

Agenda item 9.3

**Guidelines for addressing Ramsar sites which no longer meet the
Criteria for designation (Resolution VIII.22)**

Action requested: The Standing Committee is invited to consider and approve the attached draft Resolution and annexed guidelines for consideration by COP9.

Note by the Ramsar Secretariat

1. Members of the Standing Committee will recall that although the Convention text establishes under Article 2 a process for the designation of Wetlands of International Importance (Ramsar sites), and for the extension of boundaries of sites already designated, it makes provision for the deletion or boundary restriction of designated Ramsar sites only in the “urgent national interest” (Article 2.5).
2. In relation to this, at the 8th meeting of the Conference of the Contracting Parties (COP8) the Parties adopted Resolution VIII.21 on *Defining Ramsar site boundaries more accurately in Ramsar Information Sheets* and Resolution VIII.20 on *General guidance for interpreting “urgent national interests” under Article 2.5 of the Convention and considering compensation under Article 4.2.*
3. However, Parties at COP8 also recognised that there can be a number of other situations in which it could be deemed appropriate for practical purposes to delete a designated site from the List or restrict the boundaries of such a site,
4. In recognition of this, the Parties also adopted Resolution VIII.22 on *Issues concerning Ramsar sites that cease to fulfil or never fulfilled the Criteria for designation as Wetlands of International Importance.* In paragraph 6 of this Resolution, the Parties recognised that “there may be situations where:
 - a) a Ramsar site never met the Criteria for designation as a Wetland of International Importance;
 - b) part of a Ramsar site unavoidably loses the values, functions and attributes for which it was included, or was included in error; or
 - c) a Ramsar site at the time of listing met the Criteria but, whilst its values, functions and attributes remain unchanged, it later fails to meet the Criteria because of a change in those Criteria or in the population estimates or parameters which underpin them.”
5. Resolution VIII.22 requested the Standing Committee, with support from the Secretariat and International Organization Partners, the Scientific and Technical Review Panel (STRP), appropriate legal and other experts, and interested Contracting Parties, to develop

guidance on this issue and its relationship to those covered by Resolution VIII.20 and VIII.21. Specifically, paragraph 7 of Resolution VIII.22 proposed that “the following issues required further consideration:

- a) identification of scenarios in which a listed Ramsar site may cease to fulfil the Criteria for designation as a Wetland of International Importance;
 - b) obligations of Contracting Parties under the Convention, and the possible application of compensation measures under Article 4.2; and
 - c) procedures that could be applied should the deletion or restriction of boundaries need to be contemplated in such situations.”
6. The 29th meeting of the Standing Committee (Decision SC29-16) requested the Ramsar Secretariat to prepare a report on these matters for consideration at its thirtieth meeting.
 7. Accordingly, a discussion paper (DOC. SC30-13) was prepared for the 30th meeting of the Standing Committee by the Ramsar Secretariat, with the assistance of David Pritchard (BirdLife International) and input of information on boundary changes supplied by Contracting Parties, as a basis for preparing additional guidance, as appropriate, for consideration by the Standing Committee and COP9. In support of this work the Secretariat sought to identify relevant cases concerning different circumstances of Ramsar site boundary changes or proposed boundary changes from materials supplied by Contracting Parties.
 8. The Standing Committee (Decision SC30-5) then requested the Secretariat, with the assistance of interested Contracting Parties and International Organization Partners, as appropriate, to further develop the issues and approaches, for consideration at the 31st meeting of the Standing Committee.
 9. The Ramsar Secretariat has further developed this material, which is presented in this document as requested by Decision SC30-5, in the form of:
 - i) A draft COP9 Resolution on these matters, with annexed guidance for Parties on the obligations of Parties and a step-wise approach to assessing whether it is appropriate to consider such changes should deletion or restriction be contemplated, and proposed procedures for confirming any such change to a Listed site; and
 - ii) A COP9 Information Paper setting out the background to these issues and outlining ten different scenarios under which consideration of boundary restrictions or site deletion questions could arise, should it not be relevant for a Party to have invoked “urgent national interest”.
 10. This guidance is based on the overarching principle that a wetland should remain designated as a Ramsar site whenever possible and appropriate, in line with the intent of the Convention text for Ramsar site designation, the maintenance of their ecological character, and the *Strategic Framework and guidelines for the further development of the List of Wetlands of International Importance*.

11. The approach is also that delisting or boundary restriction should be seen as a very last resort after all other considerations and options have been fully assessed and considered.
12. Should any such delisting or restriction be proposed by a Party, under Article 8.2 (d) of the Convention text it would then be a matter for discussion by Parties at the next meeting of the Conference of the Contracting Parties.

