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EXPERT WORKSHOP TO IDENTIFY OPTIONS
FOR MODIFYING THE DESCRIPTION OF
ECOLOGICALLY OR BIOLOGICALLY
SIGNIFICANT MARINE AREAS AND
DESCRIBING NEW AREAS

Brussels, 3-5 February 2020

SELECTED EXPERIENCES FROM OTHER INTERNATIONAL PROCESSES REGARDING APPROACHES FOR THE MODIFICATION OF PREVIOUSLY IDENTIFIED AREAS

Note by the Executive Secretary

1. The Executive Secretary is circulating herewith for the information of participants in the Expert Workshop to Identify Options for Modifying the Description of Ecologically or Biologically Significant Marine Areas (EBSAs) and Describing New Areas, a background document reviewing selected experiences from other international processes regarding approaches for the modification of previously identified areas.
2. The present document was prepared in April 2019 and reflects only information on ecologically or biologically significant marine areas that have been considered by the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties as of 2019.
3. The information contained in the present document is based largely on information provided in the following reports, which were originally made available to support the deliberations of the CBD Expert Workshop to Develop Options for Modifying the Description of Ecologically or Biologically Significant Marine Areas (EBSAs), for Describing New Areas, and for Strengthening the Scientific Credibility and Transparency of this Process (Berlin 5-8 December 2017), with some additional supplementary information:
 - (a) Background document on International Trends and Distinctive Approaches of Relevance to the CBD Process on Ecologically or Biologically Significant Marine Areas ([CBD/EBSA/EM/2017/1/INF/1](#)) (prepared by Diz et al from the Strathclyde Centre for Environmental Law and Governance);
 - (b) [Report on potential mechanisms through which areas recognized for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas \(EBSAs\)](#) (Compiled by the Secretariat of the Global Ocean Biodiversity Initiative (GOBI) and prepared by Phillip J. Turner).
4. The information in the document is not intended to be a comprehensive review of the processes discussed but is merely intended to inform the discussions of the workshop. The document is being provided as contextual information for the workshop participants, but it is not anticipated that this document will be discussed in detail during the workshop.

Selected Experiences from Other
International Processes Regarding
Approaches for the Modification of
Previously Identified Areas

1. Background

This document was produced to support the deliberations of the CBD Expert Workshop to Identify Options for Modifying the Description of Ecologically or Biologically Significant Marine Areas (EBSAs) and Describing New Areas, to take place 3 to 5 February 2020 in Brussels, Belgium.

It provides a brief review of selected international processes that coordinate some form of process for the identification and designation of areas of special interest as well as processes to modify such designations.

The information contained in this document is based largely on information provided in the following reports, with some additional supplementary information:

- [CBD/EBSA/EM/2017/1/INF/1](#)--Background Document on International Trends and Distinctive Approaches of Relevance to the CBD Process on Ecologically or Biologically Significant Marine Areas (prepared by Diz et al from the Strathclyde Centre for Environmental Law and Governance)
- [Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas \(EBSAs\)](#) (Compiled by the Secretariat of the Global Ocean Biodiversity Initiative (GOBI) and prepared by Phillip J. Turner)

The above-noted reports were originally made available to support the deliberations of the CBD Expert Workshop to Develop Options for Modifying the Description of Ecologically or Biologically Significant Marine Areas (EBSAs), for Describing New Areas, and for Strengthening the Scientific Credibility and Transparency of this Process (5 - 8 December 2017 - Berlin, Germany).

The information in this document is not intended to be a comprehensive review of the processes discussed, but is merely intended to inform the discussions of the CBD Expert Workshop to Identify Options for Modifying the Description of Ecologically or Biologically Significant Marine Areas (EBSAs) and Describing New Areas.

