



Environmental Audit Committee

Oral evidence: [Invasive species](#), HC 913

Wednesday 12 March 2014

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Written evidence from witnesses:

- [Defra](#)

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Members present: Martin Caton (Chair), Neil Carmichael, Zac Goldsmith, Mark Lazarowicz, Caroline Lucas, Caroline Nokes, Mr Mark Spencer, Dr Alan Whitehead

Questions 235–280

Witnesses: **Lord De Mauley**, Parliamentary Under-Secretary of State for Natural Environment and Science, Department for Environment, Food and Rural Affairs, and **Trevor Salmon**, Head of Invasive Non-Native Policy and Domestic Species Conservation team, Department for Environment, Food and Rural Affairs, gave evidence.

Q234 Chair: Good afternoon. Welcome to this meeting of the Environmental Audit Committee. First, can I apologise on behalf of our normal Chairperson, Joan Walley, who has a commitment in her constituency? I am going to kick off with a question. The draft EU directive on invasive species is currently being negotiated. Can you bring us up to speed on progress on those negotiations, especially any changes to the draft and whether the UK has what it was looking for, basically?

Lord De Mauley: Thank you very much indeed, Chair. I think we are almost at the point where we have an agreed text. I will today be writing to the Chairs of the respective Lords and Commons scrutiny committees. We do not have absolutely everything that we want, but we think in the round it is satisfactory. I wonder whether it would be sensible if I were to write to you with more detail on exactly where we are on it.

Q235 Chair: We would certainly appreciate that, thank you. We have heard a range of estimates of the economic cost of invasive species. What is the Government's estimate and are you able to forecast future costs in coming years?

Lord De Mauley: Yes. To put this in context, of nearly 2,000 non-native species in the country, nearly 300 are currently considered to be invasive non-native species because they have a negative ecological or human impact. One hundred and seventy-odd are non-

native animals and just over 100 are non-native plants. As I say, they threaten biodiversity and ecosystems and we estimate that they cost the UK economy at least £1.8 billion a year, which is equivalent to direct costs such as management and indirect costs such as losses to business.

Q236 Chair: Thank you very much. A fortnight ago Professor Chris Thomas told us that to some extent the need to tackle some invasive species hinges on a subjective judgment about what particular ecosystems should look like rather than being driven by the risk of species becoming extinct. What is your view on that?

Lord De Mauley: Would you mind if I turned to my colleague for an initial answer on that? I might then add to that if I can.

Chair: Certainly. Mr Salmon?

Trevor Salmon: Yes, thank you, Minister, Chair. I think the answer—you will not be surprised to hear this—is it is probably a bit of both. When we undertake a risk assessment, we look at a range of different issues: biodiversity, economic interest, human health and suchlike. Within that, the level of threat to an ecosystem and all its components, including the individual species, will be taken into account. What we would look at is not just national extinctions. For example, if we were looking at a species that was highly likely to become near extinct, something like the white-headed duck in Spain where our ruddy duck has been hybridising with it and threatening its extinction, we would react very swiftly. We would also look at local extinctions, which could happen on a site by site basis, and try to weigh up the actual cost. There is not an easy answer. Consideration would be given on a case-by-case basis, but if we were looking at the genuine global extinction of something, that would be of paramount importance to us.

Q237 Chair: I think that was, in fact, Professor Thomas' concern. He was very concerned about climate change, plants and animals moving, if you like, or finding their natural habitat at a different latitude, for want of a better word. Therefore, if you are too strict on controlling biodiversity, you might be denying a habitat to something that could be globally threatened. Do you see that as a potential problem?

Lord De Mauley: I think these things are to some extent a matter of judgment. For me, the thing that I am really focused on is species that are coming at us from abroad that are likely to be damaging. For me, that takes priority in strategic terms at the moment. Longer term, we will be able to turn our minds to your question.

Q238 Mr Spencer: Obviously, we need to be in possession of the facts, so we need to know where these invasive species are coming from, so surveillance is going to be very important. When you are drawing up plans for the invasive species strategy, will surveillance have a high or low priority?

