Procedure for Handling of Appeals against the Identification of Key Biodiversity Areas

Introduction
The identification and delineation of Key Biodiversity Areas (KBAs) presented in the World Database of Key Biodiversity Areas™ are open to challenge. Appeals may be made against KBAs identified and delineated based on application of A Global Standard for the Identification of Key Biodiversity Areas (IUCN 2016; hereafter the Global KBA Standard), and in accordance with the Guidelines for using the Global Standard for the Identification of Key Biodiversity Areas (IUCN 2018; hereafter the KBA Guidelines). This does not include KBAs identified based on previous criteria (e.g. Langhammer et al. 2007, BirdLife International 2014) that have not been re-assessed under the Global KBA Standard or KBAs identified based on sub-global criteria.

The criteria, thresholds and delineation procedures themselves are not subject to appeal. Appeals may only concern the data that underpin the assessment or whether the criteria, thresholds, and delineation procedures have been applied in a way that is consistent with the Standard. Appeals for any other reason (subjective, political, economic, etc.) will not be entertained.

The Appeals process is coordinated by the KBA Secretariat. The KBA Standards and Appeals Committee (KBA SAC) is responsible for arbitrating over formal Appeals against the identification of particular sites as KBAs (Annex 3 of KBA Partnership Agreement signed 3 Sept 2016). The timeline specified below indicates maximum time limits for each step; all parties are encouraged to complete each step expeditiously.

Disagreements with Current Assessments
Any individual or organization, hereafter the “Appellant”, may contact the KBA Secretariat at any time to express disagreement with (i) the identification or delineation of any confirmed global KBA included in the World Database of Key Biodiversity Areas™, or (ii) nominated sites that were not confirmed as KBAs by the KBA Secretariat. In all cases, the preferred outcome is that disagreements are resolved equitably without recourse to a formal appeal.

If the disagreement is based on scientific, technical, or procedural grounds, the KBA Secretariat will put the Appellant in contact with the point of contact recorded in the World Database of Key Biodiversity Areas (e.g. independent Proposer or National KBA Coordination Group) or Regional Focal Point, as appropriate, with the intention of resolving the disagreement without entering a formal appeals process. If the disagreement concerns the identification or delineation of a KBA that is in the process of being reassessed, then the
Appellant should be included in the reassessment process, with the objective of reaching consensus on the new site assessment.

**The Formal Appeals Process**

If the above process is not successful in resolving the disagreement, a formal Appeal may be submitted. A separate Appeal should be submitted for each site. The attached flow diagram presents a summary of the formal appeals process. The steps to follow for filing Appeals are outlined below.

**Appeal Submission**

1. Formal Appeals may be submitted to the KBA Secretariat at any time after 1st May 2018¹.

A formal Appeal should be very brief (maximum of 2 sides of A4 paper in 12-point font), summarizing the points of disagreement, with explicit reference to the KBA criteria, thresholds and/or delineation procedures established in the Global KBA Standard and further described in the KBA Guidelines, and their application to the relevant data. The KBA Secretariat will acknowledge receipt of the Appeal, informing the Appellant of the date on which the Appeal was received, and will simultaneously notify the KBA SAC Chair and the KBA Committee Chair of the receipt of the Appeal.

**Discussion between Parties**

2. Within one month of the original receipt of the Appeal, the KBA Secretariat will request that the Appellant and Defendant (i.e. the independent Proposer, National KBA Coordination Group, or Regional Focal Point, as appropriate) discuss the Appeal with the objective of reaching an agreement between them. The Appellant and Defendant will be given four months to reach agreement from the date that the KBA Secretariat refers the Appeal to them. In seeking to reach agreement, the Appellant and Defendant should determine whether or not they are using the same underlying data. They should clarify whether or not the disagreements are due to factual discrepancies or differences in the application of the criteria, thresholds, or delineation procedures established in the Global KBA Standard.

3. If the Appellant and the Defendant come to agreement, both parties should inform the KBA Secretariat, outlining any modifications necessary to the site assessment. Any changes to the site assessment will be subject to the same review process as newly identified sites. Accepted changes will appear in the following update of the *World Database of Key Biodiversity Areas*™.

¹ Formal Appeals will not be accepted until 1st May 2018 to allow time for development of the *Guidelines for using the Global Standard for the Identification of Key Biodiversity Areas*. 