2. Ramsar Convention

2.1 Background and Rationale for Designation

Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat focuses on conservation and wise use of wetlands as a contribution to sustainable development.¹ The Ramsar Convention defines wetlands to be “*areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters*”.² Ramsar classifies 42 types of wetlands into three categories: Marine and Coastal Wetlands, Inland Wetlands, and Human-made Wetlands.³

Each Contracting Party is required to designate at least one suitable wetland for inclusion in the List of Wetlands of International Importance (Article 2.4).⁴ In doing so, Parties are expected to maintain the

¹ An Introduction to the Convention on Wetlands (previously The Ramsar Convention Manual). Ramsar Convention Secretariat, Gland, Switzerland. 5th Edition, 2016.

https://www.ramsar.org/sites/default/files/documents/library/handbook1_5ed_introductiontoconvention_e.pdf.

² Ramsar Convention, Iran, 2.2.1971, as amended by the Protocol of 3.12.1982, and the Amendments of 28.5.1987, Article 1.1, https://www.ramsar.org/sites/default/files/documents/library/current_convention_text_e.pdf.

³ An Introduction to the Convention on Wetlands, Section 1.2.

⁴ Ramsar Convention, Article 2.4.

ecological character of sites and work towards the wise use, conservation and effective management of wetlands and migratory waterfowl.⁵ Parties are strongly urged to develop management plans for each inscribed wetland and to establish funding mechanisms as well as legal and administrative structures.⁶ Parties are also strongly urged to develop monitoring programmes for sites that includes a mechanism by which changes (or likely changes) to the ecological character of a site can be communicated to the Contracting Party and the Secretariat (Resolution VIII.1412).^{7,8} To be inscribed as a Ramsar Site, a wetland must meet at least one of nine established criteria.⁹

2.2 Process/Approach for Modification

Designated sites that are at potential risk as a result of ‘technological developments, pollution or other human interference’ may be placed on the Montreux Record, which aims to draw attention to sites where changes in ecological character have occurred or are likely to occur.^{10,11,12}

Sites can only be included in the Montreux Record with approval from the Contracting Party where the site is located.¹³ Once the Ramsar Secretariat receives notice that the ecological character of a Ramsar site is at risk (either directly from the Party or from a partner or nongovernmental organization), the Secretariat requests additional information on the status of the site from the concerned Party. The Secretariat may also organize a Ramsar Advisory Mission to assess the status of a site at the request of the Party.^{14,15}

If the risk is confirmed, then the Secretariat (in agreement with the Contracting Party and in consultation with the Scientific and Technical Review Panel) adds the site to the Montreux Record.¹⁶ The Scientific and Technical Review Panel consists of 18 members, six scientific members and 12 practitioners (i.e., six regional experts and six experts on issues identified within the current work plan).¹⁷ It should be clear in the Montreux Record which sites have implemented a monitoring procedure and remedial action plan, which typically includes restoration.^{18,19} Annual reports are to be provided to the Secretariat to report on the status of sites on the Montreux Record.²⁰ The Secretariat (in agreement with the Contracting Party and

⁵ Ramsar Convention, Article 2.6, 3.1, 3.2.

⁶ Resolution 5.7 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_5.7e.pdf

⁷ Resolution VIII.14 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_viii_14_e.pdf

⁸ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

⁹ The Criteria for Identifying Wetlands of International Importance. Ramsar Information Paper no. 5.

<https://www.ramsar.org/sites/default/files/documents/library/info2007-05-e.pdf>

¹⁰ Recommendation 4.8 http://www.ramsar.org/sites/default/files/documents/library/key_rec_4.08e.pdf

¹¹ Ramsar Sites Information Service [https://rsis.ramsar.org/ris-search/?f\[0\]=montreuxListed_b%3Atrue](https://rsis.ramsar.org/ris-search/?f[0]=montreuxListed_b%3Atrue)

¹² GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

¹³ Recommendation 4.8 http://www.ramsar.org/sites/default/files/documents/library/key_rec_4.08e.pdf

¹⁴ Recommendation 4.7 http://www.ramsar.org/sites/default/files/documents/library/key_rec_4.07e.pdf

¹⁵ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

¹⁶ Resolution 5.4 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_5.4e.pdf

¹⁷ Resolution XII.5 http://www.ramsar.org/sites/default/files/documents/library/cop12_res05_new_strp_e_0.pdf

¹⁸ Resolution 5.4 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_5.4e.pdf

¹⁹ Resolution VIII.25 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_viii_25_e.pdf

