



## Brexit: plant and animal biosecurity

### Written evidence for the House of Lords EU Energy and Environment Sub-Committee by Wildlife & Countryside Link

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Wildlife and Countryside Link (Link) brings together 48 environment and animal protection organisations to advocate for the conservation and protection of wildlife, countryside and the marine environment. Link is the biggest coalition of environmental and animal protection organisations in England. Our members practice and advocate environmentally sensitive land management, and encourage respect for and enjoyment of natural landscapes and features, the historic and marine environment and biodiversity. Taken together we have the support of over eight million people in the UK and manage over 750,000 hectares of land.

This response is supported by the following organisations:

- Amphibian and Reptile Conservation
- Angling Trust
- British Canoeing
- Buglife
- Plantlife
- The Rivers Trust
- RSPB
- RSPCA
- Wildfowl and Wetlands Trust

*This submission has been prepared by the Wildlife and Countryside Link Invasive Non-Native Species (INNS) Working Group and therefore primarily focuses on biosecurity and Brexit in relation to INNS. However, an effort has been made to bring in wider biosecurity issues where they are relevant to Link members and consistent with the aims of the working group.*

#### **1. What are the implications of the UK's withdrawal from the EU for the UK's biosecurity in terms of animal and plant health, invasive species and food safety?**

**1.1. The UK's withdrawal from the EU poses both risks and opportunities for national biosecurity. In leaving Europe Government must ensure that these risks are mitigated and opportunities are capitalised upon. We are concerned that not enough priority is being given to ensuring biosecurity is effective post Brexit, particularly with regard to preventing the arrival of invasive non-native species (INNS).**

1.2. According to a 2010 report commissioned by Defra, the cost of INNS to the UK economy was £1.7 billion.<sup>1</sup> Updated for inflation, this cost increases to over £2 billion in 2018.<sup>2</sup> However this cost is very likely to be an underestimate due to the spread of INNS in the intervening years. Add to this figure the cost of plant and animal disease, and the cost of ineffective biosecurity to the UK economy becomes even greater.

<sup>1</sup> [The Economic Cost of Invasive Non-Native Species to Great Britain](#)

<sup>2</sup> <https://www.wcl.org.uk/multi-billion-pound-bill-from-nature-invaders-set-to-soar-post-brexit.asp>



- 1.3. In 2016/17, expenditure by the Animal and Plant Health Agency (APHA) on biosecurity was £217 million, of which just £922,000 (0.5%) went towards invasive non-native species.<sup>3</sup> Of this tiny percentage, just £335,000 was spent on early action and rapid response measures. This is despite preventative and early action being significantly more cost effective than eradication once species have become established.
- 1.4. This lack of resources has led to all of the UK's administrations failing to meet deadlines for implementation of statutory biosecurity measures under the EU Invasive Alien Species (IAS) Regulation (1143/2014), such as putting in place effective measures to manage already widespread INNS. The Government has also failed to implement the Ballast Water Management Convention which came into force in September 2017, therefore not addressing this key pathway for marine INNS.
- 1.5. To effectively manage the risks and opportunities posed by the UK's withdrawal from the EU:
- resourcing of biosecurity must be made more proportionate to its cost to the UK economy and the size of the threat it poses, and funding must be appropriately spread across the different biosecurity threats (i.e. plant health, animal health and INNS);
  - all relevant EU legislation must be fully and effectively converted into domestic law, including through the provision of both criminal and civil penalties and sanctions (the extent of which is currently being consulted on);
  - the body(ies) responsible for implementation and enforcement of biosecurity measures must have statutory underpinning and resources to undertake this work effectively.
- 1.6. **New trade deals pose significant risks and opportunities.**
- 1.7. It is inevitable that trade patterns will change following the UK's withdrawal from the EU. This is not inherently a bad thing for biosecurity, and indeed it provides opportunities to improve the UK's biosecurity in some areas. However, improvements will only be made if all future UK trade deals have biosecurity at their core. A significant effort must be made to ensure that new and uncontrolled pathways for INNS to enter or be exported from the UK are not created.
- 1.8. Depending on the nature of trade agreements between the UK and EU, either party will have the opportunity to increase surveillance at borders for imported goods and products that are deemed to be high risk. This could constitute an improvement to our biosecurity, as high risk imports such as potted plants (a key pathway for terrestrial invertebrate INNS) could be subject to more stringent control.
- 1.9. However, a consequence of the UK's membership of the EU and therefore the single market is that the UK has relatively little internal expertise in managing biosecurity at its own borders. Given our concerns outlined above about lack of commitment to and resourcing of biosecurity in the UK, we are concerned that Government will not invest sufficiently in the additional expertise and training required to ensure biosecurity standards are strengthened post Brexit.