Lord De Mauley: Certainly, surveillance is extremely important and that takes in a variety of forms, including eyes and ears overseas and discussions with the parallel agencies to our own, and also near in. For example, as you will well be aware, one of the species we are most concerned about is the Asian hornet. Beekeepers along the south and east coasts are part of the monitoring process with traps and so on, so that they are waiting for them. Yes, surveillance is absolutely at the top.

Q239 Mr Spencer: Is there a rapid response protocol for the Asian hornet? How many other species are there in that category that require that level of response?

Lord De Mauley: As I say, I think the Asian hornet is probably top of the list of concerns, but there will be a number of species that we are concerned about. Yes, indeed, there is a rapid response protocol.

Q240 Mr Spencer: Can you give us a figure? Is it possible to identify how many species have that rapid response protocol in place?

Lord De Mauley: We can prepare a rapid response rapidly for things that come to our attention. To some extent, it is a bit dangerous to put a number on it.

Q241 Mr Spencer: How many are on the shelf today? If you went to the shelf in DEFRA, how many have—

Trevor Salmon: We have six that are fully worked up—the Asian hornet is one of them—but those have come out of the risk assessment process, which has hundreds within it. In looking to decide that we are going to respond rapidly and that we are going to do something in some way, shape or form, either eradication or control, we need to prioritise that action. We have identified six at the moment and we can give you details of those. They are on the Non-Native Species Secretariat’s website and we can point you to those.

Q242 Mr Spencer: New Zealand has a specific systematic surveillance protocol. Is that something that you have looked at or something you would want to copy, or are we devising our own model?

Trevor Salmon: In effect, that is what we have done through our risk assessment process. As the Minister said, we look at horizon scanning, trying to forecast things that are going to come here as well as things that are here that may have been dormant but are likely to spread because of climate change, as has been said. We would undertake risk assessments of those and in doing that we would obviously take expert advice from academics and suchlike, but also talk to our conservation agencies, Natural England and co, to confirm what has been said. In effect, that is the surveillance, looking at what might come here and what the impact is at the moment and keeping on top of that.

Q243 Mr Spencer: Right. Niall Moore came to speak to the Committee a fortnight ago from the Non-Native Species Secretariat. He gave evidence to say that DEFRA has found 37 possible pathways on which invasive species could enter the country. What are the main ones? Of those 37, which are the big ones, if you like, that are going to be the corridor in?

Lord De Mauley: Sorry, I am just looking for a specific answer to that. The two obvious pathways in are through trade and through tourists returning. For example, I mentioned the Asian hornet and we expect that that could come across the channel through a combination of flying and being blown across. There are also marine pathways and a variety of others. Do you want to add to that?

Trevor Salmon: The only thing I would add is, as Niall Moore said a couple of weeks ago, it is an area where we are undertaking a study at the moment to do exactly what you asked, to prioritise, so that we know we have identified them. There will be some that are more important and we are more able to tackle, so we are undertaking a study that should report later this year that will indicate a pecking order of which is the most important.

Q244 Mr Spencer: Which are the most difficult to regulate, then? Obviously, if you have come as a passenger through an airport, you are fairly well scanned, but obviously I would not have thought that we inspect every box of bananas, fruit or furniture. Which are the most difficult to regulate and to protect?

Lord De Mauley: They all present challenges. I suppose those that do not involve humans to some extent are even more difficult—species that are wind blown or some of the marine ones. As you say, in terms of trade, whether by air or by sea, you have to take a risk-based approach to inspection, so that also presents its own issues.

Q245 Mr Spencer: Is it fair to say that those species that come from mainland Europe are probably similar to what we have in the UK and would have natural predators, but those that are coming from further afield may not have a natural predator in our ecosystem and so pose more danger? Are we concentrating more efforts on those from further afield?

Lord De Mauley: As a generalisation, it certainly would seem that way to some extent. For example, Japanese knotweed did not have a natural predator here; Himalayan balsam likewise. On the other hand, there are species that exist in some parts of Europe that do not exist in others, so an assessment must be made of each.

Q246 Chair: Mr Salmon, I do not know if you are aware of the research being done in Wales—I think commissioned by the Welsh Government—by Natural Resources Wales in partnership with Bangor University, which is looking at novel monitoring systems for invasive species in the marine environment. Are you aware of that?

