

Review of all previous Resolutions and Decisions

Actions requested:

The Standing Committee is invited to:

- a) consider the present document, and in particular the recommendations, including the Annex;
- b) authorize the use of funds for a consultancy to provide documentation for the 58th meeting of the Committee (SC58); and
- c) pursuant to Resolution XIII.4, paragraph 25 (see paragraph 1 below), provide feedback to the Secretariat, so that it can prepare recommendations for consideration at SC58.

Introduction

1. At its 13th meeting (Dubai, 2018), the Conference of the Contracting Parties adopted Resolution XIII.4 on *Responsibilities, roles and composition of the Standing Committee and regional categorization of countries under the Convention*, which includes the following requests, in paragraphs 24 and 25:

24. *REQUESTS the Secretariat to:*

- a. *review all previous Resolutions and decisions, identifying those or parts of those, if any, that may no longer be valid or applicable, that contradict each other, or are otherwise inconsistent with current Ramsar practices, and at SC57 report its findings, including information on how it reached these conclusions (e.g. inter alia, that the work has been completed, superseded, is contradictory, or is incorporated elsewhere); and*
- b. *based on its findings and Parties' feedback on its report to SC57, develop recommendations for Parties to consider at the 58th meeting of the Standing Committee (SC58) to consider a process for: retiring outdated resolutions and decisions; establishing a practice of retiring outdated or contradictory Resolutions and decisions automatically when they are superseded by new ones; and preparing a consolidated list of resolutions and decisions, to be updated after each meeting of the Conference of the Contracting Parties and on an as-needed basis following meetings of the Standing Committee;*

25. *REQUESTS that the Standing Committee, at SC57, review the Secretariat's report on the validity of Resolutions and decisions and provide feedback, and consider the Secretariat's recommendations on this subject at SC58, with a view to including, in a relevant draft resolution for COP14, the retirement of outdated Resolutions and decisions and the*

establishment of a practice for the Convention to retire outdated Resolutions and decisions automatically when they are superseded by new ones.

Background

2. At its sixth meeting (Brisbane, 1996), the Conference of the Parties adopted Resolution VI.11 on *Consolidation of Recommendations and Resolutions of the Conference of the Contracting Parties*. It was noted that 72 Recommendations and 18 Resolutions had already been adopted before the meeting and that there was a need for consolidation of Recommendations and Resolutions that dealt with the same matter. The Secretariat was instructed to compile consolidated versions and the Standing Committee was directed to follow up.
3. Following up at its 19th meeting (November 1996), the Standing Committee adopted the following decision:

Decision 19.24: The Bureau should begin work on a compendium or compilation of all decisions taken at the six meetings of the Conference of the Parties held so far, organized by the themes of the Strategic Plan.

4. Consequently, at the seventh meeting of the Conference of the Parties (San José, 1999), the Secretariat presented document Doc. 13.1, indicating action taken by the Secretariat to establish a “key concepts list” as a sort of index and an online menu system to allow Resolutions and Recommendations to be found through the internet. The introduction said that it did not require action by the Conference. The report of the meeting does not indicate any discussion of the document or any decision by the Parties.
5. There was no consolidation of Resolutions and Recommendations and the subject was raised again at the ninth meeting of the Conference of the Parties (COP9, Kampala, 2005). At COP9, the Conference adopted Resolution IX.17 on *Review of the decisions of the Contracting Parties*. In that Resolution, the Conference recalled “the overlaps and redundancies in the accumulated guidance, advice and policy of the Convention”. The Secretariat was instructed to work with the Standing Committee and the Scientific and Technical Review Panel (STRP) to undertake a review of all decisions adopted by the Conference of the Parties, and present the results at the 10th meeting of the Conference for decision. The Standing Committee was instructed to review and approve draft terms of reference from the Secretariat, any external service provider, and a budget.
6. At the 35th meeting of the Standing Committee (February 2007), the Secretariat provided a document prepared with the assistance of BirdLife International and the Royal Society for the Protection of Birds, with a thorough analysis of the Resolutions that had been adopted, and suggestions regarding next steps. The Committee adopted Decision SC35-26 as follows:

Decision SC35-26: The Standing Committee urged that further work should be encouraged on the review of past decisions, but that legal advice should be sought only if and when major problems should arise, and that it would be worth while to present the Convention’s decisions in thematic groupings, with a list of decisions currently in effect. The Committee felt that consolidations and retirements of past decisions should be undertaken only when necessary, but that all new Resolutions should include retirements of superseded earlier decisions when appropriate. The SC encouraged Dave Pritchard [the consultant who had prepared the document] to look at what retiring specific blocks of decision might look like, and asked the Secretariat to assess ways and means of analyzing the implementation of

past decisions in order to identify any redundancies. And the SC requested a report for SC36 that could be communicated to COP10.