²⁰ Resolution 5.4 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_5.4e.pdf

in consultation with the Scientific and Technical Review Panel) can remove a site from the Montreux Record once the remedial actions are shown to be effective, or the ecological character of a site is no longer at risk of changing.²¹ If there is no improvement in the ecological character of a site, it may be considered for downsizing or removal as a Ramsar site, in line with the guidance in Resolution IX.6.^{22,23}

Under Article 2.5, Contracting Parties have the right to remove a site or restrict the boundaries of a site on the Ramsar List due to “urgent national interests”.²⁴ The determination of “urgent national interests” lies with the respective Contracting Party that included the site, but they are encouraged to consider the general guidance provided in Resolution VIII.^{25,26} If invoking Article 2.5, the Contracting Parties should, as far as possible, compensate for any loss of wetland resources. It is preferred that compensation comes in the form of new nature reserves for waterfowl and protecting an adequate portion of the original habitat (Article 4.2).^{27,28}

As per Resolution IX.6, downsizing should be considered first and removal from the List should only be considered in exceptional circumstances.²⁹ If downsizing or removal is not justifiable under “urgent national interest”, it should be established whether the site still qualifies as a Wetland of International Importance. If attempts at recovery or restoration of the site have failed and the loss of part or all of the listed site is irreversible, or if there is clear evidence that the site was listed in error, the Party should consult with the Secretariat and consider alternative options (such as adding the site to the Montreux record, as well as prepare a report prior to formal changes,³⁰ which should document: loss of ecological characters and the reasons, any assessments made and their results, steps taken to seek recovery and proposals for compensation. If the intention is to change the boundary of the site, the report should include an updated Information Sheet on Ramsar Wetlands (i.e., the same template for Contracting Parties to nominate areas for the Ramsar List)³¹. The Party submits the report to the Ramsar Secretariat, a notification is then passed to the Contracting Parties and the changes are discussed at the subsequent Conference of the Parties (COP) (Article 8.2d).³² The COP may make recommendations (including removal, downsizing or continued

²¹ Resolution 5.4 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_5.4e.pdf

²² Resolution IX.6 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_ix_06_e.pdf

²³ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

²⁴ Convention on Wetlands of International Importance especially as Waterfowl Habitat http://www.ramsar.org/sites/default/files/documents/library/scan_certified_e.pdf

²⁵ Resolution 5.4 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_5.4e.pdf

²⁶ Resolution VIII.20 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_viii_20_e.pdf

²⁷ Convention on Wetlands of International Importance especially as Waterfowl Habitat http://www.ramsar.org/sites/default/files/documents/library/scan_certified_e.pdf

²⁸ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

²⁹ Resolution IX.6 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_ix_06_e.pdf

³⁰ Resolution IX.6 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_ix_06_e.pdf

³¹ Resolution IX.6 http://www.ramsar.org/sites/default/files/documents/pdf/res/key_res_ix_06_e.pdf

³² Convention on Wetlands of International Importance especially as Waterfowl Habitat http://www.ramsar.org/sites/default/files/documents/library/scan_certified_e.pdf

monitoring/remediation) to the Party concerned (Article 8.2e).³³ However, Parties are not obligated to follow recommendations.^{34,35}

3. World Heritage Sites

3.1 *Background and Rationale for Designation*

The Convention concerning the Protection of the World Cultural and Natural Heritage (i.e., the World Heritage Convention) aims to identify, protect, conserve, present and transmit to future generations the cultural and natural heritage of Outstanding Universal Value (Operational Guidelines)^{36,37}. The World Heritage Convention considers “natural heritage” as:

- natural features consisting of physical and biological formations or groups of such formations, which are of Outstanding Universal Value from the aesthetic or scientific point of view;
- geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of Outstanding Universal Value from the point of view of science or conservation;
- natural sites or precisely delineated natural areas of Outstanding Universal Value from the point of view of science, conservation or natural beauty.³⁸

