed.

- 7.19 All of this argues for more explicit attention to the methods by which joint Missions might best be arranged in future. Building on the best of current practices, some jointly-agreed procedural guidance for the respective bodies' Secretariats could be useful. More routine/automatic prompting of the "joint approach" question, when a RAM or other MEA's equivalent is under consideration in any of the relevant fora, would also help⁴⁷.

Resourcing

- 7.20 Funding for Ramsar Advisory Missions was initially allocated in the core Convention budget approved by COP, rising from an allocation of CHF 30,000 per year in 1991-93 to CHF 80,000 per year (8% of the total) in 1994-96. Thereafter, however, subsequent budgets have failed to make any allocation of core funding for RAMs.
- 7.21 At various meetings in this period, Parties have reported positive experiences of RAMs and called for better funding of the process. At COP11 in 2012 it was noted that resourcing for RAMs was a "pressing issue" and there was an appeal from the Secretary General for resources to be made available. Even then, no core allocation was made. RAMs did make an appearance in the budget approved by COP11 for the 2013-2015 triennium, for the first time since 2002: but only as a non-core item, meaning they would continue to rely on voluntary contributions⁴⁸.
- 7.22 Voluntary contributions were expected from the start (as a "substantial augmentation" of the budget allocation, according to the COP4 budget Resolution⁴⁹). Some assumed that enthusiasm for RAMs would readily produce the requisite funds in this way. At the start this seemed to be borne out, with over CHF 50,000 per year being contributed in 1991-1992. Subsequently, however, the picture has not justified such optimism. The zero allocation (or absence of any reference at all) in later core budgets may have acted to depress interest in making additional contributions. The way in which the RAM process has been linked with the Montreux Record, and the sometimes negative image of the latter (see section 6 above) is also said by some to have been a factor.
- 7.23 A significant gesture of faith has been made by NGOs, who have made their own voluntary financial contributions to the RAM budget, including Australian NGOs in 1996 and the Royal Society for the Protection of Birds (BirdLife International in the UK) which made payments regularly for many years.
- 7.24 Despite special appeals made at COP11, no additional voluntary contributions had been received by the time of the Standing Committee's 47th meeting in March 2014. At this meeting the Committee had to decide on the

⁴⁷ As a recent example, Decision 38 COM 7B.79 of the 38th meeting of the World Heritage Committee (Doha, Qatar, June 2014) requests the government of Spain to invite a World Heritage "reactive mission" to assess conservation status and threats to the Doñana National Park World Heritage site and Ramsar site, "including an invitation to the Secretariat of the Ramsar Convention".

⁴⁸ The figure specified, merely as an aspiration, was CHF 150,000 per year (Resolution XI.2, Annex).

⁴⁹ Resolution on financial and budgetary matters - Annex to DOC. C.4.13 Rev. (NB Resolution numbering conventions altered after this COP).

disbursement of a budget surplus of CHF 366,000, and it allocated CHF 50,000 of this to RAMs (for the year 2014-15).

- 7.25 There is a strong case now for re-instating the funding of Ramsar Advisory Missions from the Convention's core budget. Ramsar's International Organisation Partner WWF has emphasised the unfairness (in the current unbudgeted situation) of RAMs currently being more available to developed countries (who can fund them from their own resources) than to developing countries, who can not. WWF has recommended that COP12 in 2015 should agree a permanent core budget allocation of the order of CHF 150,000.
- 7.26 Even with such a move, other funding sources are still likely to be needed. The practical, time-limited, solution-oriented nature of the RAM process could make it an attractive prospect for an appeal to the donor community; perhaps by setting up a dedicated fund.

Coordination and team composition

- 7.27 The Ramsar Secretariat's role in the initiation of RAMs is defined in the original 1990 COP decision. It is logical for the Secretariat to play a central part in defining the terms of reference for each individual Mission, and in ensuring that relevant independent expertise is drawn upon and appropriate administrative arrangements are made. It should also be responsible for liaising as necessary with the Standing Committee and the COP, for quality assurance of RAM reports and for maintaining a RAMs area of the Ramsar website. Normal practice has also been for a Secretariat staff member to coordinate the organisation of each Mission, to participate in person in the visit to the country concerned and to author or co-author the resulting report.
- 7.28 The Contracting Party in whose territory the site(s) is/are located (or more than one, if trans-boundary issues are involved) formally hosts the Mission, and would normally coordinate logistic arrangements in conjunction with the Secretariat. Many have done this in an exemplary way, developing RAMs into opportunities for public and political profile-raising and strategic thinking about Convention implementation in general, as well as full exploration of the issues that prompted the Mission, through extensive field visits, "commission of enquiry"-style testing of evidence and broad engagement of stakeholders.
- 7.29 Clearly, however, not all Parties will be in a position to deliver this level of approach. Ways of supporting them to do so are worth exploring. In the African region for example, the idea of an initial "desk study" by the Party (to take charge of setting out the background and helping to frame the RAM) is currently being tested by the Secretariat. Missions also offer a way for Ramsar to draw upon its wide global network of collaborating organisations and individuals to assist a Contracting Party with a specific problem. Mission teams therefore often include representatives of partner organisations and trusted consultants. Commissioning expert advice and assistance of this kind is one of the resourcing needs of the RAM system.
- 7.30 Missions should also ensure that local and in-country knowledge is fully drawn upon. This will include adequate consultation of stakeholders and experts, but it will also usefully involve inclusion of a relevant expert or experts in the Mission team itself. As well as being important for the quality of the work, this will have benefits in terms of legacy and follow-through, since an investment will have been made in "embedding" the process in the

national context. In developing countries, the use of external funding for this could be a very effective form of assistance.

