

**5<sup>th</sup> Meeting of the Sessional Committee of the  
CMS Scientific Council (ScC-SC5)**

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**DISCUSSION PAPER FOR THE SCIENTIFIC COUNCIL ON  
DECISION 13.140: DEFINITION OF THE TERMS "RANGE STATE" AND "VAGRANT"**

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submitted by the COP-appointed Councillor for Climate Change)*

**Summary:**

The aim of this document is to provide material for discussion by the Sessional Committee of Decision 13.140: *Definition of the Terms "Range State" and "Vagrant"*. The decision seeks practical guidance for CMS Parties, through interpretations of when the terms 'Range State' and 'vagrant' apply.

This document suggests a number of considerations that Parties might consider when deciding if they are a Range State for a particular species – in order to generate discussion at the 5<sup>th</sup> meeting of the Sessional Committee, with a view for further intersessional work being undertaken before the 6<sup>th</sup> meeting of the Sessional Committee in advance of COP14.

## DISCUSSION PAPER FOR THE SCIENTIFIC COUNCIL ON DECISION 13.140: DEFINITION OF THE TERMS "RANGE STATE" AND "VAGRANT"

### Background

1. The aim of this document is to provide material for discussion about Decision 13.140: *Definition of the Terms "Range State" and "Vagrant"*. The decision is as follows:

*The Scientific Council, subject to the availability of resources, is requested to:*

- a) *develop, as practical guidance for CMS Parties, interpretations for when the terms 'Range State' and 'vagrant' apply;*
- b) *report to the Conference of the Parties at its 14th meeting on the progress in implementing this Decision.'*

2. In Article 1 h), the Convention has defined the term "Range State"<sup>1</sup> as:

*"Range State" in relation to a particular migratory species means any State (and where appropriate any other Party referred to under subparagraph (k) of this paragraph) that exercises jurisdiction over any part of the range of that migratory species, or a State, flag vessels of which are engaged outside national jurisdictional limits in taking that migratory species.*

3. Resolution 13.7<sup>2</sup> *Guidelines for preparing and assessing proposals for the amendment of the CMS Appendices*, operational paragraph 6 states:

*Adopts the guideline that when a significant proportion of a geographically separate population of a migratory species occasionally occurs in its territory, that State should be considered a Range State.*

This guideline contains the terms "significant" and "occasionally" that are potentially subjective and therefore open to interpretation.

4. In Article 1 f) the Convention also defines the term "Range"<sup>3</sup> as:

*"Range" means all the areas of land or water that a migratory species inhabits, stays in temporarily, crosses or overflies at any time on its normal migration route.*

The separate definitions of range and Range State in the Convention can cause confusion as the definition here of range does not equate to Range State; the definitions of range and Range State interact – effectively the range of a species may encompass many Range States, plus potentially areas beyond national jurisdiction.

5. There are a variety of potential issues in the existence of a grey area between Range State status and vagrancy. It may therefore be difficult to determine whether the status of a Range State is in fact appropriate or if the species should be classed as a vagrant by a Party. Given that being a Range State for a species carries obligations under the Convention, it is important that Parties understand whether they have those obligations for a particular species or not. Clear interpretations of both vagrancy and Range State status are therefore needed to overcome such uncertainty and help Parties understand when they could or should be undertaking conservation action to maintain or improve the status of a species.

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<sup>1</sup> Article 1 h) <https://www.cms.int/en/convention-text>

<sup>2</sup> [https://www.cms.int/sites/default/files/document/cms\\_cop13\\_res.13.7\\_guidelines-assessment-listing-proposals\\_e.pdf](https://www.cms.int/sites/default/files/document/cms_cop13_res.13.7_guidelines-assessment-listing-proposals_e.pdf)