In order to have an Outstanding Universal Value, a site needs to fulfill at least one of the established criteria.”³⁹ Furthermore, to be deemed of Outstanding Universal Value, a site must also meet the conditions of integrity and/or authenticity and must have an adequate protection and management system to ensure its safeguarding.⁴⁰ Nominations of sites must include the following; (i) clearly defined boundaries of the property; (ii) description of the site, which included the identification of the property and an overview of its history and development, which should describe how the property has reached its present form and the significant changes that it has undergone. This information shall provide the important facts needed to support and give substance to the argument that the property meets the criteria of Outstanding Universal Value and conditions of integrity and/or authenticity; (iii) justification as to why the site is considered to be of Outstanding Universal Value, including a comparative analysis of the property in relation to similar properties; (iv) state of conservation and factors affecting the property; (v) Protection and management provisions; and (vi) key indicators in place and/or proposed to measure and assess the state of conservation of the property; among other information.

Site nominations are evaluated by Advisory Bodies to the World Heritage Committee, which are ICCROM (the International Centre for the Study of the Preservation and Restoration of Cultural Property), ICOMOS

³³ Convention on Wetlands of International Importance especially as Waterfowl Habitat http://www.ramsar.org/sites/default/files/documents/library/scan_certified_e.pdf

³⁴ Gillespie, A., 2007. Protected areas and international environmental law (Vol. 168). Martinus Nijhoff Publishers.

³⁵ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

³⁶ Operational Guidelines for the Implementation of the World Heritage Convention. WHC.17/01.

³⁷ WHC Operational Guidelines, para 6. WHC Operational Guidelines, para 7.

³⁸ Operational Guidelines for the Implementation of the World Heritage Convention. WHC.17/01.

³⁹ WHC Operational Guidelines, para 77.

⁴⁰ WHC Operational Guidelines, para 78.

(the International Council on Monuments and Sites), and IUCN.⁴¹ The World Heritage Committee then decides whether an area should or should not be inscribed on the World Heritage List, referred or deferred.⁴²

3.2 Process/Approach for Modification

States parties conduct a regional Periodic Review every 6 years⁴³, and site Managers are responsible for reporting the state of each of their sites, while the national Focal Point is responsible for reporting the legislative and administrative provisions adopted by the Party.⁴⁴ The Secretariat prepares regional reports by consolidating national reports.⁴⁵ The regional reports are then examined by the Committee, who advises Parties.⁴⁶ The Secretariat, Advisory Bodies and Parties in the region develop an Action Plan,⁴⁷ which are based on information reported through an online questionnaire completed by site managers and State focal points, and regional reports prepared on the basis of consolidated national reports. The regional Action Plan outlines ways to improve implementation of the Convention within the region, assigning responsibility to each action (i.e., to the Committee, Secretariat, Advisory Bodies, State Party and/or Sites) and establishing a timeline for follow-up that includes presentations and decisions at specific COPs.^{48,49}

The World Heritage Convention provides for the inclusion of a property on the List of World Heritage in Danger, which may happen when the following conditions are met: a listed property is threatened by serious and specific danger; major operations are necessary for its conservation; and assistance has been requested by any Committee member or Secretariat. The danger may be ascertained, i.e. the property is faced with specific and proven imminent danger, or potential, i.e. the property is faced with major threats which could have deleterious effects on its inherent characteristics. In any case, the threat and/or its detrimental impact on the integrity of the property must be amenable to correction by human action, including action of an administrative or legal nature. When considering the inscription of a property on the List of World Heritage in Danger, the Committee shall develop, and adopt, as far as possible, in consultation with the State Party concerned, a desired state of conservation for the removal of the property from the List of World Heritage in Danger, and a programme for corrective measures. The Committee reviews annually the state of conservation of properties inscribed on the List of World Heritage in Danger.⁵⁰

State Parties also submit State of Conservation (SOC) reports each year for any area where circumstances may impact the Outstanding Universal Value, as well as areas already included on the List of World Heritage in Danger.⁵¹ Emphasis is placed on the reporting by State Parties, but if information on threats comes from external sources, it is relayed to the State Party for verification.⁵² SOC reports follow a standardized format that responds to decisions of the Committee, includes progress reports for

⁴¹ WHC Operational Guidelines, para 30.

