

***European Wildlife Convention:
problems in the United Kingdom in 2012.***

Implementation of the Bern Convention on the *Conservation of European Wildlife and Natural Habitats* in the United Kingdom and with reference to signatory parties.

***Convention européenne de la faune et flore:
problèmes au Royaume-Uni en 2012.***

Mise en œuvre de la Convention de Berne relative à la conservation de la vie sauvage et du milieu naturel au Royaume-Uni et en référence aux parties signataires.

Information for the Council of Europe and Bern Convention Signatory Parties by Enviro-Law UK.

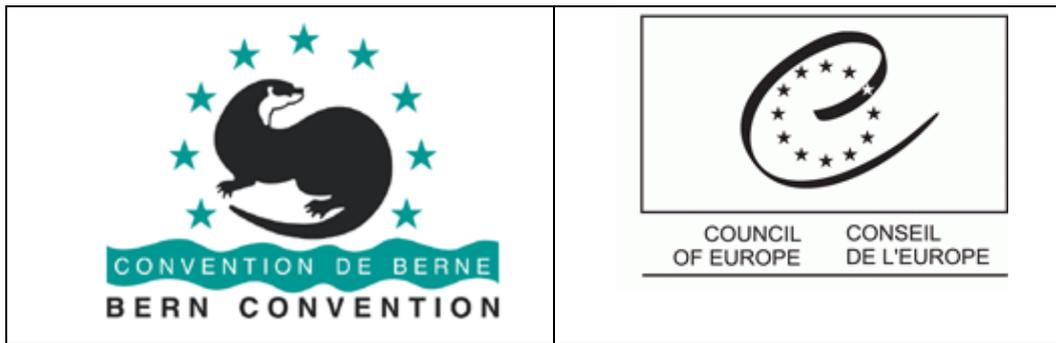


Fig. 1 The Bern Convention is managed by the Council of Europe in Strasbourg, France.

Implementation of the **Bern Convention on the Conservation of European Wildlife and Natural Habitats** in the United Kingdom and with reference to signatory parties.

The Bern Convention is a binding international legal instrument in the field of nature conservation, which covers most of the natural heritage of the European continent and extends to some States of Africa. Its aims are to conserve wild flora and fauna and their natural habitats and to promote European co-operation in that field.

Council of Europe 2012 website

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Enviro-loi est une association de membres du public concerné au Royaume-Uni avec les tendances récentes en espèces en déclin et les habitats et les dispositions juridiques essentiels pour leur rétablissement.

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Annex 2 An assessment of the extent of the implementation the 2006 urgent priority actions of Council of Europe Recommendation 119 (206) for *Triturus cristatus* by the United Kingdom.

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Summary

This report examines the progress of one European country in respect of the Bern Convention. In 1985 a report by the United Kingdom nature conservation voluntary sector considered the first three years progress to be insufficient. The report was rejected by the UK government. This review, some 25 years later indicates that some progress has been made since then in stabilizing habitat loss and degradation and in designating protected sites. However, biodiversity losses are still continuing in many if not most places. Difficulties in fine-tuning actions to reverse decline trends urgently need to be resolved and the lack of significant recovery of many threatened species immediately addressed.

Many of the problems, old and new, are complex. Of the Bern Appendix II and III species examined, Eurasian otter for example has recovered considerably, but 30% show eye deformities attributed to residual chemical pollution. Two of the bird species considered, Corncrake and Merlin have fluctuated in numbers but not seen the improvement that 25 years of effort should have shown. Smooth snake numbers are static at very low levels and trapped in pockets of heathland areas that need to be joined up and managed properly. The great crested newt has declined by an estimated 25% since 1985 due to the lack of proper pond conservation procedures.

A range of current issues are reviewed that relate to the way in which nature conservation is perceived and provided for in the UK. The use of culling of badgers in an attempt to reduce bovine TB risks actually spreading disease. Most important is that culling by 'above ground' shooting is contrary to the requirements of, and is a breach of the Bern Convention that does not allow killing of Appendix II or III protected species to be made in a destructive way if there are better alternatives that hold lower risks of population side effects. This was established by a Bern technical review in 2011.

