



Proposal for EU Regulation on Invasive Alien Species (IAS)

EIFAAC welcomes the publication of the proposed Regulation on IAS and agrees that coordinated action to tackle IAS will benefit all of the Member States (MS) in the Union. This Regulation represents an important and timely step in Europe's ongoing struggle to stem the influx of IAS and to mitigate the negative environmental, economic, social and health effects that result from these species. The proposed Regulation is comprehensive, well-structured and embraces most of the areas of concern relating to IAS, whether they are present in a country or merely threatened.

The resource implications of the proposed Regulation for all EIFAAC-affiliated countries are significant but it is recognised that urgent, coordinated, perhaps dramatic and costly action is necessary if each country is to preserve its own natural biodiversity and unique heritage against the insidious threat posed by IAS.

There is little or no reference to funding to aid MS (Member States) in the Regulation or in the preamble to it. EIFAAC suggests that the Regulation should make reference to European financial instruments that could or should be targeted for funding to aid in the development of surveillance, early detection, rapid response, management or restoration systems necessitated by the Regulation. Funding is particularly important as the Regulation will impose significant resource and cost requirements at both national and pan European levels.

The proposed Regulation requires MS to implement measures to prevent the introduction and spread of invasive alien species within the EU region. It is deemed by EIFAAC to be of at least equal importance to prevent potentially invasive species entering from non-EU regions. This puts different pressures on different MS, depending on where they are located within the EU, which is not fully considered in the proposal. Some EU countries have long borders with non-EU countries, like Finland with Russia. Apart from commercial pathways, like customs, these borders are difficult to control. There are, for example, large numbers of freshwaters crossing the border that create biological pathways for invasive species. In such instances the need for emergency measures to restrict or prohibit potential spread is obviously greater than between the EU borders that support similar preventative strategies. In addition, in these situations it would be important to seek cooperation with the neighboring non-EU country in preparing an agreed strategy to prevent the entry of invasive species. Here, rapid response would be rendered more effective if information was available on the potentially invasive alien species that were known to be present across the border in the non-EU region. Equally, it would be important for the non-EU countries to be in possession of a list of the species that might pose problems in the non-EU region.

It is unclear who or what organisation will coordinate the roll-out and overall implementation of the Regulation at an EU-level. Also, will there be a scientific advisory board or how will the scientific relevance of the various Articles in the Regulation be assured?

It is vitally important that information relating to the Regulation and its proposed implementation is shared extensively among the public and stakeholders throughout the EU. It is suggested that there should be an invasive alien species portal managed by the Commission.

Following a review of the proposed regulation (2013/0707) by EIFAAC, a number of specific comments and recommendations that are deemed pertinent to EIFAAC countries are presented below.

Explanatory Memorandum

This is an excellent introduction and provides the rationale for the development of the Regulation and the processes undertaken to bring it to this draft stage.

Under the *Objectives of the Proposal* (P. 3 line 2) it is considered that the sentence should read "...action to prevent the introduction of IAS and to minimise and mitigate the".

Preamble / Intent of Proposed Regulation (P 7 – 14)

Again, this section sets out clearly the broad intent of each of the articles proposed in the Regulation.

(2) It is recommended that the word 'small' relating to islands should be removed and the sentence should read "... such as islands and island nations...". This would recognise the often distinctive biodiversity associated with some islands off our coasts but would also recognise the unique biodiversity extant in island nations, such as Ireland, Britain and on large islands including Sardinia, Corsica or the Faroe Islands.

(3) While it states that 'only live specimens, or parts that can reproduce, that represent a threat to biodiversity and ecosystem services, human health or the economy', it is worth noting that human health can be impacted by exposure/ingestion of toxins or pathogens present within dead invasive specimens e.g. exposure to giant hogweed.

(10) The inclusion of "... or even unlikely to be affected" in the third sentence of this section would appear to be both unnecessary and confusing.

(12) It is clear that the system by which species are added to or excluded from the list must be evaluated regularly, but it is not clear who will conduct this evaluation. Will scientists be involved in this process? Will each MS have a direct input or will it be conducted by a committee within the EU? If it is the latter, will the membership of this committee be known to the MS and will the individual MS be permitted to input into the evaluation system?

(14) As above, we agree that the list of IAS of Union concern will need to be constantly revised and updated, but whose function will this be and will the individual MS be permitted to be involved? Scientific input into such considerations will be important.

(15) The provision of a list that names the outermost regions would be helpful (perhaps as an appendix).