COP9 DR7

Guidelines for addressing Ramsar sites which no longer meet the Criteria for designation

1. RECALLING that Article 2.5 of the Convention makes provision for site deletions or restrictions and 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”, and that Article 4.2 states that “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”;
2. NOTING that Resolution VIII.20 provides general guidance for interpreting “urgent national interests” under Article 2.5 of the Convention and for considering compensation under Article 4.2;
3. FURTHER RECALLING that Resolution VII.23 recognized that there are situations other than the urgent national interest provision of Article 2.5 of the Convention text in which Ramsar site boundaries may warrant further definition;
4. ALSO NOTING that Resolution VIII.21 provides guidance for defining Ramsar site boundaries more accurately in the Information Sheet on Ramsar Wetlands (RIS), in order to address situations where boundaries were erroneously or inaccurately defined at the time of listing, and that Resolution VIII.13 provides further guidance for the application and completion of the RIS, including the provision of maps;
5. RECALLING that Resolution VIII.22 recognised that no guidance has been provided by the Convention to assist Contracting Parties where a Ramsar site ceases to fulfil the Criteria for designation as a Wetland of International Importance, with the exception of Resolution 5.3 which includes as its annex a Review Procedure for sites which did not meet the Criteria at the time of listing; and that no guidance has been provided on situations where part of a site either unavoidably loses the values, functions and attributes for which it was included, or was included in error; and
6. ALSO RECALLING that Resolution VIII.22 recognised that there may be situations where:

- a) a Ramsar site never met the Criteria for designation as a Wetland of International Importance;
 - b) part or all of a Ramsar site unavoidably loses the values, functions and attributes for which it was included, or was included in error; or
 - c) a Ramsar site at the time of listing met the criteria but, whilst its values, functions and attributes remain unchanged, it later fails to meet the Criteria because of a change in those Criteria or in the population estimates or parameters which underpin them;
7. AWARE that Resolution VIII.22 requested that the Standing Committee, with support from the Ramsar Bureau and International Organization Partners, the Scientific and Technical Review Panel (STRP), appropriate legal and other experts, and interested Contracting Parties, develop for consideration and possible adoption at COP9 guidance for Contracting Parties about:
- a) identification of scenarios in which a listed Ramsar site may cease to fulfil the Criteria for designation as a Wetland of International Importance;
 - b) obligations of Contracting Parties under the Convention and the possible application of compensation measures under Article 4.2; and
 - c) procedures that could be applied should the deletion or restriction of boundaries need to be contemplated in such situations; and
 - d) their relationship to the issues covered by Resolutions VIII.20 and VIII.21; and
8. NOTING that in the Information Paper COP9 DOC. 19 ten scenarios are identified under which a listed Ramsar site may cease to fulfil the Criteria for designation;

THE CONFERENCE OF THE CONTRACTING PARTIES

9. ADOPTS the guidance in the Annex to this Resolution concerning addressing issues of Ramsar sites which cease to fulfil or never fulfilled the Criteria for designation;
10. REQUESTS Contracting Parties to apply the guidance and procedures set out in this Annex when contemplating proposing the deletion of a site from the List of Wetland of International Importance or a restriction to the boundaries of such a site; and
11. INSTRUCTS the Ramsar [Secretariat], with the advice of the Scientific and Technical Review Panel, to report to COP10 on these matters under Article 8.2 and URGES Contracting Parties to provide to the Ramsar [Secretariat] information on their experiences and lessons learned in their application of this guidance.

ANNEX

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

I. The relationship between this guidance and issues covered by Resolutions VIII.20 and VIII.21

1. This guidance covers situations under which the terms of Article 2.5 of the Convention text concerning “urgent national interest” for situations of human-induced 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.
2. In relation to boundary restrictions of listed Ramsar sites, this guidance concerns those situations where substantial 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 substantially affect the fundamental objectives, including the application of the Criteria for designation, for which the site was listed.
3. 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.

II. Scenarios under which deletion or restriction might be contemplated

4. The following 10 scenarios have been identified in the review prepared by the Ramsar [Secretariat] – see COP9 DOC. 19. 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 has arisen.
- 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 this subsequently becomes apparent. This scenario has probably arisen.

Part of a Ramsar site unavoidably loses the values, functions and attributes 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. This scenario has arisen.
- iv) All or part of a Ramsar site loses the values, functions and attributes of its ecological character as a wetland for which it was listed. This scenario has arisen.
- v) A set of linear boundaries have been used to define the Ramsar site boundaries which do not relate directly to the distribution of the wetlands or their associated catchments. This scenario has arisen.

A Ramsar site at the time of listing met the Criteria but, whilst its values, functions and attributes remain unchanged, it later fails to meet the Criteria because of a change in those Criteria or in the population estimates or parameters which underpin them:

- 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. This scenario has not yet arisen.
 - 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. This scenario has arisen.
5. 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. This scenario has arisen.
 - 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". This scenario has not been reported to the Ramsar [Secretariat].
6. 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. This scenario has not yet arisen.

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

7. The obligations of Parties under Articles 2.1 and 3.1 of the Convention text is that Parties should designate Ramsar sites and implement planning so as to promote their conservation

(i.e., maintain their ecological character – see Resolution VIII.8). 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.

