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“Wetlands and water: supporting life, sustaining livelihoods”

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Guidance for the consideration of the deletion or restriction of the boundaries of a listed Ramsar site

(Resolution IX.6)

1. This guidance covers principles and procedures for situations not foreseen in the treaty text concerning the loss or deterioration of the ecological character of wetlands on the List of Wetlands of International Importance under circumstances other than those addressed by Article 2.5.
- I. The relationship between this guidance and issues covered by Resolutions VIII.20 and VIII.21**
2. This guidance covers situations under which the terms of Article 2.5 of the Convention text concerning “urgent national interests” for situations of loss of the ecological character of a listed Ramsar site have not been invoked by the Contracting Party concerned, or where such “urgent national interest” cannot be justified. Procedures and responsibilities of Parties in relation to Article 2.5 are covered by the guidance adopted by COP8 as the Annex to Resolution VIII.20.
3. In relation to boundary restrictions of listed Ramsar sites, this guidance concerns those situations where reductions in the area of the site are being contemplated owing to the loss or deterioration of the ecological character of the site, where the proposed changes would affect the fundamental objectives, and the application of the Criteria for designation, for which the site was listed.
4. Situations concerning improvements only to the accuracy of defining the boundary of a listed site (for example, through the availability and use of Global Positioning Systems (GPS) and Geographic Information Systems (GIS)), whether this leads to a reduction or an increase in the measured area of the site, are covered in Resolution VIII.21.
5. Contracting Parties at COP5 (1993) through the Annex to Resolution 5.3 established a review procedure for listed sites which may not qualify under any of the Criteria (at that time those established by Recommendation 4.2). The guidance below incorporates relevant aspects of the Resolution 5.3 procedure.
- II. Scenarios under which deletion or restriction might be contemplated**
6. The following 10 scenarios have been identified in the review prepared by the Ramsar Secretariat (see COP9 DOC. 15). Of the 10 scenarios described, at the time of preparation of this guidance seven have already arisen in documented cases, and an eighth, while not

having been reported to the Ramsar Secretariat, may have arisen. Seven of the scenarios fall under one or other of the three situations identified in Resolution VIII.22:

A Ramsar site never met the Criteria for designation as a Wetland of International Importance:

- i) At the time of accession a Party supplies, as required by the Convention text, only a name and boundary map but not a completed Ramsar Information Sheet (RIS). Subsequently, in compiling the RIS, it becomes apparent that the site does not fulfil any of the Criteria. This scenario was addressed by the annex to Resolution 5.3.
- ii) The site was designated incorrectly owing to inadequate or incorrect information being available at the time of preparation of the RIS (or pre-RIS information provided at the time of listing), and it subsequently becomes apparent that the site as a whole does not fulfil any of the Criteria. This scenario was also addressed by the annex to Resolution 5.3.

Part of a Ramsar site unavoidably loses the components, processes, and services for which it was included, or was included in error:

- iii) A Ramsar site is designated after completion of a domestic protected areas procedure under national legislation, such that the Ramsar site boundary follows that established for the site first selected for its national importance, and the boundaries of the nationally-designated site are then changed.
- iv) All or part of a Ramsar site loses the components, processes, and services of its ecological character as a wetland for which it was listed, for reasons other than changes covered by Article 2.5.
- v) A set of linear boundaries has been used to define the Ramsar site boundaries which do not relate directly to the eco-geography of the wetlands or their associated catchments.

A Ramsar site met the Criteria but the Criteria or the parameters underpinning them are subsequently changed:

- vi) The site's values, functions and attributes remain unchanged, but it subsequently fails to meet the Criteria owing to a change in those Criteria.
 - vii) The site's values, functions and attributes remain unchanged, but it subsequently fails to meet the Criteria owing to a change in the population estimates or parameters which underpin them.
7. Two other scenarios do not fall directly within any of the three categories identified in Resolution VIII.22:
- i) A Ramsar site designated by a former Contracting Party is now within the territory of a successor country which is presently acceding to the Convention and indicating a different boundary and area for that site.