Recent changes to the management of UK planning system in respect of Bern Appendix II and III species mean that the protective role has been largely delegated to public bodies that are ill-equipped to ensure strict protection is adhered to. As a result, legal challenges are increasing. A lack of provisions to protect bats, birds and other species from hundreds of wind turbine installations is given as an example of poor and potentially unlawful Bern Convention infractions. Current practices do not even meet the UK government guidelines established in response to European Conventions and legislation. The plight of the UKs ponds and of the Appendix II great crested newt stands out as one of the greatest shortfalls, with agri-incentive schemes lacking the drive, direction and targeting to be effective. Misguided stock grazing upon lowland heathland and acid grassland is also pointed out as a major threat to a wide range of invertebrates, reptiles and small mammals.

Use of agricultural subsidy to deliver nature conservation is highlighted as a mechanism that has not yet been shown to sufficiently deliver. A lack of significant levels of achievement for most declining habitat and species presents a difficulty that cannot be ignored due to delivery targets that are well established. Modern farming practices in the UK are extremely intensive, and unlikely to be challenged by its own industry which is represented by bodies that are not prepared to address long-term responsibilities, including those relating to the pollution of land and water habitats.

On a wider point relating to Bern, the relationship between the European Commission and the Bern Convention is considered in relation to the openness of considerations and decision making. The imposition of policy by the European Commission on Bern Convention States may hinder openness and communications. Its use of Convention time for 'closed club' briefing sessions (should they continue) should be open to all government and ngo bodies attending the Bern Convention.

A range of recommendations are given to address the issues raised by the 25-year appraisal and the consideration of current issues.

Introduction

Nature conservation has reached a difficult threshold in Europe. Economic uncertainties place more pressure on getting decisions right and avoiding ineffectiveness and mistakes. With measured shortfalls in commitments made several decades ago, Birdlife International has recently asked whether we are at a turning point or breaking point (Birdlife 2010).

Clean water, clean air, fertile soil and safe food, are crucial for the well-being of human kind and wildlife. According to economists, each year 3% of GDP in the EU alone is lost due to the damage and destruction of biodiversity. This represents annual losses of over €450 billion.

A first report on the UK and the Bern Convention by Wildlife Link report back in 1985 was critical of the United Kingdom, and while it was heavily rebuked by the UK government at the time, many of the recommendations were taken up shortly afterwards. In any struggle to differentiate between realistic anticipation and insufficient planning, there is now within the European Union countries a clear mandate to better implement the legal requirements of the Bern Convention.

This report looks to where we will be in a further 25 years; in 2035. What is clear from the European Commission intentions, as embodied by its plans is that in effect, the Bern Convention should reach a point of satisfactory implementation in just eight years from now, in 2020.

This pledge will require some extraordinary new approaches and determined changes in entrenched attitudes. As mis-managed agriculture and aquaculture were found to be the greatest threat to biodiversity in EU member states (Birdlife op.cit) and no doubt across Council of Europe countries it is not surprising that the EU has said that “The real key to this issue is not this new [biodiversity] strategy, but, rather, the forthcoming reforms of the common agricultural and fisheries policies and the multiannual financial framework (MFF)”.

Beyond the examples of detailed cases and issues raised in this report there is a need for a change of heart towards managing ‘green capital’ in the UK. This must include changes far beyond the generalities of giving farmers large grants for modest changes to farming practices. It must reach into a deeper reappraisal of how we go about wildlife protection and how clever interaction between all Ministries can deliver economic and environmental achievement in unison.

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1.0 Twenty five years for progress – how have things changed?

In 1985 the UK non-profit organisation *Wildlife Link* issued a report '*European Wildlife Convention: Report on problems in the UK*' (Lyster 1985). The report stated that the UK government was failing to implement the Bern Convention, then just three years old. The UK government response to the Wildlife Link report was highly critical and it said that the report was unbalanced and unrealistic. In reality and in hindsight, most of the facts and points that had been made in the report were either valid or valid to some degree, while others simply tested policy and legal interpretations. Looking back it was a case of government and the voluntary bodies exchanging views on what might be considered realistic expectation of those times. Several of the Wildlife Link interpretations and requests that the UK Department of the Environment contested, reflected needs that subsequent legislation would go on to put in place over the next ten years.

The Habitats and Species Directive (Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora) was adopted in 1992 as an EU-wide response to the requirements of the Bern Convention, and establishing Bern's lead role.