⁴² WHC Operational Guidelines, para 153.

⁴³ WHC Operational Guidelines, para 203b.

⁴⁴ World Heritage Convention: Periodic Reporting Questionnaires Website
<http://whc.unesco.org/en/pr-questionnaire/>

⁴⁵ WHC Operational Guidelines, para 208.

⁴⁶ WHC Operational Guidelines, para 209.

⁴⁷ World Heritage Report no20: Periodic Report and Action Plan, Europe 2005-2006
<http://whc.unesco.org/en/series/20/>

⁴⁸ World Heritage Report no20: Periodic Report and Action Plan, Europe 2005-2006
<http://whc.unesco.org/en/series/20/>

⁴⁹ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.chd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

⁵⁰ WHC Operational Guidelines

⁵¹ WHC Operational Guidelines, para 169.

⁵² WHC Operational Guidelines, para 174.

implementing corrective measures and also provides updates regarding conservation issues and potential alterations.⁵³ Since 2003, the World Heritage Centre and the Advisory Bodies have reviewed and separated the reports into two groups; Reports that can be noted by the Committee but do not require discussion and reports that include recommendations to address threats but requires Committee discussion.⁵⁴ Discussion by the Committee, informed by comments of the State Party and the Advisory Bodies, can result in one of five decisions depending on the information available and the severity of the deterioration.⁵⁵

- i. no further action as the area has not seriously deteriorated;
- ii. area is maintained on the World Heritage List providing the State Party take measures to
- iii. restore the area within a reasonable timeframe. Technical support may be provided under the World Heritage Fund if the State Party requests it. State Parties may also invite an Advisory mission by the relevant Advisory Body to seek advice in addressing the threats.
- iv. if the condition of the area meets at least one of the criteria for ascertained or potential dangers⁵⁶, the area may be inscribed onto the List of World Heritage in Danger.⁵⁷
- v. if the area has irretrievably lost the characteristics that determined its inscription onto the World Heritage List, the area may be deleted.
- vi. If the information available is not sufficient, the Secretariat (in consultation with the State Party) may be authorized to investigate the present condition of the area, the threats to the area and the feasibility of restoration. Investigation may include a Reactive Monitoring mission, consultation with specialists or an Advisory mission. If emergency action is needed, financing from the World Heritage Fund may be allocated by the Committee through an emergency assistance request. ⁵⁸

Before an area is placed on the List of World Heritage in Danger, the Committee develops, in consultation with the State Party, a desired state of conservation and a plan for corrective measures.⁵⁹ Decisions to place the area on the List of World Heritage in Danger require a two-third majority of Committee members present and voting;⁶⁰ the Committee's decision is forwarded to the State Party and is also issued via public notice⁶¹ with the corrective programme proposed to the State Party for implementation.⁶² Areas on the List of World Heritage in Danger are reviewed annually via State of Conservation reports.⁶³

All possible measures should be taken to prevent the removal of any area from the World Heritage List.⁶⁴ If this is not possible, an area may be considered for removal if it has lost the characteristics that determined

⁵³ WHC Operational Guidelines, Annex 13.

⁵⁴ Decision 27 COM 7B.106 <http://whc.unesco.org/en/decisions/689/>

⁵⁵ WHC Operational Guidelines, para 176.

⁵⁶ WHC Operational Guidelines, para 178,180.

⁵⁷ WHC Operational Guidelines, para 183,191.

⁵⁸ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

⁵⁹ WHC Operational Guidelines, para 183.

⁶⁰ WHC Operational Guidelines, para 186.

⁶¹ WHC Operational Guidelines, para 187.

⁶² WHC Operational Guidelines, para 186.