8. 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].
9. 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 interest”.
10. It follows that if any such deletion or boundary restriction is contemplated which has not been, or cannot be, justified as in the “urgent national interest”, the deletion or restriction should be decided upon only as a very last resort after all other considerations and options have been fully considered and implemented.
11. 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.
12. No deletion or boundary restriction should be considered to be acceptable under the Convention under certain scenarios, 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 interest”.
13. Parties have indicated that compensation for the loss or degradation of wetlands, including listed sites, should be applied under two circumstances:
 - i) in cases of human-induced 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); and
 - ii) in cases of human-induced change resulting in loss of wetland functions, attributes and values, but not leading to considerations of boundary restriction or deletion (Resolution VII.24).
14. 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, in line with the considerations in the Annex to Resolution VIII.20 (paragraph 4).
15. 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.

16. If a deletion or boundary restriction is still contemplated after all such other considerations and options have been weighed, the procedures for confirming such an action should follow the terms of Article 8.2 (b), (d) and (e), so as to permit full deliberation on these matters by the next meeting of the Conference of the Contracting Parties.

IV. Procedures to apply should deletion or restriction be contemplated

17. 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.
18. The approach focuses on scenarios where part or all of a site appears to have lost the values, functions and attributes 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. 19.
19. **Step 1.** 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]. At the same time, consider:
- i) 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;
 - ii) whether it would be helpful to seek the advice of the Scientific and Technical Review Panel;
 - iii) whether a Ramsar Advisory Mission should be requested; and/or
 - iv) whether requesting emergency assistance under the Ramsar Small Grant Fund is appropriate.
20. **Step 2.** 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 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.
21. **Step 3.** As part of the assessment in Step 2, 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 good 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.
22. 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.

23. **Step 4.** If there is potential for reversibility, monitor the key ecological features of the site for the time period necessary as identified under Step 3, and then re-assess the status of the site in relation to its qualification under the Criteria.
24. **Step 5.** 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.
25. **Step 6.** 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 proposal to restrict the site's boundary or remove the site from the List, as appropriate. This proposal 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 (in line with Resolution VIII.20), accompanied by relevant maps.

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

26. The following procedure should be followed when a Party wishes to make a proposal for restriction or delisting of a Ramsar site.
 - i) The Party should submit its proposal, covering the aspects of the issue as outlined in Step 6 above, to the Ramsar [Secretariat], which will make arrangements to advise all Contracting Parties of the proposal, in line with Article 8.2 (d);
 - ii) the [Secretariat] should transmit the proposal to the STRP for its review and advice on the scientific and technical aspects of the case;
 - iii) on receipt of the STRP's review and advice, the Secretariat will seek a recommendation from the Standing Committee at its next meeting for transmittal to the Party concerned; and
 - iv) all such cases and their outcomes will be reported to the next COP which, in line with Article 8.2 (d), may wish to provide any further advice to the Party concerned, in line with Article 8.2 (e).

Annex

COP9 DOC. 19 Information paper

Issues and scenarios concerning Ramsar Sites which cease to meet or never met the Ramsar Criteria (Resolution VIII.22)

Background

1. At the 8th meeting of the Conference of the Contracting Parties (COP8), the Parties adopted Resolution VIII.21 on *Defining Ramsar site boundaries more accurately in Ramsar Information Sheets* and Resolution VIII.20 on *General guidance for interpreting “urgent national interests” under Article 2.5 of the Convention and considering compensation under Article 4.2.*
2. COP8 also adopted Resolution VIII.22 on *Issues concerning Ramsar sites that cease to fulfil or never fulfilled the Criteria for designation as Wetlands of International Importance.* In paragraph 6 of that Resolution, the Parties recognised that “there may be situations where:
 - a) a Ramsar site never met the Criteria for designation as a Wetland of International Importance;
 - b) part of a Ramsar site unavoidably loses the values, functions and attributes for which it was included, or was included in error; or
 - c) a Ramsar site at the time of listing met the Criteria but, whilst its values, functions and attributes remain unchanged, it later fails to meet the Criteria because of a change in those Criteria or in the population estimates or parameters which underpin them.”
3. In Resolution VIII.22 the Parties requested the Standing Committee, with support from the Secretariat and International Organization Partners, the Scientific and Technical Review Panel (STRP), appropriate legal and other experts, and interested Contracting Parties, to develop guidance on this issue and its relationship to those covered by Resolution VIII.20 and VIII.21. Specifically, paragraph 7 of Resolution VIII.22 proposed that “the following issues required further consideration:
 - a) identification of scenarios in which a listed Ramsar site may cease to fulfil the Criteria for designation as a Wetland of International Importance;
 - b) obligations of Contracting Parties under the Convention, and the possible application of compensation measures under Article 4.2; and
 - c) procedures that could be applied should the deletion or restriction of boundaries need to be contemplated in such situations.”
4. The 29th meeting of the Standing Committee (Decision SC29-16) requested the Ramsar Secretariat to prepare a report on these matters for consideration at its thirtieth meeting.