In retrospect, in subsequent communications between government and the voluntary sector, the Wildlife Link report seemed mostly to annoy a government whose agencies were struggling with limited resources. The 1980s were a decade of rapidly heightening environmental awareness and the public began holding a high expectation for the recovery of damaged countryside. The UK government of the time however, felt that 'in an imperfect world' that the Bern Convention did not require the UK to prioritise nature conservation over recreation and economic factors.

For the UK and other Member States joining the European Union it would take around a further 10 years before the requirement to ensure no further diminishment of declining species and habitat would be placed into European Union 'Habitats and Species' Directive law and passed into new national statute.

This present report concerns in-part the species and habitats featured, 25 years on (1985-2010). The aim is to see how far over this long period of time, the UK has been able to bring about the kind of significant recovery of species and habitats that the Bern Convention requires of its signatories. It also looks at current difficulties and how these might reveal new emphasis that could be taken to prevent continued declines of species and habitats and to bring about substantial and widespread recovery.

The report gives recommendations to the UK Member State and also to the Council of Europe as to how all Member States can better assess their implementation of the Convention and how the UK and other Signatory Parties, including the European Commission can prevent the continued degradation of European Wildlife at the unacceptably high measured levels (RSPB 2010).

It is important to point out that the aim of this review and that of its analysis not to ‘pick’ on the United Kingdom. It is just one Council of Europe country that has been studied closely and that is relatively well documented for a collective review to be made. Shining a light into any Bern Member State will reveal successes and weaknesses and it is not being suggested that the UK is particularly better or worse than other countries at nature conservation.

What is being suggested is that progress in very many areas within the UK should have been much better, that it should have gone much further. Attempts at finer tuning for many habitats and species have failed to adequately emerge or have fallen short. This has allowed continued declines and contraction in ranges and the regular loss of species at the County and District level. This has become increasingly apparent over the last seven years (post-2005).

The 1985 Wildlife Link report on the UK looked briefly at aspects of number of United Kingdom domestic issues:

- Inadequate coverage of designated wildlife sites in the UK.
- Damage and degradation of UK designated sites.
- Pollution and pesticides.
- The principle in Article 2 that ecological protection has priority over development.
- The special protection needs of Appendix II listed species.
- The measures required to keep Appendix III species populations out of danger and to maintain populations at risk.

The following is a summary of the progress and change in these areas: 1985-2012:

Inadequate coverage of designated wildlife sites in the UK. *Moderate progress, still deficiencies*

In 1985, although accused of dragging its feet, The Nature Conservancy Council was at an early stage in establishing special sites (SSSI's). The Wildlife Link report was a reminder of the scale of the task in hand. More wildlife sites have been designated since 1985 and there are now over 4000 Sites of Special Scientific Interest and around 230 National Nature Reserves. However, overall, many of these are small in size and the UK has a low proportion of its land designated for special protection.

For some species the protection has been very low, for example the best lowland pond landscapes where the Appendix II great crested newt *Triturus cristatus* breed and upon which many other species are dependent has diminished. Sites of importance for several vertebrates, invertebrates and plants require urgent attention while other sites are overdue a number of modifications including significant expansion of edge areas to prevent deterioration and to link habitats. A rapid response to these needs is overdue. Designation of marine sites still remains notoriously delayed.

Damage and degradation of UK designated sites. *Moderate Progress, locally good*

Studies show that changing of principal funding streams from nature conservation bodies to the delivery of subsidies mainly via agricultural mechanisms has had some positive returns locally, but can be limited in scope and scale. At many sites there have been significant improvements. At other sites, management has been limited in scale or is being carried out in a broad-brushed and less well informed and monitored manner. Some approaches favour just a few key species or species groups with 'whole' wildlife community conservation being overlooked, often due to the small size of protected areas.

Failure to take into account severely threatened/priority listed species that are perhaps less charismatic is measurable. It is the concept of taking habitat and species conservation forward together collectively without one conflicting with the other that has proved so elusive as it often requires expanding reserves outside their boundaries.

Pollution and pesticides. *Generally good Progress, problems remaining*

While some chemicals have been banned and restricted since 1985, many persistent chemicals are still present on land and in waterways and within the food chain. Despite action by the Environment Agency and others, farming and factory outputs remain significantly under-enforced. While river water quality has improved overall, UK standards are below those of many European countries and much more needs to be done. Crop sprays dangerous to wildlife (e.g. organophosphates) are still in use despite the known harmful side effects and often blow far away from the point of application.