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64   If the Appellant and the Defendant are unable to agree within the time period set in step 2
above, the Appeal will enter the next stage in the process.

66   Justification Preparation and Submission
67   4. At the end of the time period set in step 2 above, if no agreement has been reached, the
KBA Secretariat will notify both the Appellant and the Defendant that each of them should
submit Justifications for their case to the KBA SAC via the KBA Secretariat. If applicable, the
KBA Secretariat will recommend relevant the Regional Focal Points, members of the KBA
Committee, and/or members of the Technical Working Group, that the Appellant and/or
Defendant could consult with in preparing their justification. The Justifications should reach
the KBA Secretariat within four months from the date that the KBA Secretariat issues this
notification. These Justifications should not be longer than eight sides of A4 paper in 12-point
font (excluding references), and should provide the data to support their respective positions.
The Justifications should include a brief statement of the reasons for the dispute, a synopsis
of the unsuccessful negotiations, and a clarification of any factual discrepancies (e.g.,
different sources of data or information used). All data used in these Justifications must be
referenced to publications or data sources that are publicly available or available on request
(unless otherwise indicated in the KBA Guidelines). The data provided should be clearly
linked to the criteria, thresholds, or delineation procedures established in the Global KBA
Standard and further described in the KBA Guidelines. If the Appellant fails to submit a
Justification within the set time period and in the required format, the Appeal will be
dropped and the KBA Secretariat will inform all parties. However, should the Appellant
submit a proper Justification (in timing and format), the Appeal will go forward to step 5
regardless of whether or not a Justification from the Defendant is received.

5. The KBA Secretariat will review the Justifications to ensure these are suitable for onward
circulation to each party and, if so, send the Justifications of each party to the other within
one week of the time period set out in step 4 above, or within one week of both Justifications
having been received. Both parties shall have three weeks in which to provide a 1-page
addendum to their Justifications, should they choose to do so. Any addenda received after
the three-week period will not be considered. The parties may not make any changes to the
original Justifications.

6. At the end of this three-week period, whether or not an addendum is received, the KBA
Secretariat will send the Appeal and Justifications to the KBA SAC for review.
Review by the KBA SAC

7. The KBA SAC will first determine whether or not the Appeal has been filed on the basis of the criteria, thresholds, or delineation procedures established in the Global KBA Standard. For example, an Appeal will be considered by the KBA SAC if:

- the Defendant did not adequately take into account relevant data that were publicly available or provided to the Defendant in a timely manner;
- the Defendant did not address the relevant criteria, thresholds, or delineation procedures set out in the Global KBA Standard or follow the KBA Guidelines; or
- the Defendant did not provide a reasonable explanation showing how their conclusion was reached by applying the criteria, thresholds, and delineation procedures to the best available data in line with the Global KBA Standard and Guidelines.

If the KBA SAC finds that the Appeal was not made on the basis of the criteria, thresholds, or delineation procedures established in the Global KBA Standard, it will be returned to the Appellant by the KBA Secretariat with an explanation as to why the Appeal cannot be considered. This response will be sent to the Appellant within one month of the receipt of the Appeal and Justifications by the KBA SAC. Appeals that concern matters of governance (such as the degree of openness and participation in the proposal process) will be referred to the KBA Committee.

Deliberation and Ruling

8. If the KBA SAC finds that the Appeal was made on the basis of the criteria, thresholds, or delineation procedures established in the Global KBA Standard, the KBA SAC will accept the Appeal for formal review (with a copy to the KBA Committee Chair, who will forward to the KBA Committee and its Technical Working Group). The KBA SAC may choose to circulate the Justifications to other independent expert reviewers for confidential comments. (An independent reviewer may not be an employee of the Appellant or Defendant or closely-related organization, or of any organization (KBA Partner or otherwise) associated with the identification and delineation of the KBA in question, and may not have a financial or other conflict of interest related to the identification or delineation of the KBA in question.) The KBA Committee and its Technical Working Group may also submit comments pertaining to precedents relevant to the Appeal, and the implications of any decision for practical application of the Global KBA Standard in the future, for consideration by the KBA SAC. The KBA SAC Chair should receive any and all comments within three months of the date of receipt of the Justifications. If needed, the KBA SAC may seek clarification of particular issues.