- ii) Part or all of a listed Ramsar site is proposed for deletion in order to permit possible future developments or other land use change in that area which cannot be justified as “urgent national interest”.
8. One other scenario can be envisaged which could arise from one or other of the specific scenarios listed above:
- i) A Contracting Party has designated only one Ramsar site (at the time of its accession) and that site ceases to qualify under the Criteria.

III. Obligations of Parties under the Convention, especially Articles 2.1, 2.5, 3.1, 3.2 and 4.2: general principles for the contemplation of deletion or restriction of listed Ramsar sites

9. The obligations of Parties under Articles 2.1 and 3.1 of the Convention text are that Parties should designate Ramsar sites and implement planning so as to promote their conservation (i.e., maintain their ecological character). This has been further elaborated by Resolution VIII.8 in which the Parties committed themselves to maintain or restore the ecological character of their Ramsar sites.
10. If a human-induced change to the ecological character of a Ramsar site has occurred, is occurring or is likely to occur, under Article 3.2 it is the obligation of the Party concerned to report this “without delay” to the Ramsar Secretariat.
11. The Convention text (Article 2.5) allows for the deletion or restriction of the boundary of a designated Ramsar site only if this is justified as being in the “urgent national interests”.
12. Resolution VIII.22 concerns particular situations in which ecological character loss of a designated Ramsar site is or was “unavoidable”. It follows that if such a situation is or was avoidable, the appropriate steps to take are to avoid such loss.
13. Under some of the scenarios, deletion or boundary restriction should not be considered to be acceptable under the Convention, notably when such deletion or restriction is being proposed in order to permit or facilitate future developments or other land use change in that area which is not justified as in the “urgent national interests” (i.e., para. 7 ii above).
14. Parties have already indicated that compensation for the loss or degradation of wetlands, including listed sites, should be applied under three circumstances:
- i) in cases of change leading to considerations of boundary restriction or deletion of listed sites where an “urgent national interest” applies (Article 4.2 and Resolution VIII.20);
 - ii) in cases of change resulting in loss of wetland ecosystem components, processes and services, but not leading to considerations of boundary restriction or deletion (Resolution VII.24); and
 - iii) in cases of sites which did not, at the time of designation, qualify under any of the criteria for designation (Resolution 5.3).

15. Since the provision of compensation (Article 4.2) is expected even when “urgent national interest” is considered to override the other provisions of the Convention text, when no such justification applies the other obligations of the Convention text, notably Article 3.1, and those of Resolution VII.24 apply. Thus if the loss of ecological character was “unavoidable” (Resolution VIII.22, paragraph 6 b) at least equivalent provision of compensation should be made, if practicable, in line with the considerations in the Annex to Resolution VIII.20 (paragraph 4). This is also the approach which was adopted in the procedure annexed to Resolution 5.3 for a site which proves not to have fulfilled the Criteria at the time of designation.
16. Parties should consider, if such policies and legislation are not already in place, establishing policies and legislative mechanisms for addressing third-party damage to the ecological character of listed Ramsar sites, including the issue of compensation, as is called for in Resolution VII.24, and applying the guidance in Ramsar Wise Use Handbook 3 (“Laws and Institutions”) adopted by Resolution VII.7, as necessary.
17. If a deletion or boundary restriction is still contemplated after all such other considerations and options have been weighed, the procedures for such an action should follow the terms of Article 8.2 (b), (d) and (e): i.e. for the Secretariat to forward notification of such an alteration to the List to all Contracting Parties; to arrange for the matter to be discussed at the next Conference of the Contracting Parties; and to make known to the Contracting Party concerned the recommendations of the Conference in respect of such alterations.