Chemical fertilisers are applied in huge quantities nutrifying watercourses, ponds and buffer strips extensively through run-off, mis-application, spray and dust-drift. There is still amazingly little research into the effects of farm chemicals and their residues within wild plants and animals on and around farmland despite concerns to wildlife and human health.

The principle in Article 2 that ecological protection has priority over development. *Good Progress*

The UK human population has grown by 10% from around 57 to 63 million people over 25 years. In general, urban developments have spread in and around several regions of threatened nature conservation value, often increasing pressures, simply because communities living in those areas have expanded greatly. Examples include the Dorset and Surrey heathlands.

The UK derogates heavily for protected species such as Appendix II and III amphibians, reptiles and mammals via the issue of licenses to exclude and transfer them away from housing, roads and industrial spread, with a range of attempted and understudied mitigation efforts. While this activity requires the balancing of pressures, the strategic spatial basis for considerations are often severely lacking and avoidance and compensation methods are not regulated adequately to provide true probity.

This will lead to increasing legal challenges that are counter-productive. Developments rarely take into account spatial landscape factors, and studies of derogations for great crested newt show that they are still not working to any acceptable level. For this reason there is a need for biodiversity policy to completely embrace a "no net loss" objective in developments. This is not only essential, but a vital output of any growth-based economy.

There is now imperative need to put in place definitive and adequately funded recovery plans. These are now legal commitments for those Bern States that are also members of the European Union. However, the funding of Nature Improvement Areas in England is an order of magnitude too small in scope and scale to have any lasting effect. Such proactive measures need enlargement to join up with and to make best use of mitigation spending.

The special protection needs of **Appendix II & III** listed species. *Patchy and Poor Progress*

The Wildlife Link report focussed upon five species in considerable peril in the UK in 1985 and requiring urgent and extensive actions. These are shown in Table 1 together with a summary of changing status. Of these five species, only the **eurasian otter** can be seen to have made anything like significant progress over 25 years, with the full ban on manufacture of dieldrin (e.g. in seed dressing and sheep-dip preparations) being delayed until 1989, four years after the Wildlife Link report.

Dieldrin had seeped into watercourses and accumulated in freshwater fish stocks. Other organochlorine chemicals found in fish and otters are residual derivatives of DDT. These collectively influence vitamin A metabolism that in some cases cause reproductive abnormalities (EA 2007). In examination of over 1000 otters between 1988 and 2003, 30% had eye deformities suggesting the continued need to tackle pollution by enforcing against dirty discharges in urban and rural areas.

The two bird species considered in 1985, **corncrake** and **merlin** have seen mixed results, the Corncrake declining to under 500 pairs in the 1990s but then recovering slightly thanks to work in Scotland. Its recovery in England has been slow and small scale. The Merlin, that required changes to upland management has, as with many other birds of prey, increased in recent years for reasons that are not fully understood, but that may relate to past organochlorine chemical use in agriculture. It is still present in relatively low numbers. Habitat quality and local habitat restoration and management are still the key to recovering these species.

Since 1985 the **smooth snake** is confirmed largely to survive within its known range. As with many UK reptiles, slightly warmer average weather conditions since 1985 have provided an additional boost to breeding success, but this bonus could be a temporary effect. Efforts to transfer it to new locations have in some cases worked, but such isolated efforts are no substitute for better protection, expansion and joining up of fragmented heathlands within its core distribution.

While some work locally has increased areas of continuous habitat, management regimes at others have damaged sites through neglect, over-grazing and cutting of optimal habitat. Overall, it is not possible to confirm significant smooth snake recovery after 25 years in the UK. Few populations remain large enough to be healthy and have theoretical genetic viability in the long term, and large, joined up heathlands need restoring through ambitious plans.

Since 1985 the **great crested newt** has shown continued gradual decline of an estimated 25%, based upon a detailed investigation in 2009. The policy not to identify and protect this species' breeding habitat in favour of unimplemented plans for wider countryside measures has failed over the last 15 years. Poor quality research and interpretation has masked the continued trend in pond neglect. The promises of pond creation projects by government funded bodies have repeatedly been cancelled or lead to under-achievement. Agri-environment incentive opportunities, with few exceptions, have not been taken up in respect of pond conservation and now funding is running down.