Trevor Salmon: I am aware of it. I do not know the details of it, but it has been mentioned within the non-native species programme board that we operate which oversees the protection strategy. That tries to bring everyone together so that we know what research is taking place.

Q247 Chair: Sorry, is the UK Government doing similar research on other novel monitoring systems?

Lord De Mauley: We work very closely with the DAs so we would not be duplicating work, but we hope to benefit from each other's work. Each of the devolved Administrations is a member of the programme board of the INNS strategy, so we know what each other is doing and can avoid duplication.

Q248 Zac Goldsmith: Just two brief questions, the first one to the Minister. Can you tell us how urgent you think it is that we ratify the ballast water convention as a means of trying to control the movement of invasive species to the UK?

Lord De Mauley: I should say that that is not within my Department's jurisdiction, but we do not feel we are yet in a position, as I understand it, to ratify the ballast convention as work still continues at the IMO to clarify how the sampling and analysis can be undertaken. Without final processes and procedures in place, we feel that the convention cannot be effectively enforced, so that means that we do not like to—

Q249 Zac Goldsmith: I understand that it is not your Department and it is not your immediate responsibility, but is there any kind of timeline on that? Is there an official position in relation to the Government's proposed compromise? If the agreement is not acceptable as it is, do we have an alternative proposal?

Lord De Mauley: Well, what I can say is that we are continuing to work through the IMO to develop the scientific processes that will enable a sampling and analysis of ballast water to be undertaken in a manner that can be consistently applied not only in the UK but also internationally. I cannot go further than that, I am afraid. I do not know the answer, but I can, of course, arrange for you to be informed.

Q250 Zac Goldsmith: That would be very useful. I have another question, just going back to the point that Mr Spencer was making in terms of the routes in for invasive species. One such route that has been repeatedly highlighted in the evidence we have taken is, I suppose, an obvious one and that is the horticultural trade, in particular the mature trees with very large root balls, which cannot obviously be policed because they are ecosystems in and of themselves. There have been a number of proposals in relation to trying to discourage the import of mature trees that could easily be grown in this country. There have been proposals to introduce levies, for example. The money collected would be used to help finance some of the work that we are talking about today. I am just interested in knowing where the Government's thinking is on this at the moment.

Lord De Mauley: It is a subject that is close to my heart because not only does that relate to invasive non-native species but it also relates to things such as tree diseases, of course, so it is something I have given a certain amount of thought to. Indeed, in the context of the new common agricultural policy we have looked at ways in which we can encourage people to grow more trees in this country, for example. That is not easy because clearly we must not do anything that upsets the single market and we would not want to do that. I think it is fair to say that only a relatively small proportion of non-native species that are imported escape and establish in the wild and only a small subset of those are invasive. On the levy that you suggest, I think it would be disproportionate to impose that against sales of all exotic species.

Q251 Zac Goldsmith: Could I come back on that point? The closest example to my constituency is the oak processionary moth, which is just one species that was brought in on mature trees, we believe, into a garden centre in Kew. It now costs every year more or less what it would have cost had we dealt with it decisively in the first year; we are looking at not shy of £1 million a year costs across the board in order to deal with this problem. That is significant and clearly the taxpayer is paying for that, even though this is an avoidable error made by elements of the horticultural trade. These are oak trees that could very easily have been grown in this country. I would just put that into the mix.

Lord De Mauley: Yes, and I have a lot of sympathy for that argument, which is why the inspection process for imports is very important indeed. For reasons that you will know well, we are paying a very great deal more attention to that than I think has been paid in the past.

Q252 Caroline Lucas: Another part of the response to invasives is control and eradication. You have explained that you had rapid response plans for six invasives. For how many invasive species do you have an action plan in place for controlling or eradicating them?

Lord De Mauley: I am going to have to turn to the expert.