5. Accordingly, this information paper has been prepared by the Ramsar Secretariat, with the assistance of David Pritchard (BirdLife International) and input of information on boundary changes supplied by Contracting Parties, as a basis for preparing additional guidance, as appropriate, for consideration by COP9. In support of this work the Secretariat has sought to identify relevant cases concerning different circumstances of Ramsar Site boundary changes or proposed boundary changes from materials supplied by Contracting Parties.
6. The requested additional guidance is provided for consideration by Contracting Parties at COP9 as the Annex to COP9 DR7.

General considerations concerning the scope and coverage of further guidance

7. Many cases received by the Secretariat of boundary changes (and any associated changes in the area designated) concern matters covered by Resolution VIII.21. In particular, in the provision of updated Ramsar Information Sheets (RISs), including maps, for sites listed some time ago, many Contracting Parties now have access to Geographical Information System mapping systems and can provide more precise maps and delineated boundaries for a site, where the previous version of the RIS may have included only a rough map with an approximately drawn boundary.
8. There is a discrepancy between the terms of paragraphs 6 and 7 of Resolution VIII.22 concerning situations where only part of a listed site loses the values, functions and attributes for which it was included and that part is proposed for removal from the listed site. This is recognised as a possibility in paragraph 6b) and “procedures for restriction of boundaries” are mentioned in paragraph 7c), but it is not foreseen among scenarios called for in paragraph 7a). This is important, since cases of restriction of boundaries, whether “urgent national interest” has or has not been invoked, appear to be a more commonly arising situation than the deletion of an entire Ramsar site from the List. Therefore, for the purposes of this paper, boundary restriction scenarios are included.
9. The extent of coverage of habitat types in relation to a wetland itself in a listed site varies greatly, often depending upon the land and water use planning and management policy and approach applied by different Contracting Parties. In some situations, a large area of non-wetland catchment is included within the listed site in order to facilitate the system’s integrated management (as permitted under Article 2.1); in others, only (or mostly) the wetland habitat itself is designated. Consideration of proposals for the removal of non-wetland habitats from a listed site may therefore have very different significance or implications in different places and countries, and it should be noted that, for the purposes of securing the management and sustainable use of a wetland, it is entirely acceptable, where appropriate under national processes, to include non-wetland habitat within a Ramsar site.
10. This approach of applying zonation systems, including buffer zones, within Ramsar sites so as to facilitate their effective management planning has been emphasized by Recommendation 5.1 and by the *New Guidelines for management planning for Ramsar sites and other wetlands* (Annex to Resolution VIII.14).

11. As a general principle for any decision-making about restriction or removal of a designated site from the List, the Vision for the List (Resolution VII.11) should be kept in mind:

“to develop and maintain an international network of wetlands which are important for the conservation of global biological diversity and for sustaining human life through the ecological and hydrological functions they perform.”

It should also be recalled that the purpose of designating an area as a Ramsar site is in the first instance to recognise the international importance of the site as part of coherent and comprehensive national and international networks, and to facilitate management processes which maintain the ecological character of the sites for the conservation of their biodiversity and their sustainable use through the continued provision of their goods and services to people.

12. For the purposes of developing guidance for responding to damaging changes to sites, it follows that there should be no distinction between whether it is all of a designated site that is affected or only part of it, since both situations indicate a reduction in the capacity of the suite of internationally important wetlands in a country to deliver their values and functions.

Scenarios for potential boundary restriction or delisting of Listed Sites

13. A considerable range of scenarios can be envisaged, and some have arisen on particular sites. Nine scenarios are described below, with a brief identification of issues to consider in addressing and responding to each.

Scenario 1. 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.

14. To avoid this scenario arising, all countries preparing for accession should be strongly encouraged to prepare a draft RIS in advance of their formal accession and consult with the Ramsar Secretariat as to whether the proposed site meets one or more of the Criteria. This approach is increasingly being used by countries preparing for accession to the Convention. The Secretariat knows of no instance of this scenario arising so far.

Scenario 2. 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.

15. This situation has recently arisen with the accession of Azerbaijan and its designation of Chizil-Agaj Bay, with a smaller area being specified than that of the Kirov Bays Ramsar site listed by the former Soviet Union.
16. In such cases, it is the sovereign right of the present Contracting Party to determine which areas it will designate as a Ramsar Site. Any such sites can be treated as new designations, and the site designated by the former Party would then be removed from the List, although the new Party should be encouraged to maintain the original boundaries if appropriate.

Scenario 3. 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 this subsequently becomes apparent.