7. Following up at its 36th and 37th meetings (February 2008; June 2008), the Standing Committee adopted the following decisions:

Decision SC36-11: The Standing Committee noted the current state of progress on the review of COP decisions and requested the Secretariat to discuss with Dave Pritchard the options for providing information to COP10, and to report to SC37 on progress in that regard.

Decision SC37-18: The Standing Committee noted the progress so far in reviewing the past COP decisions and the STRP's planned work in taking this project forward.

8. At the 10th meeting of the Conference of the Parties (Changwon, 2008), the Chair of the Standing Committee reported that instructions had been given for a way forward. However, it appears that no further action was taken to implement Resolution IX.17.

Current state of Resolutions and Recommendations

9. Since the entry into force of the Convention, the Conference of the Contracting Parties has adopted 237 Resolutions, 83 Recommendations and 13 sub-recommendations, as indicated in the following table.

COP	No. of Resolutions adopted	No. of Recommendations adopted	No. of sub-recommendations
13	25		
12	16		
11	22		
10	32		
9	25		
8	46		
7	30	4	
6	23	18	5
5	9	15	3
4	5	14	5
3	4	11	
2		10	
1		11	
TOTAL	237	83	13

Discussion

10. With this many Resolutions and Recommendations on the record, it is clearly difficult for the Parties and the Secretariat to keep track of all of the policies, guidance, instructions and requests from the Conference of the Parties, and to ensure that they are implemented. There are many subjects for which multiple Resolutions or Recommendations have been adopted, containing text that may be duplicative, conflicting or out of date.

11. The Ramsar Convention is not alone in facing this problem. Other multilateral conventions have faced the same issue and have put in place processes to consolidate their existing resolutions and other decisions, and to avoid having multiple resolutions on the same subject in future. The Secretariat believes that it would be useful to learn from their experience, and in particular from the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which started the process in 1992.
12. In Resolution XIII.4, the Conference of the Parties calls on the Secretariat to review all Resolutions and decisions and to report its findings to the present meeting. However, as such a review involves the examination of 333 adopted texts, with thousands of paragraphs, it would unfortunately not have been possible to complete this exercise in the time available. We have learned from the experience of other Conventions, in particular CITES, that the review of existing texts and the preparation of consolidations is very time consuming. As indicated in paragraph 6 above, part of the work was already done and presented to the Standing Committee in 2007. However, a further 95 Resolutions have been adopted since that time, so it would be only a starting place.
13. In order to put the Ramsar Convention on a good path to achieve the goal identified by the Conference of the Parties, the Secretariat would like to suggest a procedure that takes account of the enormity of the task, of the time that will be required to review thousands of paragraphs of text, and of the constraints on the Secretariat. These factors will require the work to be completed in phases.

Recommendations

14. The Secretariat recommends to the Standing Committee that it propose to the Conference of the Contracting Parties a procedure to make the Ramsar Convention Resolutions easier to understand and to implement, and to make them a more practical tool for the Parties.
15. To achieve this, three actions would be required by the Conference of the Parties:
 - a) The first action would be to repeal Resolutions and Recommendations, or parts of them, that are defunct.
 - The Secretariat could undertake to identify these in a document for consideration at the 58th meeting of the Standing Committee, to be prepared in consultation with interested Parties, and with STRP members as needed.
 - b) The second action would be to consolidate the Resolutions and Recommendations, or parts thereof, that deal with the same subject.
 - This consolidation would also involve the removal of the parts of Resolutions that are conflicting or duplicative. Because of the very large number of Resolutions, this task would have to be carried out in several phases, with several themes being dealt with at each meeting of the Conference of the Parties until the consolidation is complete. It should be emphasized that the preparation of draft consolidated resolutions must, to the fullest extent possible, use the words from the current Resolutions and Recommendations that they are designed to replace, so that there is no change in substance. This principle separates the process of consolidation from the process of adopting new Resolutions. In this way the Conference of the Parties would have only to judge that each consolidation was correctly done and would not have to focus on,

or negotiate, the substance of consolidated Resolutions, as it has already been agreed by the Conference.