Trevor Salmon: A small number but—there is always a “but” on that—we have undertaken, as I mentioned earlier, several hundred risk assessment processes. Those risk assessment processes will make recommendations to the programme board for implementation by Natural England and others and they will be taking things forward. We have a small number because for a small number of cases, a small number of species, the issues are very contentious. Rather than just telling Natural England to get on and deal with it, we have to work out how to do it. We have to work out how to get access and things like that. There are a large number of species that are subject to action but very few

action plans because they are generally not contentious; it is fairly black and white for Natural England what they should be doing and they get on with it.

Q253 Caroline Lucas: Could you just give an example of the kind of contentiousness you mean?

Lord De Mauley: Differentiating between one that does need a specific plan and one that does not.

Trevor Salmon: Where you are trying to find a novel biocide or suchlike, there is sensitivity around that and you need to develop that. You have to work out where the money is going to come from and how it is going to be done. That might need an action plan. Particularly sensitive cases are those where you are going to need widespread access to private land and suchlike. How you go about that is particularly sensitive.

Q254 Caroline Lucas: With limited resources available, how do you decide which invasives should be most actively controlled? I guess part of that is to do with the criteria that you use for your rapid response, but will you also be applying the polluter pays principle? As I understand it, that is set out in the EU regulation as a possible way to try to recover the costs of restoring ecosystems. If you can identify a degree of culpability for a species coming in, can you then use the polluter pay principles in some way? If so, how are you planning to do that?

Lord De Mauley: To answer your first question, there is a need to balance the invasiveness of the species, the feasibility of eradication or control, the broader environmental impact of the control measure itself and, of course, the cost-effectiveness of such a measure. We take all those into account in prioritising which invasive non-native species we address. The secretariat is currently developing a risk management protocol to formalise and increase the transparency of the decision-making process on that.

You ask about polluter pays. I am not sure that we are at a stage where we can really address that, are we?

Trevor Salmon: Not in relation to the regulation. As you say, it has been discussed but we are waiting to see what the final version is. At a very simplistic level, talking about penalising someone who has caused harm, it is currently an offence under section 14 of the Wildlife and Countryside Act to release a non-native animal into the wild and there are penalties associated with that. Plants that are listed in schedule 9 are in the same position. If we are able to identify the perpetrator of the crime, if you like, there are penalties already in place.

Q255 Caroline Lucas: I guess the follow through of the polluter pays principle is the implication that at least those penalties would be ring-fenced and somehow used then to fund extra surveillance, in other words to help your overall project. Is that something that you would envisage?

Lord De Mauley: I do not think it is something that has been done in the past, but I am attracted to the principle, so may I keep that one in mind?

Q256 Caroline Lucas: My last question is about climate change. Clearly, with climate change steadily increasing the number of potential invasive species being established here, I wonder how you are factoring that into your decision-making processes. How realistic

is it to try to return ecosystems to their pre-invaded states if the actual climate is changing and, therefore, the norm, if you like, is changing along with it? How is that factored into the work that you do on this?

Lord De Mauley: We will address that as part of the strategy. We are not yet, I think, at the point at which we are wholeheartedly welcoming new species because our existing species are dying out because of climate change. We are focused at the moment still on preventing new invasions and on tackling, to the extent that we can, and controlling those that we have here. We might reach the situation you have described, but at this stage I do not think we are there yet.

Q257 Caroline Lucas: Would it be true to say that at the moment climate change does not factor as a critical part in the decisions that you are making on invasive species? It is not a factor that at the minute you are taking into account?

Lord De Mauley: No, I would not say that, no. It is very much in mind but it is early days. The wheels move quite slowly and we have had a strategy that we have been working on since—well, it started in 2008. If you like, we are trying to deal with the immediate problems and we will—

Q258 Caroline Lucas: I do not want to put words in your mouth, but it feels to me as if you are saying, “Climate change we recognise is going to be an issue but it is just not an operational consideration for us at the moment.” Would that be true to say?

Lord De Mauley: It is very much front of mind but we have to deal with the immediate problems. That is what I mean.

Q259 Caroline Lucas: I appreciate it being front of mind but I suppose all I am trying to say is: is there an action that flows from it being front of mind? Does that change anything other than the fact that sooner or later it will have to be considered?

Lord De Mauley: Okay. In the very specific detail, it is considered as part of the risk assessment process. It already is embedded in the risk assessment process. That is fair to say, isn't it?