- 7.31 The STRP's role in the RAM process has been discussed on various occasions, particularly during the 2006-08 triennium. Any new guidance on the process should cover the role of the Panel, both in respect of advice in individual cases (potentially including provision of team members) and in terms of priorities, scoping of terms of reference, and analysis of lessons learned. This should probably also be reflected in the Panel's *modus operandi* (the current version of which makes no reference to the subject⁵⁰).

Following up Mission recommendations

- 7.32 RAM reports should conclude with implementable recommendations which address the issue that originally prompted the Mission. They may also address any other matter that the Mission has helped to illuminate.
- 7.33 Recommendation 4.7 specifies that the Secretariat "shall periodically review and report progress on the conservation status of sites to which its attention has been drawn under [the RAM] procedure. To facilitate follow-up, the [Secretariat] shall maintain a register of activities undertaken in this connection". Follow-up in practice tends not to receive systematic attention. The approach varies from case to case, and there is no regularly-updated overview of the status of implementation of RAM recommendations.
- 7.34 The second Ramsar Strategic Plan (2003–2008) included as action 11.2.6: "Where a Ramsar Advisory Mission has been completed for a Montreux Record site, take all necessary steps to implement the recommendations, and report at regular intervals to the [Secretariat] on the results of these actions". The current Plan (2009-2015) however makes no reference to this aspect.
- 7.35 There appears to be a gap here, and it would be useful to develop a simple but systematic approach to following up RAM recommendations (and providing follow-up advice and support if required). Part of this clearly involves a responsibility for the Secretariat; but it also involves a responsibility for the Contracting Party, when accepting a final RAM report, to make clear its intentions and the nature of the commitments it is making to implement the recommendations. It would be useful standard practice for the Party to issue an *immediate response* of this kind, on receiving the final Mission report.
- 7.36 Some form of post-Mission evaluation should also be considered, to review whether it went as planned, and what lessons (positive and negative) were learned that could benefit the planning of future Missions. Some basic "checklist"-style guidance could perhaps be developed for this.

Making better use of RAM reports

- 7.37 The value of RAM reports is almost certainly being under-utilised. As an archive of over 70 hard-won, diligently documented and formally endorsed "front line" learning episodes, the reports are a rich source of problem-solving case experience for the Convention as a whole. There is, however, no

⁵⁰ *Modus operandi* of the Scientific & Technical Review Panel 2013-2015. Adopted by Resolution IX.11, as refined by Resolution X.9, and adjusted in line with Resolution XI.18.

organised way of giving them attention in this sense, other than making them publicly accessible on the Ramsar website.

- 7.38 One step could be to undertake a one-off review of all the existing reports, in order to distil key messages and lessons learned according to selected themes, and to compile these in an overview report. An attractive “brochure”-style promotional product could also be devised. Other options could include regularly updated thematic abstracts, key-word indexing and similar ideas. Any of these measures would also find a wider audience if resources could be found to undertake translations of the material into more languages, starting perhaps simply with translated executive summaries of the reports.

A spectrum of response options

- 7.39 Although variable in scale and to some extent in form, Ramsar Advisory Missions represent just one particular model of official Convention support for Parties with sites facing ecological change. Other advice of various other kinds is provided on such issues on an almost daily basis by Secretariat staff, International Organisation Partners and others, but the RAM is the only option that is framed by a procedure that makes clear what the parameters are and what expectations are justified, and the only one providing a proper vehicle for mobilising additional help (whether resources or expertise).
- 7.40 It would be beneficial in future to situate the RAM process on a spectrum of response options that ranges from full-scale, high-level team-based field visits, in-depth consultations and analysis on the one hand, to informal “question & answer” channels and “help desk” capabilities on the other. Roles and responsibilities across the spectrum, for example for the STRP and its National Focal Points, could usefully be clarified.
- 7.41 A particularly important capability would be for more or less immediate responses for urgent cases, where major decisions are imminent or where ecological conditions are changing from day to day. Such a process for “rapid response consultations” or similar would need to be set up in advance, with decision-making protocols made clear to all concerned.
- 7.42 Based largely on enhancements of existing activities, it would therefore be conceivable to expand the one systematic tool of Ramsar Advisory Missions into a broader systematic Ramsar (sites) Advisory *Service*, with a spectrum of response options to choose from, according to the circumstances.