(19) It is not clear why this section on unlisted species is included in the proposed Regulation, considering that the primary focus of the Regulation is those listed species of IAS that are deemed to be of Union concern.

(24) Reference to Directive 2010/63/EU on Protection of Animals used for Scientific Purposes should be made here.

(26) It is agreed that a centralised information system to collate all of the data on IAS, risk assessments, permit authorisations, etc. is required but who will be responsible for operating this repository? Will it be contracted out to an external body or be the preserve of the EU administration?

Proposed Regulation

Chapter I General provisions

Article 3

The term ‘micro-organisms’ as used in this Article, and throughout the text, should be defined as it is unclear exactly what it refers to. It would also be useful to define (and list or provide examples of) ‘outermost regions’.

Article 4

In section 11 of the Explanatory Memorandum (see P 9) it is stated that “The Commission will do its utmost to submit a proposal for a list based on those criteria within one year of the entry into force of this legislation to the Committee”. This suggests that the list of IAS of Union concern may not be formalised for at least one year after the legislation has been passed. Not knowing what species are actually on the list (i.e. the list of species requiring measures) will make it difficult for MS to build capacity to deal with the legislation (e.g. training for border control officials) or to carry out the appropriate risk assessments and to identify potential pathways of introduction.

The proposal to restrict the list to 50 IAS of Union concern is regarded by EIFAAC as being restrictive for the Union as a whole, and different MS will have strong views as to which species should be included. Again, who will preside over the ultimate decision making process and will all MS have an input? The number to be included in the list is even more restrictive as section 13 of the Explanatory Memorandum (see P 10) lists seven species that “should be considered as a matter of priority” for inclusion – before any discussions commence.

Will details of the selection process, criteria and reviewers of the 50 IAS of Union concern be made available to MS? It will be important to have appropriate scientific and technical experts on this selection committee, in addition to government and other representatives. The membership of this committee or at least its constitution in respect of scientific, technical, stakeholder, government or other representative should be made known to the MS or the competent authorities within the MS.

It would appear that if it is deemed necessary to add a species to the list of 50 (under the Emergency Measures of *Article 9*), even if this is only relevant to one MS or a single area of the Union, then one of the existing 50 IAS must be removed (*Article 9(4)*).

If this is the correct interpretation of the Regulation it will be important for individual MS to understand the process, criteria and reviewers used to decide which species should be dropped from the list? This being the case, it will be necessary to rank or prioritise the list from 1 to 50. Who will perform this prioritisation process and what will the ranking criteria be? Thus, if it is deemed necessary to add a species to the list then the species ranked at number 50 will be removed. Needless to say, the ranking of the species from 1 to 50 will be a cause for considerable debate among the MS.

EIFAAC agrees that “... it is necessary to ensure that the list of invasive alien species of Union concern is constantly revised and kept up-to-date” (section 14 (see P 10)). However, as it is proposed that the risk assessment system by which the list will be developed will only be evaluated after five

years (section 12 (see P 10), no changes to the list would be possible over this five-year period. It is further stated in Article 19(3) that the list of IAS of Union concern will be assessed “within 5 years from (date of adoption)”. EIFAAC would like to seek clarity on these timelines and confirmation that the list of IAS of Union concern could be updated within the 5 year period.

Article 5

Regarding the risk assessment process, a number of clarifications are sought, as follows:

- Who will decide whether the Commission or the MS conducts the risk assessment?
- Whether the risk assessment is conducted by the individual MS or the Commission, what process will be used to review the submissions?
- Presuming an expert panel is selected to provide an objective scientific, technical and economic evaluation of the risk assessments, how will the panel be selected and what will the criteria for selection be? Will the technical and evaluation process used to select and prioritise the list of species be defined?
- Will there be a consultation process following preliminary evaluation and how will this process be conducted?
- Will the evaluation process be open to scrutiny by the individual MS? Who will ultimately approve the final list?

If the list of IAS of Union concern is to be prioritised (1 to 50), an agreed marking scheme for the risk assessments, per species, will be required. As stated above, EIFAAC would like to understand more about this prioritisation process and what the ranking criteria might be. This is essential to ensure a fair and equitable system.

It is considered that the Commission should agree with individual MS the appropriateness or applicability of selected risk assessment methodologies, before the process commences. While the proposed Regulation lists elements to be included in any risk assessment methodology used, it is not clear if all or any of the different risk assessment methodologies currently in use in different countries in Europe will be acceptable to the Commission.