Trevor Salmon: Yes.

Q260 Neil Carmichael: I want to ask you about Europe and the way in which it is influencing these matters. First of all, we effectively have two lists. The member states are requested by the European Union to look at a list of problem species and, of course, England has its own list. Does having to deal with two lists present a problem in definition, or are the two lists effectively the same list?

Lord De Mauley: The European Commission has commissioned a consortium led by the Centre for Ecology and Hydrology to develop criteria for assessing the risk posed by INNS. It will be completed by late August. We would expect any criteria to take account of the factors addressed in our own risk assessment mechanism. It will also need to take account of the need for EU-wide listing such as whether this will significantly reduce the risk posed by the species. The economic benefits of a species should not automatically take precedence over the impacts on biodiversity or society at large.

Q261 Neil Carmichael: Do you have any concerns about how much time and effort you will have to give under the EU directive to horizon scanning species not yet known to pose a risk here?

Lord De Mauley: No, I do not because we should be, and believe we are, doing that already.

Q262 Neil Carmichael: Okay, great, thank you. The European Commission announced last week that a regional co-operation approach would be followed for species that are native in some parts of Europe but not in other parts. The example that we have on our minds is the killer shrimp. How is that going to work?

Lord De Mauley: We were talking about that just before I arrived here. Can I ask Mr Salmon to answer that?

Trevor Salmon: Yes, I certainly can do. For my pleasure I was involved in some of the discussions and trying to work out exactly what this very question meant. The view has been taken that for things like the Ponto-Caspian shrimps and suchlike there should be a high degree of co-operation between the countries where they are native, Bulgaria and Romania particularly, and other countries where they are not native. On a number of the mechanisms contained in the draft regulation, things like surveillance, pathway action plans, management plans, it would be sensible to co-operate across Europe. That is what it is there for. We would see that regional co-operation working through surveillance, through pathway action plans, through management plans, sharing of experience, not just in the countries where the species are native but countries along the pathway that have suffered before us.

Q263 Neil Carmichael: Is any sort of accountability mechanism going to be in place? Obviously, some countries are going to be more involved than others.

Trevor Salmon: There will be obligations, I am sure, contained in the regulation to do certain things along the pathway or in particular countries where they have been invaded. If you do not do that, they are likely to self-spread to other countries, so one would expect that to be in the regulation.

Q264 Neil Carmichael: Last but not least, with regard to harmful species in England and Wales, some witnesses have been effectively uncertain as to the mechanism for listing species in schedule 9. It is complicated and so forth. How do you think that could be improved giving greater weight to available scientific evidence? Basically, is schedule 9 strong enough, good enough? Is it operational in the sense that we have been discussing? Should it be improved?

Lord De Mauley: We believe that the schedule does provide an appropriate mechanism for helping to prevent the release and establishment of non-native species in the wild. We think the process is adequate and proportionate. It may be that there is a communication issue and it would be interesting to hear, when we review the evidence, whether there is something we can do about that.

Q265 Neil Carmichael: Yes, I think that is a good point because, of course, this field is surprisingly complicated. Presumably, there are a lot of people who need to be singing from the same hymn sheet, effectively, on this subject. How do you think that can be achieved?

Lord De Mauley: Can you address that, Trevor?

Trevor Salmon: Yes. Just going off at a bit of an angle, we were talking about some of the evidence that was given before and I think there might be confusion as to what takes a long time. We would consult on what needs to go in schedule 9 and consult when we have

a proposal and that is how we get views. We have not been made aware of any particular concerns about the time it takes to put things on the list. What we are aware of and can share with you is the time it has taken to list five aquatic species for restrictions against their trade. The statutory instrument is within sight of coming into force for that. That did take a long time, partly because it was the first time we had done that. The powers came out of the NERC Act so it was the first time we did that. It caused a lot of confusion and concern not just for us but for those that we were consulting. We expect that process to get faster if and when it is needed in the future.

Neil Carmichael: As familiarity develops, basically?

Trevor Salmon: Among the trade, NGOs and ourselves, everyone going through that process.

Neil Carmichael: Right, okay. Thank you.