- The Secretariat could undertake to provide for SC58:
 - a budgeted proposal for the preparation of a limited number of draft consolidated resolutions for consideration at the 14th meeting of the Conference of the Parties (COP14), the number to be defined during the first phase of the process; and
 - one sample draft consolidated resolution, on the basis of which the Committee can determine the way forward.
 - The Secretariat would recommend that the Standing Committee establish a group of interested Parties with whom the Secretariat can share drafts for comment before they are presented at SC58 or SC59. If agreed by the Standing Committee, these would be forwarded to COP14 for adoption.
 - For this work also, the Secretariat would need to take on a consultant.
 - After COP14, and on the basis of experience before and during that meeting, the Standing Committee could identify which Resolutions and Recommendations would be consolidated in the second phase.
- c) The third action for the Conference of the Parties would be to consider how its decisions would best be recorded in future, to ensure that, after the review process is complete, the Resolutions do not again become more difficult to understand and implement than they need to be.
- With advice from the Standing Committee, such a procedure can take into account the need to avoid a proliferation of Resolutions on the same subject in the future, and the need to ensure that Resolutions, as the 'soft law' of the Convention, contain what they need to contain and nothing more.
 - A draft of guidelines that the Standing Committee could propose to the Conference of the Parties is attached as Annex 1.
16. The tasks for the Secretariat specified in paragraph 15 would require assistance from a consultant. It is estimated that this would require up to CHF 50,000.
17. It should be noted that the present document deals only with Resolutions and Recommendations of the Conference of the Parties, and not with the recording of decisions of the Standing Committee. The Secretariat seeks the guidance of the Standing Committee regarding whether a similar approach should be followed in relation to the decisions of the Standing Committee, or whether it should be assumed that these are primarily instructions to be implemented and verified at the following meeting. In this case, they remain on the record in the report of each meeting.

Annex 1

Draft guidelines on the preparation and recording of future decisions of the Conference of the Contracting Parties

1. Guidance to Administrative Authorities

When drafting a resolution that is intended to be exhaustive, or to treat a subject comprehensively, or to make significant changes in the way in which a subject is dealt with, a Party should prepare the draft so that, if adopted, it will replace and repeal all existing Resolutions (or, as appropriate, the relevant paragraphs) on the same subject.

2. Administrative Authorities and Chairs of the Standing Committee and of meetings of the Conference of the Parties

Unless practical considerations dictate otherwise, draft resolutions should not include:

- a) instructions or requests to the Standing Committee, the Scientific and Technical Review Panel, other subsidiary bodies or the Secretariat, unless they are part of a long-term procedure; or
- b) recommendations (or other forms of decision) that will be implemented soon after their adoption and that will then be obsolete.

These types of decisions should be included in a new series of decisions of the Conference of the Parties. There may be some exceptions, such as the resolutions on financial and budgetary matters, which should continue to be adopted and published as resolutions.

3. To the Secretariat

- a) When the Conference of the Parties adopts any draft resolution that is designed merely to add points to the recommendations (or other decisions) in existing Resolutions, or to make a minor amendment thereto, the Secretariat should replace the existing Resolution by a revised version with the agreed changes.
- b) After the 14th meeting of the Conference of the Parties, the Secretariat should compile and publish a document containing all the Decisions that have been made by the Conference of the Parties during the meeting that are short term in effect and are therefore not included in the Resolutions. As far as possible, the list of other Decisions should be sorted according to the body to which they are directed. Where this is not possible, they should be sorted by subject, using the subjects of the Resolutions for guidance.

This document of other Decisions should be updated after each meeting of the Conference of the Parties, to contain all the recommendations (or other forms of decision) that are not recorded in Resolutions and that are still valid. The Secretariat should publish the updated document within one month after each meeting of the Conference.