## ***2. Will the transfer of law via the EU (Withdrawal) Bill be sufficient to ensure that current legislative protections remain in place?***

- 2.1. **The EU Invasive Alien Species (IAS) Regulation is a vast improvement on domestic INNS legislation. We are concerned that the EU (Withdrawal) Bill will fail to effectively convert key aspects of the Regulation into domestic law.**
- 2.2. Despite widespread acceptance of the principle of prevention, current domestic legislation does too little to prevent the deliberate or inadvertent release of INNS into the UK's environment. Although Section 14 of the Wildlife and Countryside Act 1981 makes the release of alien species (with varying definitions being applied by different Administrations) into the wild an offence, it fails to reduce the risk of deliberate or inadvertent release by restricting the presence, in both captivity and

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<sup>3</sup> [www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?page=1&max=20&questiontype=AllQuestions&house=commons%2clords&member=4551](http://www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?page=1&max=20&questiontype=AllQuestions&house=commons%2clords&member=4551)

the wild, of dangerous INSS within the UK. In addition it is very difficult to prove intent and there has only ever been one prosecution of this offence. In contrast, the EU IAS Regulation places a strong emphasis on the need for prevention and, as such, provides a much stronger set of restrictions on species listed under the Regulation to prevent and manage their introduction into the territory of the EU.

- 2.3. The EU IAS Regulation provides for a significant strengthening of wider UK biosecurity measures when compared to existing domestic legislation. This includes statutory requirements for early eradication of INNS, emergency response measures, surveillance networks, pathway prevention measures and reporting and review requirements.
- 2.4. Full and proper implementation of the EU IAS Regulation would see a significant contribution towards the UK's delivery of its international obligations under the Bern Convention, the Convention on Biological Diversity and the United Nations' Sustainable Development Goals.
- 2.5. We welcome the Government's commitment to convert all EU-derived law into domestic law, including the EU IAS Regulation, through the EU (Withdrawal) Bill. However, we are concerned that some essential components of the EU IAS Regulation will not be brought across effectively. These are as follows:
  - The process by which species (or other taxonomic entities) are risk-assessed and included or removed from the EU list currently involves academic experts, the European Commission and representatives of all EU Member States. This process must be replicated within the UK with clearly defined bodies having responsibility for managing this process. Replacement of this process by, for instance, Orders of Council issued by the Secretary of State, would be unacceptable.
  - There must be a clearly defined process and timescale for annual review of any UK list or lists. The principle of lists for geographic entities smaller than the EU (i.e. regional and Member State lists) should be converted into domestic law to allow the creation of sub-UK lists, including offshore island-specific lists. The same rigorous process should apply to removal of species from a UK list or lists post Brexit.
  - The EU IAS Regulation makes reference to a variety of other pieces of EU legislation. It does so primarily in two contexts: i) in reference to supporting the aims of other, primarily environmental, pieces of EU legislation (e.g. Marine Strategy Framework Directive, Water Framework Directive); and ii) in defining the scope of the Regulation. All legislative synergies between the EU IAS Regulation and other EU legislation must be maintained as they are converted into domestic law, in particular the link to the wider biosecurity and environmental acquis.

