

single country can solve on its own; increased cooperation and effective measures adopted by affected countries are needed. The proposed IAS Regulation therefore represents a vital step in addressing this problem in the EU, which is expected to be further exacerbated by climate change, habitat destruction and increased global trade and travel.

A responsive and robust system to tackle the impacts of IAS necessitates the introduction and enforcement of bans on the deliberate release or introduction of IAS into the environment. The IAS Regulation

Proposals have been made enabling Member States to apply derogations from the Regulations obligations, where evidence indicates that a established species is not invasive in their territory or incapable of causing significant negative impacts on bio diversity, ecosystem services, human health or the economy; or where measures taken would result in disproportionate costs. Examples include species that allegedly do not cause significant problems when their distribution is constrained by climate, like the Water hyacinth (*Eichhornia crassipes*) or when they occur in small numbers, like the Monk Parakeet (*Myiopsitta monachus*). Such derogations would, due to the nature of the IAS problem, lead to a system where increased efforts of some Member States both human and financial resources would be undermined by inaction of those Member States granted a derogation. The increased travel, trade, and tourism associated with free movement in EU internal market have facilitated intentional and unintentional movement of species beyond barriers, where they would be considered non-invasive or too expensive to tackle. As such, derogations regarding these activities could further contribute to the spread of IAS in Europe.

It should also be noted that risk assessments are unlikely to be able to predict with certainty in all cases whether a species is incapable of causing significant impacts on biodiversity or ecosystem services, human health or the economy, as they are based on an estimate of the likelihood of invasiveness. Such certainty would require extensive knowledge of various aspects of invasion over a long time period, including a full understanding of the species, its evolutionary tactics and of the implications of commercial activities involving the species and sufficiently robust monitoring systems. Risk assessments also have to contend with the considerable time lag shown by many species between introduction and invasion, and the effects of climate change.

In addition, when it comes to derogations on the basis of excessive and disproportionate costs, one cannot disregard the experience of similar derogations in other fields of environmental law. The implementation of the Water Framework Directive (WFD), for example, is fundamentally undermined and its objectives threatened by the widespread use of exemptions and the ability of Member States to postpone measures on the basis of them being disproportionately expensive.

Member States should not be allowed to derogate from action on species that have been found in accordance with the procedures laid out in the IAS Regulation to be of Union concern, and require EU level action to prevent their further introduction, establishment and spread. This would undermine a protective system designed to benefit all Member States. A system with no derogations would also ensure consistency across all Member States which would support the single market, as well as providing legal certainty and clarity for the public and businesses.

#### Authorising certain commercial activities involving invasive alien species of Union concern

Similar arguments hold true for derogations from general ban that would authorise certain commercial activities involving IAS of Union concern (e.g. animal farming, fur production and horticulture). These derogations are being proposed by a few Member States to protect their industry, via extension of Article 8 of the proposed IAS Regulation (i.e. through permitting). In the past, species such as American mink (*Neovison vison*), raccoon dogs (*Nyctereutes procyonoides*) and coypu (*Myocastor coypus*) have escaped or have been deliberately released from fur farms and have made their way into the environment, even reaching offshore islands, where they have caused considerable damage to protected native fauna and flora. Three of these species are listed in the 100 worst IAS on the DAISIE database. If they are listed under the EU IAS Regulation as species of Union concern, but commercial entities are allowed to continue using them, this would be a serious oversight. The restrictions contained in the Regulation should apply to all activities for all species defined as being of Union concern. The environmental and economic costs for EU

## Derogation from the obligation to remove populations in the earliest stages of invasion (Article 16)

One of the Guiding Principles for tackling IAS under the Convention on Biological Diversity states, where it is feasible, eradication is often the best course of action to deal with the introduction and establishment of invasive alien species. The best opportunity for eradicating invasive alien species is in the early stages of invasion, when populations are small and localised. Upon detection, removing the populations in the early stages of invasion should be a priority, since removal, done in a proper and humane way, benefits all Member States and is the most cost-effective approach if a species has already been introduced. In the case of animals, it also impacts on fewer individuals than longer-term controls.

However, the proposed Regulation currently introduces in the part referring to early detection and eradication (Chapter III of the IAS Regulation) the possibility of derogation from the obligation to eradicate in these early stages of invasion when certain conditions are met (e.g. on technical or economical