⁶³ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

⁶⁴ WHC Operational Guidelines, para 170.

its inclusion onto the List.⁶⁵ A decision for removal requires a two-third majority of members present and voting, but a decision cannot be made unless the State Party has been consulted.^{66,67}

A Party may choose to change the boundaries of a World Heritage Site within its territory. If these boundary changes are significant (including both extensions and reductions), the Party submits the proposed changes in the same way that a nomination for a new site would be conducted. Such a process is also required if a Party wishes to modify the criteria used to justify a properties inscription, initiating the full evaluation cycle.^{68,69}

4. Vulnerable Marine Ecosystems (VMEs)

4.1 Background and Rationale for Designation

In 2006, the United Nations General Assembly (UNGA), through Resolution 61/105, called on regional fisheries management organizations (RFMOs) to adopt conservation measures to protect vulnerable marine ecosystems (VMEs) from significant adverse impacts of bottom fishing activities or to cease bottom fishing activities in areas where VMEs are likely to occur.⁷⁰ Vulnerable Marine Ecosystems (VMEs) contain populations, communities or habitats that may be physically or functionally fragile and are slow to recover following disturbance.⁷¹

A marine ecosystem should be classified as vulnerable based on the characteristics that it possesses on the basis of established VME criteria.⁷² Flag States and RFMO/As should conduct assessments to establish if deep-sea fishing activities are likely to produce significant adverse impacts in a given area. On the basis of these assessments, States and RFMO/As should adopt conservation and management measures to achieve long-term conservation and sustainable use of deep-sea fish stocks, ensure adequate protection and prevent significant adverse impacts on VMEs. These measures should be developed on a case-by-case basis and take into account the distribution ranges of the ecosystems concerned. In areas where VMEs have been designated, or are known or likely to occur, based on seabed surveys and mapping or other best available information, States and RFMO/As should close such areas to deep-sea fishing until appropriate conservation and management measures have been established to prevent significant adverse impacts on VMEs and ensure long-term conservation and sustainable use of deep-sea fish stocks.

⁶⁵ WHC Operational Guidelines, para 192.

⁶⁶ WHC Operational Guidelines, para 196.

⁶⁷ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

⁶⁸ WHC Operational Guidelines, para 166.

⁶⁹ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

⁷⁰ WWF, 2012, NAFO Supplement #2, Vulnerable Marine Ecosystems, http://awsassets.wwf.ca/downloads/vulnerable_marine_ecosystems.pdf.

⁷¹ FAO, International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, Annex 1, (FAO Guidelines), <https://www.sprfmo.int/assets/Meetings/Meetings-before-2013/Scientific-Working-Group/SWG-06-2008/SPRFMO6-SWG-INF01-FAO-Deepwater-Guidelines-Final-Sep20.pdf>.

⁷² FAO, International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, Annex 1, (FAO Guidelines), <https://www.sprfmo.int/assets/Meetings/Meetings-before-2013/Scientific-Working-Group/SWG-06-2008/SPRFMO6-SWG-INF01-FAO-Deepwater-Guidelines-Final-Sep20.pdf>.

4.2 *Process/Approach for Modification*

As per the FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, States and RFMO/As should regularly review the accumulating scientific information on deep-sea fish stocks, known or likely location of VMEs and the impacts of deep-sea fisheries on VMEs and the marine biodiversity that these ecosystems contain. And, where important uncertainties are identified, practical measures to reduce them should be pursued.⁷³

Many RFMOs have scientific procedures in place to review VME protection measures or in the case of new scientific information that could affect the designation.⁷⁴ The specific content of the review is dictated by the individual RFMO/A, which also conducts an annual compliance review that provides an opportunity to make changes to VME-related management measures.⁷⁵ These may lead to changes to VME-related management measures, or changes in the boundaries of the VME.

5. Man and the Biosphere Programme (MAB)

5.1 *Background and Rationale for Designation*

UNESCO's Man and the Biosphere Programme (MAB) promotes the conservation of biodiversity and the sustainable use of resources for both terrestrial and marine ecosystems⁷⁶. Biosphere reserves are sites where interdisciplinary approaches (i.e., natural and social sciences, economics and education) can be used to understand interactions and manage social and ecological changes.⁷⁷ Each biosphere is composed of three zones: 1) a core area with strict protection, 2) a buffer zone for scientific research, monitoring, and capacity building; 3) a surrounding transition area where the greatest activity is allowed, encouraging sustainable economic and social development (Article 4.5).^{78,79}