It is imperative that the risk assessment methodologies to be used throughout the Union are agreed as appropriate for this selection process before any assessments commence

Chapter II Prevention

Article 9

Any MS that is seeking the emergency measure is given up to 24 months from the day of the adoption of the decision to introduce these measures to carry out a risk assessment. For an emergency measure this delay is too long. While the MS that has sought the emergency measure will be permitted to immediately take action against the species, neighbouring and other MS will not. As a consequence, these countries will possibly be exposed to the threats posed by this species. It is recommended that the risk assessment should be completed and submitted to the Commission within 6 or a maximum of 12 months.

Adoption of a species under the emergency measure will ensure that it is added to the list of 50 IAS of Union concern. The consequence, however, will be the dropping of one of the existing 50 species. EIFAAC is not sure of the appropriateness of this measure.

Article 10

Each MS will need to develop a list of IAS that affects its territory, additional to those IAS of Union concern, if this has not already been done. Article 10 (2) states that MS shall inform the Commission and other MS of this list. The Regulation is unclear on the purpose of this process. For example, will this list carry any obligations or prohibitions regarding the possible transmission (intentionally or unintentionally) of these listed IAS from one MS to another.

Section 3 should include a condition to undertake a risk assessment of potential pathways to other MS.

Article 11

It is not clear to whom the 'awareness raising measures' in 3(a) refer?

Chapter III Early detection and rapid eradication

Article 12

This article refers to all IAS of MS concern and not only those of Union concern. EIFAAC would like to clarify the significance of the word "official" in 12(1).

Article 19 states that MS shall report to the Commission on pertinent findings from the surveillance system within three years of the date of entry into force of the Regulation and 18 months after the official surveillance system is in place. It also obligates MS to report at intervals of four years thereafter. For clarity, EIFAAC would recommend that reference to Article 19 be included in Article 12.

Article 13

13(1) states that fully functioning structures to perform the official controls shall be in place 12 months from the date of entry into force of the Regulation. From a review of the proposed Regulation it appears probable that the list of 50 IAS of Union concern will not have been formalised at this time (section 11 of the Explanatory Memorandum (see P 9)). This will pose difficulties with regard to developing appropriate guidelines and targeted training programmes to facilitate the identification and detection of these species for the customs/border officials (and others). EIFAAC would recommend that this time frame be examined and perhaps extended to 18 months.

Article 15

It can be difficult to eradicate existing and established IAS without the use of methods that have been sanctioned by the EU. Examples include the use of specific herbicides (e.g. diquat or dichlobenil) to target invasive plant species that are known to be susceptible to the activity of these chemicals or even natural piscicides (e.g. rotenone) for invasive or selective fish control. EIFAAC would welcome the position where MS were facilitated in the Regulation to seek derogations from the Commission to permit the controlled and strictly authorised use of such prescribed agents.

Chapter IV Management of IAS that are widely spread

Article 17

EIFAAC would like to clarify why this article only refers to species that are widely spread.

There is no time frame for actually taking management action and reporting to the Commission on same. The article merely states that, "... by 12 months..... MS shall have in place management measures...." EIFAAC recommends that a time frame for this be specified in the Regulation.

Article 18

EIFAAC would like clarity on the definition of “proportionate” in the context of restoration measures.

2(a) refers to the effects of disturbance. It is presumed that this refers to the disturbance caused by the presence of IAS of Union concern. If so, this should be included in the Regulation. Note: Habitat restoration is a relatively new and developing science and successful / effective methods are not yet available for all habitats and circumstances. Habitat restoration can also be very costly to implement.

Chapter V Final provisions**Article 20**

Information support for implementation of the Regulation will be important to each of the MS and should be deemed as ‘urgent’ or ‘necessary’ in this article, rather than being “... gradually established”. While it is clear that data emanating from the implementation of the Regulation will not be available for some time after it comes into force, worthwhile information support systems that are currently in place in Europe can be used to commence the data distribution and compilation process. EIFAAC recommends that a time frame for implementing these information support mechanisms should be put in place in the Regulation.

Article 22

How will the membership of the Committee be selected and will the MS have a role in selection? EIFAAC would like to ensure that the committee would have access to scientific, technical, management, policy, and governance expertise.

Article 27

Two years after the list of IAS of Union concern has been agreed and published is a long time for commercial stocks of these listed species to be legally maintained for sales purposes. Indeed, article 17 obligates MS to have in place management measures to deal with such listed species just one year after the list is published. EIFAAC would recommend that the transitional period be reduced to a maximum of 12 months.

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