Q266 Chair: Can I just jump in here on something that we have picked up during this inquiry? Some witnesses have suggested schedule 9 would be more effective if guidance on how or whether to control listed species was supplied by DEFRA. Have you considered doing that?

Trevor Salmon: We would probably need specific examples because we do issue guidance. The Environment Agency issues guidance. Natural England would issue guidance on how to tackle particular invasive species or pests and suchlike. I think we would probably need some specific examples or we could give you some examples of the sort of guidance that we do give.

Chair: I am sure we can set up a chain of communication and give you more detail on the actual evidence that we have had.

Q267 Caroline Nokes: Do you think that there is a case for developing regulations on invasive species in tandem with policy on biosecurity? Would that give you the best approach?

Lord De Mauley: First of all, I can say that Ministers are regularly briefed in a holistic fashion on animal and plant health issues, forestry issues, invasive native species—

Trevor Salmon: Aquaculture would be another one that springs to mind.

Lord De Mauley: —and aquaculture. We look at it in a holistic way. I may turn to Mr Salmon in a moment, but I think the ecologies and specific characteristics of the organisms in question might mean that one needs a slightly different approach to each.

Trevor Salmon: I would perhaps venture to look at the convoy analogy. We do not want to wait for the last one in the route, so where we know we have a problem, we get on with it. Looking at developing legislation in tandem, I would just mention that within Europe, and we have talked about the EU invasive alien species regulation, they are also reviewing animal and plant health legislation. That is also within our Department, so we are making sure that issues are raised across all of those discussions, so there is consistency. I do not think we would want to wait until the slowest in the train before tackling a particular issue.

Q268 Caroline Nokes: Following on from that, are you saying that the EU invasive regulation should be integrated into the existing animal and plant health legislation?

Lord De Mauley: I think not. We do not obviously make their decisions on that; we are one of 27. I think the answer is that the EU invasive native species regulations are going to proceed on their own, as it were.

Q269 Caroline Nokes: Okay. Moving away from the EU, interestingly, invasive species are also having a significant impact on the biodiversity and ecosystems of our overseas territories. What is DEFRA doing to help those territories improve their biosecurity?

Lord De Mauley: Of course, overseas territory biosecurity issues have to be considered in the context of the constitutional relationship between us and the OTs. Territory Governments are themselves, as you know, constitutionally responsible for the protection and conservation of their natural environments. Having said that, we work with them. We provide to them technical advice and support, and support is provided through mechanisms such as Darwin Plus, environmental mainstreaming, and through the direct provision of technical advice and expertise, including via the JNCC. As well as providing support, we are also encouraging territory Governments to share expertise among themselves, an example of which is the cross-Caribbean effort to co-ordinate a response to combat the invasive lionfish.

Tackling invasive species is clearly a major problem, but I know that a lot of important work is being carried out across the OTs; for example, the rat eradication work on South Georgia. I would be very keen to listen to the Committee's views on how we can improve our support of OT Governments to tackle the spread of invasive species. I think part of that is in co-operation with NGOs and the private sector.

Q270 Dr Whitehead: The Law Commission has been looking at the scope for wildlife crime reform overall. It is in line to produce its findings later this summer. DEFRA has, I understand, asked the Law Commission to produce its conclusions ahead of the general report and produce a specific report on invasive species legislation, particularly in terms of access to land, reporting and things such as that. Why has DEFRA made that request? Is there a particular view of the urgency of this reform in relation to other reform or are there other factors at work?

Lord De Mauley: Addressing invasive species is always an urgent business, because early eradication is critical to tackling the threats they pose. I do not know that I can say more than that. Is there anything you would like to add?

Trevor Salmon: No, just very briefly to acknowledge that everyone knows it has taken a long time to eradicate ruddy duck. We have a number of other eradication programmes where we have run into difficulties, so it would be good to seize the opportunity of the Law Commission review to see at an early stage what their recommendations are.

Q271 Dr Whitehead: Have you taken any view or will you be taking any view on what recommendations you will accept and the timetable for any legislation that might be introduced subsequent to that?

Lord De Mauley: I think it is too early to say. We need to see what those recommendations are.