In order to qualify as a biosphere reserve, sites must contribute to conservation, foster economic and human development, and support environmental education, training, research and monitoring (Article 3). Sites are nominated by Parties, and the nominations are verified by the Secretariat (Article 5.1a). Nominations are considered by the Advisory Committee before a decision is made by the International Co-ordinating Council (Article 5.1). For a site to be included, it must include a management policy, a designated authority or mechanism to implement the management policy as well as programmes for research, monitoring, education and training (Article 4.7). There should also be arrangements for public authorities, local

⁷³ FAO, International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, Annex 1, (FAO Guidelines), <https://www.sprfmo.int/assets/Meetings/Meetings-before-2013/Scientific-Working-Group/SWG-06-2008/SPRFMO6-SWG-INF01-FAO-Deepwater-Guidelines-Final-Sep20.pdf>.

⁷⁴ CBD/EBSA/EM/2017/1/INF/1— Background Document on International Trends and Distinctive Approaches of Relevance to the CBD Process on Ecologically or Biologically Significant Marine Areas

⁷⁵ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

⁷⁶ Biosphere Reserves: The Seville Strategy & The Statutory Framework of the World Network <http://unesdoc.unesco.org/images/0010/001038/103849Eb.pdf>

⁷⁷ UNESCO Man and the Biosphere Programme Website: <http://www.unesco.org/new/en/naturalsciences/environment/ecological-sciences/man-and-biosphere-programme>

⁷⁸ Biosphere Reserves: The Seville Strategy & The Statutory Framework of the World Network <http://unesdoc.unesco.org/images/0010/001038/103849Eb.pdf>

⁷⁹ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

communities and/or private interests to participate in the design and functioning of the reserve (Article 4.6).^{80,81}

5.2 Process/Approach for Modification

Each biosphere reserve undergoes a periodic review every 10 years (Article 9.1). A report is prepared by the concerned authority of the area to assess the functioning, zoning, scale of the reserve and involvement of the local populations, which aligns with the criteria outlined in Article 4. The report is then considered by the Advisory Committee and the International Co-ordinating Council (ICC). If the status of the reserve no longer meets the criteria, ICC may recommend measures to ensure conformity with Article 4. The ICC will also inform the Secretariat on actions it should take to assist the State (Article 9.5).^{82,83}

States are encouraged to improve any existing biosphere reserve and propose extensions, as appropriate (Article 5.2). No process currently exists for downsizing. However, under Article 9.8, a State may remove a biosphere reserve by notifying the Secretariat. Notification is passed to the ICC and the area is no longer included in the biosphere network. A site may also be removed from the network if the ICC concludes that the reserve does not satisfy the criteria contained in Article 4 and corrective measures have not addressed the issue within a reasonable timeframe (Article 9.6). Following the decision by the ICC to remove a site, the Director-General of UNESCO notifies the concerned Party and the area is no longer referred to as a biosphere reserve (Article 9.7).^{84,85}

6. SPA/BD Protocol

6.1 Background and Rationale for Designation

The Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean (SPA/BD Protocol) adopted under the Barcelona Convention provides for the establishment of a List of Specially Protected Areas of Mediterranean Importance (SPAMI List). The aim of this List is to “promote cooperation in the management and conservation of natural areas, as well as in the protection of threatened species and their habitats”.^{86,87}

⁸⁰ Biosphere Reserves: The Seville Strategy & The Statutory Framework of the World Network
<http://unesdoc.unesco.org/images/0010/001038/103849Eb.pdf>

⁸¹ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

⁸² Biosphere Reserves: The Seville Strategy & The Statutory Framework of the World Network
<http://unesdoc.unesco.org/images/0010/001038/103849Eb.pdf>

⁸³ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

⁸⁴ Biosphere Reserves: The Seville Strategy & The Statutory Framework of the World Network
<http://unesdoc.unesco.org/images/0010/001038/103849Eb.pdf>

⁸⁵ GOBI 2017. Report on potential mechanisms through which areas recognised for their conservation value may be downsized or degazetted that may be of relevance for Ecologically or Biologically Significant Areas (EBSAs). Available at: <https://www.cbd.int/doc/c/3f16/14e9/dd57dec2817ff0be39651eca/ebsaem-2017-01-gobi-submission1-en.pdf>

⁸⁶ SPA/BD Protocol, Article 8(1). The SPAMI List is available at: <http://www.rac-spa.org/spami> (last checked 19 November 2017).