17. Resolution VII.23 recognises that there are situations “where boundaries may warrant further definition . . . where [they] were erroneously or inaccurately defined at the time of listing”. Removal of a whole Ramsar site from the List under this scenario can be regarded as an extreme case of boundary reduction owing to originally inadequate or incorrect information at the time of designation.
18. Here a first step would be to re-examine the current ecological functions, features and values of the wetland to establish clearly whether it currently fulfils a Criterion or Criteria, even if these are different Criteria from those originally used for listing. If so, a revised RIS should be provided and the site should remain on the List.
19. If it is established that none of the Criteria can be currently applied, then a similar procedure should be followed as for a site where the ecological character has deteriorated such that it ceases to meet the Criteria (see Scenario 9 below). Any proposal to delist a site under this scenario should be accompanied by a detailed statement of its current ecological character and an explanation with evidence to support the case that the original justification for the Criteria applied was incorrect. If this evidence is not clear, it is possible that another scenario – that of a deterioration of the ecological character of the wetland (Scenario 9) – applies instead, in which case the tests and approach for responding to that scenario should be followed.
20. This scenario arose in the early 1990s concerning three sites listed early in Pakistan’s membership of the Convention, and the sites concerned were, with the agreement of the Administrative Authority, removed from the List in 1996. Three further Ramsar sites were designated as a form of compensation.
21. A similar situation may exist concerning Ramsar sites in Greenland (designated by Denmark) and is currently under review by Denmark in consultation with the Greenland Home Rule government, concerning at least one site which appears to have been designated based on incorrect over-estimates of the size of its waterbird populations. However, the issue here is complicated by growing evidence that a number of sites in Greenland may have lost, or are continuing to lose, their significance owing to heavy human pressures (in this case, waterbird hunting).

Scenario 4. 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.

22. This is a procedure followed by a number of Contracting Parties. In most cases this leads to expansion of the area and boundaries of a Ramsar site, as further areas complete their domestic legislation procedure, but in some cases review under national legislation leads to the removal of part of the areas of the Ramsar site.

23. This scenario has arisen in the UK, where for example a major extension to the Norfolk Broads Ramsar site also included removal of small parts of the former site owing to deletion of these parts following a revision of the areas designated domestically as a Site of Special Scientific Interest.
24. A second example, the subject of a Ramsar Advisory Mission in 2001, concerns the Parc National de la Keran Ramsar site in Togo, the boundary of which is the same as a previously designated National Park. Here, a review of the National Park boundaries involving local communities has led to a proposal to remove non-wetland areas from the National Park because of increasing farming activity by incoming communities, but at the same time to significantly extend the Ramsar site in other areas to include the whole wetland rather than only that part originally within the National Park. A similar situation concerning changes to a National Park boundary has arisen in the Ebro Delta Ramsar site, Spain.
25. In some cases, sites such as National Parks may have been declared for ecological interests not solely concerning wetlands, and hence such sites can include substantial areas of non-wetland habitat not directly linked to the maintenance of the ecological functioning of the wetland component. Any consideration of a proposed boundary restriction in such cases should be based on an assessment of whether the wetlands are ecologically or hydrologically linked with other non-wetland areas within the site boundary.

Scenario 5. A set of linear boundaries have been used to define the Ramsar site boundaries which do not relate directly to the distribution of the wetlands or their associated catchments.

26. Here, a boundary change proposal may arise where it is considered appropriate to align the boundary of the designated site more closely with the location of the wetland areas for which the site has been identified as internationally important, including, where appropriate, other surrounding ecologically or hydrologically linked ecosystems.
27. The envelope of the site boundary should have been drawn so as to encompass the wetland ecological features of relevance to site designation, but may currently include areas of other ecosystems and land uses, including urban areas, which would more usually fall outside the purpose of Ramsar listing. However, in some situations a linear boundary may cut across and exclude some parts of an interlinked wetland system, and any consideration of boundary revision may also lead to proposals to extend some boundaries.
28. For 'terrestrial' wetlands, such boundaries may have been established for administrative purposes along geopolitical borders such as provincial boundaries. A linear boundary not directly reflecting the wetland ecosystem area may also occur where a transboundary wetland is being designated, since a country can only designate that part of the wetland within its territory.
29. Linear boundaries are also frequently used to delimit the outer (seaward) limits of a coastal and marine Ramsar site, again particularly where there is a jurisdictional seaward limit established under national or international legislation. Such a boundary approach for marine systems would seem both appropriate and beneficial for a clear understanding of where the limits to the designated site occur, more practical than attempting a surface mapping of often complex underwater topography.

30. Therefore the issue of a potential boundary revision under this scenario is more likely to arise for sites involving terrestrial ecosystems than for coastal/marine systems.
31. In 2001 Australia undertook a case study for developing an appropriate approach to possible boundary revisions to its Coongie Lakes Ramsar site. The study was also intended to provide experience of how general principles and guidelines might be developed for boundary change issues. The boundary established at the time of designation of this area of wetland complexes is a triangular linear boundary encompassing most, but not all, parts of the wetland systems, and also including significant areas of non-wetland habitats. The recommendations of the study stress the importance, before considering any boundary changes, of undertaking a full assessment of the features, values and functions of the wetlands, and of full stakeholder participation in any deliberations. The Secretariat is not aware of any subsequent proposal from Australia for implementing a boundary re-definition of this site.