Featured species	Status 1985	Status 2012	Conclusion
Otter <i>Lutra lutra</i> App II	Declining	Five – fold increase since 1985 from around 10% of checked sites occupied in 1985 to nearly 60% in 2010	FAVOURABLE INCREASE However, many UK freshwaters still unacceptably polluted with on-going wildlife health issues.
Merlin <i>Falco columbarius</i> App II	500 pairs	1300 pairs	UNFAVOURABLE SLIGHT INCREASE Recent rise but still Amber listed as having unfavourable conservation status.
Corncrake <i>Crex crex</i> App II	700 calling birds in Britain	Continued to decline until 1993, now slow rise to around 1,100	UNFAVOURABLE UNCLEAR/NO SIGNIFICANT TREND No significant recovery in England. Some progress in Scotland. Red listed requiring urgent action
Smooth snake <i>Coronella austriaca</i> App III	Confined to small fragmented areas in Surrey, Hampshire and Dorset	Little significant change in distribution	UNFAVOURABLE UNCLEAR/NO SIGNIFICANT TREND A few introductions but many core areas still contracting due to a range of factors. UK government/Centre for Ecology and Hydrology records decline at study site.
Great crested newt <i>Triturus cristatus</i> App II	Declining, ponds threatened	Decline slowing slightly from pond infilling but increasing due to lack of management.	UNFAVOURABLE UP TO 25% DECLINE Decline from est. 21,000 to 16,000 breeding sites. Urgent large scale action needed.

Table 1: Summary of general status trends for the five Bern Convention protected Appendix II/III species that were featured in the 1985 Wildlife Link report.

The measures required to keep **Appendix III** species populations out of danger and to maintain populations at risk.

Sand lizard. *Patchy and limited Progress*

The 1985 report highlighted sand lizard, *Lacerta agilis* which is a species that like the smooth snake has declined to very low numbers in the UK. Giving, as an example, the perilous state of a small enclave in Merseyside, local action by the Sefton Council and restrictions on dune disturbance has at least prevented its continued decline. Since 1985, release of lizards in old and new areas, both on Merseyside and the Welsh coast offer some promise, despite the isolated nature of some release areas. While maps of the total range may look impressive, the core heathland habitat area in England for the rare declining reptiles remains in need of substantial landscape-level initiatives. There is an urgent need for cessation of damaging new management practices brought in as a result of the placement of nature conservation management too heavily into agricultural administration, where management is insufficiently refined in many instances and is causing damage.

Commercial exploitation of widespread herpetofauna *Good progress*

Action was taken around 1990 to prohibit the collection and sale of Appendix III amphibians and reptiles without a licence and with safeguards. This appears to have worked well.

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2.0 UK issues in 2012 with recommendations

2.1. Controlling bovine TB in England. A lack of science and a breach of the Bern Convention

*Britain is a major stronghold for the eurasian badger *Meles meles*, listed on Appendix III. The badger is a symbol of British Wildlife, of the National Wildlife Trust movement in Britain. It is a favourite animal featured in children's literature, Countryside magazines and calendars. Surely it is time that as it recovers numbers across the UK, its long term protection and management will receive a proper and balanced approach and not one based upon flawed science and careless management practices? Decisions on how to manage the problem should not be taken by representatives of the farming industry who have a vested interest.*

The United Kingdom Policy on Bovine TB and Badger Control in England was published by DEFRA in December 2011 (Defra 2011) with plans, following a year of experimental above-ground shooting, to license the wide culling of badgers as part of its strategy to control bovine tuberculosis bTB in cattle. A wide range of wild animals carry bTB including but not exclusively badger. The occurrence of bTB in wildlife is an understudied and misunderstood problem.

For years, comprehensive improvements to the management of bTB infected cattle has been sluggish, and growing compensation for owners of infected cattle is currently at £60 million per year, with £30 million of public funds spent on testing. One major problem has been introducing the quite simple procedure of quickly separating those cattle testing positive so that the disease is not spread amongst a herd once detected. One way to help reduce this sustainably is by requiring stricter disease control procedures and practical avoidance techniques including movement constraints. The failure to implement these simple procedures has created an environment where science-based solutions become confused because outdated and inadequate management practises in fields and cowsheds form a shaky baseline in the consideration of how to address disease control.