### **3. To what extent is a shared approach to biosecurity between the UK and the EU necessary and / or appropriate post-Brexit?**

- 3.1. **Regardless of the nature of the UK's future relationship with the EU, cooperation on biosecurity matters must continue to the greatest possible extent.**
- 3.2. It is widely recognised, for example in *Guiding Principles 4, 7, & 9* of the *Convention on Biological Diversity's COP 6 Decision VI/23*, that as INNS do not recognise anthropogenic political boundaries, transboundary co-operation between nation states is essential if the INNS threat is to be effectively managed.
- 3.3. The UK currently benefits from collective biosecurity measures through detection and information-sharing within the EU. Given that strong trade and transport links (and therefore introduction pathways) between UK and the rest of Europe are likely to continue to exist post Brexit, cooperation must continue to the greatest extent possible. Particular consideration should be given to the island of Ireland as INNS do not respect administrative boundaries. A shared approach to biosecurity is also necessary for the marine environment as marine species are not restricted by terrestrial barriers and management and control measures are hugely difficult and costly. This should include retaining access to the EU IAS Information System and novel IAS detection

notifications, allowing for new and/or emerging threats to be identified quickly and for appropriate biosecurity measures to be implemented.

#### **4. Should the UK retain the precautionary principle in its implementation of biosecurity legislation after leaving the EU?**

##### **4.1. The UK must retain the precautionary principle in its implementation of biosecurity legislation after leaving the EU.**

- 4.2. A precautionary approach has the potential to mitigate significant costs and damage to native ecosystems, as preventing the establishment of INNS is much more cost effective than managing already established species. Without a precautionary approach, it is likely that a species will already be having a detrimental impact in the UK before sufficient evidence is gathered to put restrictions in place. Furthermore, many species have lag phases (some lasting decades) where they show no invasive qualities in the UK, but risk assessment (a cornerstone of the precautionary principle) highlights this risk and allows for preventative action to be taken.
- 4.3. In addition, the World Trade Organisation (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) states that, in applying restrictions on trade, the best available evidence must be used. Where the evidence is not conclusive members should make decisions based on the level of risk shown in existing evidence.
- 4.4. Therefore, as outlined in the EU IAS Regulation, a lack of currently available academic evidence should not preclude a lack of action and the precautionary principle should be applied at all times.
- 4.5. The rationale for prevention of the spread of plant and animal diseases is comparable to that for INNS, so a precautionary approach must be taken towards all biosecurity post Brexit.
- 4.6. Indeed, the Government must keep its commitment to uphold standards of environmental protection in the EU (Withdrawal) Bill and give the environmental principles (e.g. precautionary and polluter pays) a clear and strong standing in UK law.

#### **5. What biosecurity risk assessment, inspection and management is currently carried out by the EU that will need to be repatriated post-Brexit, and are there any resource challenges associated with this?**

##### **5.1. To maintain the academic rigour of INNS legislation post Brexit, the function of the Scientific Forum must be repatriated to the UK.**

- 5.2. One of the great strengths of the EU IAS Regulation is its foundation in evidence and academic rigour. The EU IAS Regulation requires an independent academic body (referred to as the Scientific Forum) that provides guidance and scrutiny on the implementation of the IAS Regulation, and which prevents the inclusion of any species on the List of Species of Union Concern where the evidence does not presently support its inclusion. We believe this of great benefit to the IAS Regulation as:

- it provides a check against the inclusion of inappropriate species (i.e. those species that are not entirely consistent with the aims of the Regulation);
- it prevents abuse of the IAS Regulation for purposes not wholly consistent with the aims of the Regulation;
- it provides legitimacy to the decisions of the political authorities;
- it can improve the efficiency of decision-making of political authorities by ensuring time is not spent debating the political considerations of species for which the evidence does not currently support their inclusion on the list;
- it contributes to ensuring the precautionary principle is appropriately applied;
- it significantly aids our compliance with requirements of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPSS Agreement).

- 5.3. A statutory function for independent academic oversight by experts will be required to ensure accurate replication of this process post Brexit. This function could be carried out by extending the remit of an existing body (a model for this could be the Advisory Committee on Releases to the

Environment<sup>4</sup>) or fall under the remit of a newly created body, such as the proposed 'environmental watchdog' on which the Government is due to consult.

- 5.4. The EU IAS Regulation refers to the academic body as the 'Scientific Forum'. However, we would emphasise that the process should capture a variety of rigorous expert knowledge. The majority of expertise should, for obvious reasons, come from the biological sciences but expertise should also be sought from economists, social scientists and those whose knowledge may help tackle INNS e.g. engineers or computing scientists.
- 5.5. Clearly the resource implications of replicating this process are significant, but it is essential that the appropriate resources are allocated to maintaining the academic rigour of the EU IAS Regulation post Brexit for the reasons stated above. The Government's current lack of commitment to resourcing INNS gives us cause for concern in this regard.