Scenario 6. Part or all of a listed Ramsar site is proposed for deletion in order to permit possible future developments in that area.

32. Any such cases would fall under the provisions of Articles 2.5 and 4.2 of the Convention, concerning “urgent national interest” and compensation, and hence would be addressed under the terms of Resolution VIII.20.

Scenario 7. The site’s values, functions and attributes remain unchanged, but it subsequently fails to meet the Criteria owing to a change in those Criteria.

33. No Criterion has been entirely deleted since the adoption of the first official set of Criteria at COP1 in 1980 – although two areas of the 1974 recommended Criteria (‘importance for research or education’ and ‘practicality for conservation’) were not present in COP1’s first official set, it is not now believed that this affected the eligibility of any Ramsar sites designated between 1974 and 1980. Nor is the Secretariat aware of any such situations arising as a consequence of the revisions to the Criteria in Resolution VII.11. Indeed, the restructured Criteria adopted by that Resolution were designed to cover the same ecological attributes, values and functions as the earlier Criteria.
34. Furthermore, currently the STRP is working to propose an additional Criterion for consideration by COP9, concerning a non-waterbird quantitative Criterion for wetland-dependent animals. Unless a COP decision is made to delete one or more Criteria from the current set, it is highly unlikely that this scenario will ever arise.

Scenario 8. 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.

35. This scenario is most likely to arise in relation to Criterion 2 (threatened species) or Criterion 6 (1% of waterbird populations). The situation would apply to a whole site ceasing to meet the Criterion, since such Criteria are applied to the whole unit being designated and not to its component parts. It will most likely arise where a site has been designated using only one such Criterion and for only one species or biogeographic population. The Secretariat is not aware of any cases of this scenario arising.

36. Concerning Criterion 2, this could arise if the IUCN Red List status of a species is changed, most likely by being downgraded from its threatened status owing either to improved knowledge or an increase in the health of its status. However, the *Strategic Framework* guidelines for the application of Criterion 2 indicate that a site may be listed under this Criterion if it supports either a globally threatened species or a species which is nationally threatened (e.g., listed in a national Red Data Book or under national legislation). Even if the globally threatened status were to change, the site might therefore still qualify under the nationally threatened species option, and this should be checked first before any further consideration of delisting.
37. Concerning Criterion 6, such a situation would arise if the population size of a waterbird remains stable in the Ramsar site, but the population estimate and 1% threshold is increased in Wetlands International's periodic *Waterbird Population Estimates* volumes. With a population under increase, at times wetlands at the core of the population range become 'full' (i.e., their carrying capacity reaches its limit) and numbers of birds using more peripheral sites within the range increase. The converse scenario, where a waterbird population proves to be in decline, is addressed under Scenario 9 below.
38. In all such cases it is important to set what is happening in the Ramsar site itself within an understanding of what is happening in terms of numbers, distribution and status of the relevant biogeographic population as a whole. Furthermore, since many migratory waterbird populations have fluctuating annual breeding success and hence varying total populations in different years, any assessment of numbers and population percentages using a site should be made over a period of years, and this Criterion concerns populations for which at least 1% of the population "regularly occurs" at the site – the guidelines for the application of this Criterion indicate that this should be assessed over recent five-year periods. If a population appears now to fall below a new 1% threshold, monitoring for several years should be a first step in assessing whether such a situation is merely short-term or not, before any proposal to delist a designated site is considered.
39. In both cases, then, an appropriate first step is to determine whether the site currently meets other Criteria which were not applied in the original designation. For waterbirds, it is often the case that even if Criterion 6 ceases to apply, the site will still qualify under Criterion 4 (critical stages in life-cycles) and/or Criterion 3 (maintaining the biological diversity of the region) by virtue of the guild of waterbird species the site supports.
40. The Secretariat has not been made aware of any proposals by Contracting Parties for boundary revisions arising under this scenario.

Scenario 9. All or part of a Ramsar site loses the values, functions and attributes of its ecological character as a wetland for which it was listed.

41. Partial loss or deterioration of a designated wetland's ecological character is likely to be the most frequently arising scenario that could lead to a boundary restriction being proposed.
42. Deletion of an entire site from the List is likely only to be considered when only one of the eight Criteria has been used for the original designation (except in cases where the ecological character of the site has been wholly destroyed). In reviewing RISs supplied by Parties, the Secretariat often concludes that one or more additional Criteria are fulfilled by

the characteristics of the site, and a detailed review of current, improved knowledge of the site since the RIS was last compiled, against the Criteria that presently apply, should be an early step in any process.