<sup>3</sup> Article 1 f) <https://www.cms.int/en/convention-text>

### Issues to consider in forming guidance

6. Any guidance that comes from Decision 13.140 should address how the terms should be interpreted with regards to the spatial and temporal characteristics of a species' migration pattern. It is possible that a Party may be a Range State now, but due to species' declines or changes in migration patterns, may not be a Range State in the future. Conversely, a Party may not be a Range State now, but could become so in the future. These scenarios (remaining or becoming a Range State) may well require different evidence or considerations by Parties – such as the length of time between observations of a species occurrence. Furthermore, a Party may also wish to consider that if a species once had its historical range in the country and may have since become locally extinct, the Party may still have suitable habitat for recolonisation of the species and it could benefit from the provisions of the Convention through this country continuing to regard itself as a Range State.
7. The definition of 'Range State' in Article 1 h) of the Convention includes reference both to the jurisdiction of a Party, and to 'flag vessels' of a State. The issue of how flagged vessels may affect Range State status needs to be considered carefully in terms of their potential impact on species, and whether they are operating in waters under the jurisdiction of another Country (which may or may not be a Party to the Convention), or in areas beyond national jurisdiction.
8. The number of times a species cyclically and predictably occurs in a country within a (recent) specified period, as well as the proportion of the overall species population are likely to be key characteristics in defining vagrancy and Range State status, but it may be difficult to assign strict numerical thresholds to the distinction between vagrancy and Range State status.
9. Another consideration for the guidance is allowing for flexibility in how species ranges may shift with climate change. Document ScC-SC5/6.4.5, which considers potential changes in species ranges as a result of climate change, is an important consideration in this respect.
10. Guidance should reflect the flexibility needed to assess Range State or vagrancy status on a case by case basis according to species and Party circumstances. Developing case studies that help to illustrate the issues would be helpful.
11. Case by case flexibility may also be needed to allow for differences in species-specific ecology, such as diet, home range, types of migration, species-specific relationships with plants or other fauna, or habitat requirements; all of which are factors that can affect a species' affinity to a certain area or may affect its range characteristics. For example, larger predatory animals and wide ranging marine species tend to have large home ranges and decisions should therefore allow for Range States that are likely to be within this range but may have unclear evidence for its presence in the area.
12. Another potential element to the guidance is conservation status. Differences in decisions on range status may be warranted depending on the threat level of the species; a Critically Endangered species on the IUCN Red List could perhaps be considered to have Range State status in countries where it may only appear occasionally and unpredictably.

### Issues of data and scientific resources

13. A key part in a Party's decision on Range State status will be the evidence available; including how recent observations are, how predictably a species occurs, and how reliable the records are. It is likely that consulting several information sources will be important – the guidance could help to identify what might be taken into account.

14. Scientific data on a species range may be biased towards collection for particular study purpose(s), and species distribution data may be more reliable in some areas than others due to the existence of relevant monitoring or surveillance schemes. Remotely sensed data could in some circumstances be used in the consideration of changes in habitat available for use by species with specific requirements.
15. Recent distribution data may also not be available for all species or taken at sufficiently regular intervals to know how often a species occurs in an area within a given period. Decisions may therefore need to be taken on a precautionary basis, or on a balance of evidence from a range of sources.

#### State-specific considerations

16. States may have different motivations for wanting to be part of an agreement or concerted action under CMS as a Range State. Flexibility in entering into agreements as a Range State may be needed within the guidance for the definitions to allow Parties freedom to take part given their individual circumstances, regardless of whether they are currently a range state for a species or taxonomic group.

#### Discussion and analysis

17. Providing guidance on these definitions for “Range State” and “vagrant” will be relevant to many CMS processes. Without further guidance errors in the interpretation of the Convention might arise; where for example, a vagrant species may be in such low numbers or occur unpredictably in a Country that they would not benefit from conservation action. Since conservation funds are often limited, it is important that resources can be directed to prioritised species conservation efforts which will ensure beneficial outcomes.
18. Given the issues identified above, the guidance will need to consider species occurrence within the state, whilst giving flexibility to allow for range shifts due to climate change. It may also need flexibility when dealing with considerations on species-specific requirements, conservation status and conservation value. It is also important to provide states with flexibility in implementing decisions around being a Range State to allow for maximum participation in the Convention.
19. In addition to this document, it is hoped that further information will be available to the Sessional Committee in an Information document.

#### Recommended actions

20. The Sessional Committee is recommended to:
  - a). Discuss the points outlined in this document at the 5<sup>th</sup> meeting of the Sessional Committee and identify whether any other issues should be considered;
  - b). Make recommendations for developing the practical guidance requested in Decision 13.140;
  - c). Consider convening an intersessional working group to further develop a document to be considered at the 6<sup>th</sup> meeting of the Sessional Committee, and by COP14.