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2 Formal Appeals will not be accepted until 1st May 2018 to allow time for development of the Guidelines.
from the Appellant or Defendant. In instances in which the Defendant failed to submit a Justification, the KBA SAC will make every effort to obtain a balanced set of confidential comments from reviewers.

The KBA SAC will consider the Justifications, the confidential reviews, and comments from the KBA Committee and its Technical Working Group, and make a Ruling on each Appeal within five months from the time that the Appeal and Justifications were submitted to the KBA SAC by the KBA Secretariat. In the case of multiple Appeals, a longer period may be granted, at the discretion of the KBA SAC Chair. The KBA SAC Chair will issue a notification that will include a full rationale and explanation of each Ruling, but will not include a record of the deliberations that the KBA SAC made to reach its decision, and the names of any independent reviewers will be kept confidential. The KBA SAC will send this notification to the KBA Secretariat.

Notification and Publication of Final Ruling

9. The KBA Secretariat will send the KBA SAC’s notification to the Appellant, the Defendant and the KBA Committee. Any changes contingent upon the Ruling will appear in the next update of the World Database of Key Biodiversity Areas™. The notification of the Ruling on any Appeal, and any resulting change in assessment, will be posted on the KBA Website.

General Principles

Acknowledgement of Communications. During the formal Appeals process, the Appellant, the Defendant, the KBA Secretariat, the KBA SAC Chair, and the KBA Committee Chair should acknowledge the receipt of all correspondence among them as soon as possible after arrival, so that any failure in delivery is detected as early as possible.

Confidentiality. While an Appeal is being considered, the associated documents (including Justifications made by the Appellant and the Defendant) are confidential documents that will be shared only with the named entities listed in steps 1-8. The KBA SAC will circulate the Justifications only to independent expert reviewers who agree to adhere to the confidentiality of the process and accept that their reviews will eventually be made public, but not attributed. Final Rulings on Appeals made by the KBA SAC will include both Justifications and the reviews (without the names or affiliations of the reviewers) in the documentation posted on the KBA Website.

Repeated Appeals. In order to prevent continuing Appeals on the same site, whether from the same Appellant or others, the KBA SAC will not accept an Appeal, subsequent to the first Appeal, if it is not based on substantial new information.
Reassessment of Sites Following an Appeal. The first time that a site is reassessed following an Appeal, the KBA Secretariat will inform the KBA SAC and the reassessment will be reviewed by the KBA SAC.

Impartiality. The KBA SAC Chair is appointed by the Chairs of the IUCN Species Survival Commission (SSC) and World Commission on Protected Areas (WCPA) Steering Committees, who are responsible for ensuring that Appeals are handled professionally and impartially. Prior to publishing the Ruling on an Appeal, the KBA SAC Chair will send a brief report to the SSC and WCPA Chairs, with a copy to the KBA Committee Chair, confirming that the above process was followed to reach the decision, or outlining any deviations from the process that had to be made. Under no circumstances will the KBA Committee or the SSC or WCPA Steering Committees involve themselves in the substance of any Appeals, except as specified in step 8 above.

Special Cases

Deviations from the Process. Every effort will be made to avoid deviations from the process as laid out above. In the event that this becomes necessary, these will be clearly communicated to all parties.

Complaints about the Appeals Process. If there is an assertion that the above procedure has been violated, then a formal and documented complaint may be submitted to the SSC and WCPA Chairs.

References


1. Formal Appeal submitted to KBA Secretariat. KBA Secretariat acknowledges receipt of Appeal and confirms date of receipt (start date).

2. KBA Secretariat refers the issue to the Defendant and requests both parties to enter discussion with the objective of reaching agreement within four months.

3. Both parties inform KBA Secretariat, outlining any modifications necessary to assessment.

4. KBA Secretariat requests the Appellant and Defendant to submit Justifications for their case within four months.

5. KBA Secretariat copies submitted Justifications to both parties; addenda added if necessary.

6. KBA Secretariat sends Justifications to KBA SAC for review.

7. KBA SAC determines whether the Appeal is based on application of the Global KBA Standard.

8. KBA SAC considers Justifications and independent reviews and makes Ruling.

9. KBA Secretariat notifies Appellant and Defendant of Ruling.

Any modifications to assessment appear in the next update of the World Database of KBAs.

Any modifications to assessment appear in the next update of the World Database of KBAs, and notification of Ruling is published on the KBA Website.