43. Resolution VIII.22 paragraph 6 concerns sites which “unavoidably” lose their importance. This is a significant issue, and it is essential to make a clear distinction between what is “avoidable” and what is “unavoidable”. Nevertheless, in many cases it may be hard to make such a clear distinction, particularly where the loss of ecological character is caused by indirect, off-site changes (e.g., climate change or water abstraction). In particular, it begs the question that if a change was “avoidable”, by whom should it have been avoided and what steps should a Contracting Party have been expected to take to avoid the damage occurring in the first place – logically this should cover all relevant decision-making at local, subnational and national scales affecting directly or indirectly the ecological character of the listed site, since it is national governments, through their appointed Administrative Authorities, that assume responsibility for the provisions of the Convention.
44. The most likely cases of a truly unavoidable loss of ecological character are probably those occurring as a consequence of a natural disaster, such a hurricane, typhoon or storm surge, or perhaps even excessive flooding – although such floods might sometimes lead to creation of wetland areas. Even though such damage might lead to a designated site losing the ecological character for which it was designated, the resilience of many wetland systems means that subsequent recovery is often a real possibility. Such issues of recovery potential – i.e., only a temporary loss of ecological character occurring – should be fully assessed before any consideration for delisting or restriction of a site is considered.
45. If the damaging change was “avoidable”, it follows that, in principle, in allowing the change to have occurred the Party should have invoked Article 2.5 of the Convention, concerning “urgent national interest”. However, a number of other situations of at least potentially avoidable change can be envisaged as a consequence of third-party actions, where damage occurred before it could be identified or prevented.
46. Several cases of such situations have arisen, concerning for example unauthorised destruction or damage to part of a listed site, either by private landowners or by third parties engaged in extractive or other land-use activities. A current case is under consultation between Uruguay and the Secretariat concerning the destruction of part of the Bañados del Este through house-building by a private landowner within the Ramsar site. Similarly, the government of Australia has recently made an Article 3.2 report concerning damage (in this case by agricultural intensification) by a private landowner of part of the Gwydir Wetlands Ramsar site.
47. Another case under this scenario concerns several Ramsar sites in the Islamic Republic of Iran, some of which have been placed on the Montreux Record. Here, recent and prolonged drought has led to the drying up of the wetlands and the disappearance of the internationally important waterbird populations for which the sites were originally designated. The loss of water supply to the wetlands has, in conditions of drought, been exacerbated by abstraction of upstream water for agricultural irrigation. In this situation, the loss of ecological character can be viewed as at least partially reversible if and when the drought situation improves and through changes to agricultural practices in catchments so as to increase environmental flows of water to the Ramsar sites. In such circumstances it would seem most appropriate that such sites remain on the Ramsar List pending actions to

address the loss of ecological character, and indeed maintaining the Montreux Record status of the sites is intended to assist in addressing the issue (including through provision of resources, as by a recently approved UNDP-GEF project) – a situation which removal of the sites from the List would not support.

48. Therefore, in considering what steps should be taken concerning delisting or reduction of the boundaries of a site which has already suffered damage, it is important first to consider whether the damage or change is irreversible, rather than the issue of whether the damage was “avoidable” or not. If there is potential or likelihood that the situation will reverse, or can be reversed through appropriate management interventions (such as restoration or removal of the driver of the change), then the case for delisting or restriction would not be considered to have been made.
49. In the case of quantitative waterbird Criteria 5 and 6, as suggested above, monitoring of the situation is needed for at least several years before pursuing any case for delisting, since these Criteria concern the ‘regular occurrence’ of waterbirds over at least a five year period.
50. In fact, a further reason for delaying any such delisting in relation to Criterion 6 concerns the agreed approach to establishing 1% population thresholds. Owing to the inter-annual variability in the size of many waterbird populations (often due to differences in breeding success in different years), thresholds are set, in all but exceptional circumstances, to be medium-term stable – generally for a nine-year period. Thus there can be time-lag between a change in the biogeographic population estimate and its associated 1% threshold, on the one hand, and annual numbers recorded at individual sites, on the other. Thus if a population is in overall decline at its next evaluation, a lower 1% threshold will be set, which may reveal that the smaller numbers of birds observed at a Ramsar site still qualify the site under the Criterion.
51. The question of removing only a part of a designated site owing to the loss or deterioration of that part’s ecological character introduces some additional considerations. The *Strategic Framework* (Resolution VII.11) is clear that in identifying sites which qualify for designation, it is the whole area selected which provides the attributes, values and functions for which the site is important.
52. The Criteria do not establish the target status of these attributes, values and functions to be maintained – rather, they establish the minimum thresholds for the identification of internationally important wetlands. The target status is provided by the description of ecological character of the site in the Ramsar Information Sheet, which establishes the full scale and extent of the importance of the site, and this will often far exceed the minimum thresholds established in the Criteria. Therefore it would be invalid to justify a boundary restriction on the grounds that the restricted site will continue to meet the Criteria for which it was originally selected.
53. A clear illustration of such invalidity can be shown with quantitative Criterion 6, under which a site qualifies for designation if it regularly supports 1% or more of a biogeographic waterbird population. Many such sites support considerably in excess of 1% of a population. The larger the proportion of a particular population the site supports, the more critically important that site is likely to be for the survival of the population. It is clearly not an appropriate response to reduce a site designated for holding 10% of a population to an area which holds just 1% of that population, as such an action could very

well lead to an overall decline in that population, which would run counter to the conservation and sustainable use objectives of the Convention.