The disease management issue is hindered by a European Union ban on vaccination of cattle because of the difficulty in distinguishing vaccinated cattle from those infected with bTB. This ban needs lifting immediately now that it has become possible to do this with a reasonable level of confidence.. The increase in bTB can only be tackled by a mix of better government funded cattle management and badger and cattle vaccination programmes. The UK appears to be resisting this, despite the inevitability of its current strategy not working This short term approach is extremely worrying given the apparent insufficiency of current measures and the insecurity of the proposed approach to culling that has a multitude of uncertainties and importantly, risky side-effects.

Strangely the United Kingdom is a divided nation in its approach and policy. In Wales, the Welsh government has taken a decision to pay to vaccinate badgers only, following scientific and legal advice. In England however DEFRA has told the Council of Europe that it wishes to license the shooting of badgers above ground, to permanently try to hold numbers low because it is preferable (cheaper) than the vaccination of badgers. Vaccination of badgers is a non-destructive option for farmers in England. Shooting is not acceptable because the science clearly shows that this method is likely in some areas to cause greater dispersal (perturbation) of badgers and make the method unreliable and even counter-productive.

This is most likely to get worse when any tightly controlled trial expands to allow amateur involvement. It may also reduce badger numbers locally as an unwanted side-effect as has been the case in Ireland. Because of the scientific uncertainty and legal considerations, early in 2012 the Humane Society International/UK launched a complaint to the Council of Europe's Bern Convention in Strasbourg regarding the UK's intentions to cull with badger shooting.

The Bern Convention is a watchdog for sustainable management of wild species and habitats across Europe. Badger is listed on Bern's Appendix III, and as such signatories to the Convention are committed to prevent local disappearance of, or serious disturbance to, badger populations. The UK has been a signatory since the 1970s, so its domestic decisions and actions are open to scrutiny by the signing parties and the Bern bureau/secretariat.

Legal considerations.

Very usefully, in 2011, a review of the scope of Article 9 of the Bern Convention, adopted at the Standing Committee meeting in December 2011 gives guidance for interpreting the scope of governments wanting to kill protected species. This indicates key points relating to provisions for *no other satisfactory solution* when harming protected animals or 'derogating'. These relate directly to the UK badger case.

In relation to the question of whether there are satisfactory alternatives available to the UK Government's proposals, *'alternatives must be assessed by reference to the Articles 4-8 prohibitions and to objectively verifiable factors based on scientific and technical considerations e.g. related to population data'* and that *'arguments in favour of derogations should be robust. This implies an evidence-based balancing act between the benefits of action under the derogation and possible species impacts. A solution must not be deemed unsatisfactory just because it would cause greater inconvenience or compel a change in behaviour by the beneficiaries of the derogation'*. *'Satisfactory' must be strictly interpreted to mean a solution which resolves the problem facing the competent authorities whilst respecting the Convention's prohibitions as far as possible.'* [note: underlining is this-report's emphasis of a key point]

Whether no other alternative is really available, *'must again be based on objectively justifiably factors'* (EC 2007) and *'be fixed at the level of what proves to be objectively necessary to provide a solution for those problems'*.

In the light of this guidance, it seems clear that a solution based upon better cattle management and vaccination of both cattle and badgers, accompanied by further epidemiological studies into disease minimisation is the scientifically correct, lawful policy conclusion to manage this Appendix III Bern animal. This approach is not unsatisfactory just because it is inconvenient to UK farmers and the UK government who (if it worked) would be the anticipated beneficiaries of the proposed derogation.

The DEFRA letter of 28th March 2012 to the Head of the Biological Diversity Unit to the Council of Europe T-PVS/Files (2012) 24 reveals that **DEFRA's acceptance of its perception of the farmers 'preference' in disease control to vaccination determined the decision.** This is the point of departure from Bern's requirements. It is a simple mistake and now needs immediately reversing. **The policy of working towards a widespread cull is also unlawful under Bern because of the lack of activity in other areas to develop more sustainable solutions to disease control.**

Further, the killing and injuring of badgers to try to control them risks a dangerous potential spread of the disease that could increase control costs and is therefore unlawful in terms of wild animal disease management. This is beside the animal welfare concerns and danger to the public of shooting at night, issues that may not be direct matters for the Bern Convention but that are relevant to the overall case.

As a further concern, the UK Protection of Badgers Act 1992 requires licence applicants to show necessity. As the UK trials are an experiment, licensing under the PoBA is not appropriate and if Natural England do so this could be open to challenge, on the combination of the incorrect licensing body being used and the breach of Bern Article 9 on choice of the least risky alternative.