## **6. *To what extent is a common biosecurity framework across the UK necessary post Brexit?***

- 6.1. **Constitutional arrangements across the four countries of the UK with regard to implementation of INNS policy must be enforceable and ecologically coherent.**
- 6.2. Invasive alien species policy is devolved to the UK's Devolved Administrations. However, not all aspects of the EU IAS Regulation relates to devolved competencies, for example management of the UK's external borders remains reserved to Westminster. In the absence of the co-ordinating role of the EU, the variety of jurisdictions responsible for implementing the IAS Regulation in the UK could result in the incoherent and ineffective implementation of the IAS Regulation in the UK post-Brexit. The biogeographical divide between Great Britain and Northern Ireland must be taken into account, especially as some species native to Great Britain are regarded as INNS in the island of Ireland.
- 6.3. We make no comment on what constitutional arrangements are needed to implement the EU IAS Regulation in the UK post-Brexit, but any arrangement must be ecologically coherent across the UK and not lead to unnecessary barriers to enforcement. Any future constitutional arrangements must be co-developed and co-owned by all legislatures of the UK and involve thorough consultation of stakeholders.

## **7. *How should biosecurity be managed on the island of Ireland post-Brexit?***

- 7.1. INNS are a significant threat to biodiversity on the island of Ireland and can easily cross borders unless effectively managed. Many of the species on the EU IAS Regulation 'List of Union Concern' occur in Northern Ireland and/or the Republic of Ireland. Such issues are currently being addressed via the joint 'Invasive Species Ireland' project supported by the Northern Ireland Environment Agency and the National Parks and Wildlife Service.
- 7.2. Any proposed UK common biosecurity framework would need to take cognisance of the existing land and sea border between Northern Ireland and the Republic of Ireland. The island of Ireland comprises a single bio-geographic unit, with the two countries sharing common geology, landscapes, water catchments, and flora and fauna. It is important that these are cared for in a consistent and coordinated way. We believe that for Northern Ireland these common standards also need to be aligned as closely as possible with Republic of Ireland if we are to effectively tackle environmental cross-border challenges.

## **8. *Are there steps the UK can take post-Brexit to strengthen its biosecurity, in ways currently prohibited by EU membership?***

- 8.1. **Biosecurity legislation could be significantly improved post Brexit by reducing duplication of mechanisms and resources and aligning approaches across the UK.**

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<sup>4</sup> <https://www.gov.uk/government/organisations/advisory-committee-on-releases-to-the-environment>

- 8.2. Although the UK's membership of the EU does not impose legal barriers to improving its biosecurity legislation, the political barrier of needing agreement from all 28 member states represents a significant political barrier.
- 8.3. Outside of the EU, the UK has the opportunity to rationalise its biosecurity legislation by reducing duplication of mechanisms and resources across disparate departments and agencies. This would be a great improvement on the current situation, whereby each area of biosecurity tends to have its own legislative and regulatory framework, despite very similar action being required across all areas. Spending across all aspects of biosecurity could also be benchmarked, affording invasive non-native species in particular equal resource priority to other areas.
- 8.4. There is also opportunity to bring an important aspect of biosecurity legislation in line across the UK. In England and Wales it is an offence to release or allow to escape into the wild any animal of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state. It is also an offence to release or allow to escape into the wild any plant or animal of a kind listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended). Similar restrictions apply in Northern Ireland, under the Wildlife (Northern Ireland) Order 1985 (as amended). We recommend that restriction on release of plants and animals into the wild in England, Wales and Northern Ireland is brought into line with current legislation in Scotland, where it is illegal to release or allow to escape from captivity any plant or animal (with the exception of two species of game bird) "outwith its native range", regardless of whether the species has become established in the wild. This approach is more straightforward and more comprehensive than that in operation elsewhere in the UK, it makes sense geographically and avoids the need to constantly review and update a schedule of non-native species.

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