54. Furthermore, if such an approach were to be followed, the consequent population decline would then lead to a reduced 1% threshold number for that population, so that an even smaller site area would still support just 1% of such a reduced population. Following such a site reduction approach to its logical end would lead to the extinction of that population. A similar argument can be applied to the other selection Criteria.

Scenario 10. A Contracting Party has designated only one Ramsar site (at the time of its accession) and that site ceases to qualify under the Criteria.

55. Such a situation could arise under a number of the other scenarios outlined above.
56. In this situation, a key question which would immediately arise is whether or not the country concerned is still legally a Contracting Party. Further legal advice on this would be necessary.
57. However, one possible interpretation of the Convention text is that the requirement is only that the country must validly designate a wetlands which qualifies as internationally important at the time they accede to the Convention, and there is nothing in the Convention text concerning the legal status of that Party in the event of something subsequently happening to that site such that it no longer qualifies.
58. Regardless of any such legal issues, one obvious and immediate step for a Party to take under this scenario would be to designate another site for the List. In almost all countries, it is very unlikely that no other wetlands would qualify for designation – only in countries with very small territories and very few wetlands might such a step be a problem.
59. As at May 2005, there are 38 Contracting Parties which have each designated only one Ramsar site, and in which this scenario could theoretically arise.

Obligations of Contracting Parties, including issues of compensation

60. The overall obligation of Contracting Parties is to formulate and implement their planning so as to promote the conservation of wetlands included in the List of Wetlands of International Importance (Article 3.1). This has been further elaborated by Resolution VIII.8 which calls upon Parties to maintain or restore the ecological character of their Ramsar sites.
61. Parties have indicated that compensation for the loss or degradation of wetlands, including Listed sites, should be applied under two circumstances:
- i) in cases of human-induced change leading to boundary restriction or deletion of listed sites where an urgent national interest applies (Article 4.2 and Resolution VIII.20); and
 - ii) in cases of human-induced change resulting in loss of wetland functions, attributes and values, but not leading to considerations of boundary restriction or deletion (Resolution VII.24).

62. In considering and applying the appropriate steps to address possible restriction or delisting of a site, the Party concerned should be expected to have undertaken all necessary action in a transparent, consultative and precautionary manner and to have documented those actions.
63. If the loss of the ecological character of the site or part of it, which may eventually lead to a proposal for restriction or delisting, is a human-induced change, then in the first instance a Contracting Party should submit to the Secretariat an Article 3.2 report as called for in Resolution VIII.8. At the same time, consideration of listing the site on the Montreux Record should be made.
64. Similarly, if a scenario not involving human-induced change applies, the Contracting Party might valuably notify the Secretariat of the issue and, if appropriate, seek its advice. This would serve to provide an 'early warning' of an emerging boundary issue which might need to be addressed.
65. Where a change in ecological character is considered to have been avoidable and the damage is reversible, then the Contracting Party should take actions to restore the condition of the site. Such cases could arise, for example, where the change is a consequence of a decision-making process or a management action either within the site or outside it, such as a permitted increase in upstream water abstraction leading to the drying out of the listed wetland.
66. The exception here would be if the terms of Article 2.5 concerning "urgent national interest" should have been applied, but were not, at the time of the damage occurring. If Article 2.5 should have been invoked, then in making any proposal for restricting or delisting the site the terms of Resolution VIII.20, including proposals for compensation, should be applied in preparing a case for the boundary change.
67. When no case for invoking "urgent national interest" can be made, but the damage has occurred and is irreversible, notwithstanding that the damage could have been avoided, then practically it has to be treated in an analogous way to cases of "urgent national interest", and the provisions of Article 4.2 concerning compensation should be applied in line with the guidance in Resolution VIII.20.
68. The key issue for such cases is the expectation that a Party will have taken all reasonable steps to prevent or reverse the damage, in line with the obligations of Article 3.1 of the Convention. A Party should strive to find any possible solution for reversing the damage before moving into a consideration of restriction or delisting, and should document and demonstrate that it has taken such steps.
69. If such irreversible damage has arisen through third-party damage not authorised by the Contracting Party, the issue of who provides compensation under Article 4.2 would be a matter for the Party to determine, including through any national legislative processes which may apply.
70. In circumstances where a change in ecological character can be demonstrated as being a natural change, Article 3.1 and Resolution VIII.8 apply concerning the obligation to promote conservation and maintain or restore the ecological character of the site. Thus if

such a natural change has led to the site or part of the site no longer functioning as a wetland, the commitment is first to seek to restore the ecological character of the site. Only if such a loss is truly irreversible should restriction or delisting be considered. If restricting or delisting is to be proposed, the Party concerned should consider application of the compensation provisions of Article 4.2 and Resolution VIII.20.