Q272 Dr Whitehead: For example, we know that they are proposing that the Government adopt the Scottish system of control agreements, species control orders, and of access to property where reports have been made in order to undertake eradication, which is a

pretty unclear issue at the moment. Those sorts of issues are known. Is the Department taking a view on them at the moment?

Lord De Mauley: Yes. I think there is a strong case for species control orders and we are considering that carefully at the moment. I do not make the legislative programme, as you know, but I will look to make the case for them because they are likely to be a helpful tool.

Q273 Dr Whitehead: Yes. The other aspect of this particularly is the question of the extent to which, say, the Environment Agency and Natural England may be given new powers to use any control orders that may be introduced. Do you think they should have anything to accompany those new powers, such as a statutory duty to investigate and to institute control orders where there are action plans in place already for species and where at the moment, as has been said in terms of existing eradication programmes, perhaps that process has proved rather lengthy and discursive? Do you have any thoughts on that or do you have any particular views on what role Natural England and the Environment Agency might then play?

Lord De Mauley: Yes. In terms of whether a species control order will allow entry, for example, without landowner permission, I think one would only be looking at granting species control orders where one is in a very exceptional situation and where all other efforts have failed. The Law Commission does recommend that in those circumstances there should be new powers of entry to support the species control order regime. Those powers that the Law Commission contemplates would be available for our agencies to carry out surveillance or control operations where access has been refused by a landowner. Without such powers, there could be no guarantee that the necessary operations could be carried out, which is the core purpose of these provisions.

Q274 Dr Whitehead: The difference may be in terms of what might go a little bit beyond that basic link between what the Law Commission is proposing and what agencies might do in terms of the extent to which those agencies might have a power of initiation, that is, if there is a species control order, to what extent those agencies can be proactive in terms of entering and implementing as opposed to, as it were, entering premises as the last resort if all else has failed.

Lord De Mauley: I agree those are the sorts of issues that we will ultimately need to make decisions on. I do not think the thought process is there yet, but we have a process to go through in order to do that. You are absolutely right; those are the issues we have to decide on.

Q275 Mark Lazarowicz: First of all, my apologies for missing the first few minutes of your evidence. The session started a bit earlier, so I apologise for that. The control order measure could be an important tool when using these so-called rapid response protocols. Do you see the use of the control order procedure being a standard measure for dealing with species where there is a rapid response protocol in place?

Lord De Mauley: I see them being a tool that is used in exceptional circumstances, as I said earlier, where all other efforts have failed and where entry has been deliberately refused. Do you want to add anything on that?

Trevor Salmon: No, I think that is right. They should be the exception. All I would say is we have been looking at the very useful experience in Scotland where they have these powers. As far as I am aware, they have not had to use them yet. Their use should be exceptional.

Q276 Mark Lazarowicz: I suppose the awareness they exist could be quite important in encouraging co-operation from those with an interest. Is that a fair assessment of your position?

Lord De Mauley: I suppose an awareness of the law is always an important thing.

Q277 Mark Lazarowicz: Do you think the current recommendations from the Law Commission give you sufficient powers to investigate the presence of invasive species to provide a basis for early detection?

Lord De Mauley: Species control orders are later on in the process once one has done that early identification. I would like to think that the procedures we already have in place should be adequate for the early detection process.

Q278 Mark Lazarowicz: There were concerns during the Law Commission's consultation on the species control orders about the possible imposition of burdens on landowners. There was obviously always going to be a tension potentially between the landowner and those who wish to deal with the invasive species. How are you going to ensure that the proposed agreements and control orders will be used in a proportionate way?

Lord De Mauley: As I say, our intention would be that they would only be used in exceptional circumstances where access had been denied. As Mr Salmon says, in Scotland that seems to have been achievable, so I think it is a question of framing the legislation.

Q279 Mark Lazarowicz: If and when the new legislation comes into effect, would you envisage having a mechanism to review regularly the effectiveness of the combination of legislation and the other measures we put in place to control invasive species to see how they are performing?

Lord De Mauley: That would certainly be possible.

Chair: If no other colleagues have further questions, that brings us to the conclusion of this session. Thank you very much for your evidence.

Lord De Mauley: Thank you very much.