IV. Procedures to apply should deletion or restriction be contemplated

18. Drawing upon issues raised under the scenarios outlined above, the following steps should be followed for any consideration of boundary restriction of part of a listed site or delisting of an entire site in circumstances where Article 2.5 does not apply. Restriction of boundary should be considered first and only in exceptional circumstances should delisting of the site be considered.
19. The approach focuses on scenarios where part or all of a site appears to have lost the wetland ecosystem components, processes and/or services for which it was originally designated. Additional information on a range of issues to consider under each of these scenarios is provided in COP9 DOC. 15.
20. A Party should consult with the Ramsar Secretariat at an early stage in their contemplation of any deletion or restriction of a listed site (as is already expected under Resolution 5.3 for a site which may not have fulfilled the Criteria at the time of designation).
21. **Step 1.** Substantiate and confirm the reasons why the case at hand is one where Article 2.5 of the Convention does not apply.
22. **Step 2.** If the ecological character of part or all of the listed site has changed owing to human-induced activities in line with Resolution VIII.8, make an Article 3.2 report without delay to the Ramsar Secretariat.
23. **Step 3.** At the same time, consider:

- i) whether it would be helpful to seek the advice of the Scientific and Technical Review Panel (STRP);
 - ii) whether adding the site to the Montreux Record would be a helpful step, in line with the purposes set out in Resolution VIII.8, paragraph 21;
 - iii) whether a Ramsar Advisory Mission should be requested; and/or
 - iv) whether requesting emergency assistance under the Ramsar Small Grant Fund is appropriate.
24. **Step 4.** Undertake an assessment of the present ecological character of the site, and establish whether the site still qualifies as a Wetland of International Importance under one or more of the current Criteria. It may be that the changed character of the site leads to it qualifying under another Criterion or other Criteria than those for which it was originally listed, and/or that such other Criteria may have always been applicable but were not used at the time of listing.
25. **Step 5.** As part of the assessment in Step 4, establish whether the change in ecological character that has led to the site, or part of the site, ceasing to qualify is truly irreversible. If the change appears to have a chance of reversibility, define the conditions under which the change may reverse or be reversed, and the management actions (including restoration) needed to secure this, as well as the likely timescales needed to permit the recovery of the character of the site.
26. Such reversibility could arise through, *inter alia*, recovery from damage caused by a natural disaster, the natural inter-annual variability of the size of waterbird or other populations, and/or management interventions including restoration or rehabilitation of the affected part(s) of the site.
27. **Step 6.** If there is potential for reversibility, monitor the key ecological features of the site for the time period necessary as identified under Step 5, and then re-assess the status of the site in relation to its qualification under the Criteria.
28. **Step 7.** Report on the recovery of the site, including through a further Article 3.2 report to the Secretariat, requesting removal of the site from the Montreux Record if appropriate, and prepare and submit an updated Ramsar Information Sheet which clearly identifies the changes which have occurred.
29. **Step 8.** If the loss of part or all of the listed site is irreversible, and the attempts at recovery or restoration have failed in terms of its qualification for the Ramsar List, or if there is clear evidence that the site was listed in error in the first place, prepare a report on the restriction of the site's boundary or its removal from the List, as appropriate. This report should include, *inter alia*, a description of the loss of ecological character and the reasons for it, a description of any assessments made and their results, the steps taken to seek the recovery of the site, and proposals for the provision of compensation (including in line with Resolutions 5.3, VII.24 and VIII.20), accompanied by relevant maps. If the intention is for a boundary restriction, this should include an updated Information Sheet on Ramsar Wetlands (RIS).

V. Procedures for confirming a boundary restriction or deletion of a listed site

30. The following procedure should be followed when a Party wishes to confirm restriction or delisting a Ramsar site:
 - i) The Party should submit its intent, covering the aspects of the issue as outlined in Step 8 above, to the Ramsar Secretariat, which will make arrangements to advise all Contracting Parties, in line with Article 8.2 (d);
 - ii) All such cases and their outcomes will be reported for discussion at the next COP, in line with Article 8.2 (d), which may wish to make recommendations to the Party concerned, in line with Article 8.2 (e);
 - iii) The Secretariat will transmit any such recommendations made by the COP to the Contracting Party concerned (Article 8 (e)).