⁸⁷ [CBD/EBSA/EM/2017/1/INF/1](#)— Background Document on International Trends and Distinctive Approaches of Relevance to the CBD Process on Ecologically or Biologically Significant Marine Areas

As per Article 8 of the Protocol, proposals for inclusion in the List may be submitted:

- (a) By the Party concerned, if the area is situated in a zone already delimited, over which it exercises sovereignty or control;
- (b) By two or more neighboring Parties concerned if the area is situated, partially or wholly, on the high sea;
- (c) By the neighboring Parties concerned in areas where the limits of national sovereignty or jurisdiction have not yet been defined.

As per the Protocol, an area must fulfill at least one of the following general criteria to be eligible for inclusion in the SPAMI List:

- are of importance for conserving the components of biological diversity in the Mediterranean;
- contain ecosystems specific to the Mediterranean area or the habitats of endangered species;
- are of special interest at the scientific, aesthetic, cultural or educational levels.

In addition, the area should be evaluated for its Mediterranean interest as per the established criteria related to ecological and biological factors as well as cultural representativeness.⁸⁸ As well, a certain number of characteristics and factors should be considered as favorable to the inclusion of the site on the List, which include factors such as the existence of threats, involvement and active participation of the public, existence in the area of opportunities for sustainable development, and the existence of an integrated coastal management plan. As well, all areas eligible for inclusion, must be awarded a legal status guaranteeing their effective long-term protection. An area situated in a zone already delimited over which a Party exercises sovereignty or jurisdiction must have a protected status recognized by the Party concerned. In the case of areas situated, partly or wholly, on the high sea or in a zone where the limits of national sovereignty or jurisdiction have not yet been defined, the legal status, the management plan, the applicable measures and other elements provided for in Article 9 (para 3) of the Protocol will be provided by the neighboring Parties in the proposal for inclusion in the List.⁸⁹ A detailed management plan should be submitted within the first three years, otherwise the site may be removed from the SPAMI List.⁹⁰

The decision to include the area in the SPAMI List is taken by consensus by the Contracting Parties of the Protocol, which also approve the management measures applicable to the area. The Parties that proposed the area are to implement the protection and conservation measures specified in their proposal.⁹¹

6.2 Process/Approach for Modification

Article 10 of the Protocol states that “Changes in the delimitation or legal status of a SPAMI or the suppression or all or part of such an area shall not be decided upon unless there are important reasons for doing so, taking into account the need to safeguard the environment and comply with the obligations laid down in this Protocol and a procedure similar to that followed for the creation of the SPAMI and its inclusion in the List shall be observed.”

SPAMIs are reviewed in terms of their conservation status, their legal status, the applicable management methods, and the availability of resources and information. The evaluation places particular emphasis on changes in the status of protected species inside the SPAMI, the status of its habitats and the functioning of its ecosystems, changes in the management plan, the legal and institutional framework, and the applicable management and protection measures, and any change in the management body, its powers, means and

⁸⁸ SPA/BD Protocol, Annex I, Section B, para 2.

⁸⁹ SPA/BD Protocol, Annex I, Section C.

⁹⁰ SPA/BD Protocol, Annex I, Section D.

⁹¹ SPA/BD Protocol, Article 9.

human resources.⁹² Removal is considered when the adverse change to the site's status and features is irremediable, or in cases where the corrective measures that the Party concerned was requested to take were not implemented within the specified time period.⁹³

⁹² UNEP-MAP-RAC/SPA, 'Format for the Periodic Review of SPAMIs' (RAC/SPA 2008). http://www.rac-spa.org/sites/default/files/doc_spamis/spami_reveiw_ord_form_eng.pdf (last checked 19 November 2017).

⁹³ [CBD/EBSA/EM/2017/1/INF/1](#)— Background Document on International Trends and Distinctive Approaches of Relevance to the CBD Process on Ecologically or Biologically Significant Marine Areas