Recommendations.

- **The Bern Convention/Council of Europe should ensure that the Humane Society complaint is raised at the 31st Standing Party of the Bern Convention and that the breach of the Conventions Articles is enforced against.**
- **The Bern Convention/Council of Europe should point out the problem in the DEFRA decision and ask the United Kingdom to stop its culling trials and to implement an alternative strategy based upon widespread vaccination of badgers in 2013 with studies.**
- **The Bern Convention/Council of Europe should immediately ask the UK to derogate E.C. controls to enable cattle vaccination against bovine TB, so that a vaccination programme can be started for cattle as a matter of urgency and no later than 2014.**
- **Signatory parties to the Bern Convention should consider recommending that the United Kingdom Government suspend all licences to cull badger *Meles meles* in the United Kingdom and immediately and urgently carry out improved cattle management practices and vaccination of badgers and cattle subject to changes to be made by other parties.**
- **The European Union must, in collaboration with the OIE – the Organisation Internationale des Epizooties (Paris) suspend immediately its ban on vaccination of cattle against bTB in the UK, (Directive 78/52/EEC) in an immediate trial within the UK (and perhaps elsewhere) to accompany badger vaccination and improved stock management guidelines that will reduce and control the disease in a sustainable manner. The Council of Europe should make recommendations to the OIE on behalf of the UK and other affected Member States.**
- **A study by an independent panel of experts from selected Member State countries should provide a report to the next meeting of the Standing Parties on a scientific study of bTB control and badger protection methods in the Council of Europe area, to include non-badger hosts and in order to further improve and to refine sustainable management practices to minimise bTB infection in cattle.**

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2.2 Planning System changes

Over 25 years, the UK government nature conservation agencies have faced repeated cutbacks and increased constraints in respect of their advisory input to planning consultations. In general, there has been a perception that somehow 'green' issues have unnecessarily protracted and hindered the planning process. In fact the main contribution to delayed planning in respect of ecological considerations is a lack of adequate preparation and the presentation of unviable or ill-prepared proposals.

The perception that planning constraints will melt away if systems are streamlined is wrong and will lead to deeper frustrations, greater legal challenges and raised costs. A clearer baseline for decision making would assist, involving better prior surveillance, a greater and earlier input by technical specialists and the screening in and out of concepts at earlier stages and prior to heavy developer investment. Once a good baseline is established, environmental analysis might even pinpoint development opportunities in appropriate areas, leading to better commercial vision and certainty and the avoidance of sensitive areas.

Recently Natural England has trialled the passing of responsibilities for advising on certain species protection matters over to local Council planning authorities (LPA). This is despite average LPA operational cuts in environmental staff of 20% in 2011 (Assoc. Local Gvt. Ecologists survey). Many of these Councils are also responsible for funding their own activities through the development of land, so there are conflicts of interest.

In March 2012 most species protection responsibilities across England were passed to LPAs with minimal training. The smaller District bodies hardly ever have experienced or trained staff ecologists, and although they may have access to them, the process of consultation can be overlooked and lead to delays and omissions with applications. Legal and technical matters are often now dealt with in a very rapid process that leaves the public with little chance of accessing them or with time to comment. Planning Inspectors are confirming decisions with acceptance of often brief legal consideration on points of law relating to Appendix II and Appendix III Bern species. Derogations for protected species are carried out freely and more licences than ever are issued to develop places where protected wildlife lives.

Studies in 2004 by English Nature have shown that derogations were not working for the first species investigated (great crested newt) and government funded studies suggest that since then there has been little improvement. Doubt remains over the effectiveness of mitigation and compensation measures being taken for bats (*Chiroptera*) and other BAP listed species.

For some species such as declining birds and for bats, the UK planning system has been bombarded with applications for onshore small, medium and large sized wind turbines. In generating noise and moving blades, these influence wildlife directly through causing mortality and noise disturbance of species with sensitive hearing. Poor placements could have been avoided or reduced by careful studies and the use of noise reducing technology.

Bird nesting reduction zones caused by noise disturbance next to turbines are not being compensated for. Appendix II birds including those being reintroduced back to the UK have been killed by turbines and bats may suffer barotrauma – death from internal haemorrhaging when flying close to turbines.

Research in this area has so far been minimal, yet still shows significant effects that can be avoided and that must be avoided under the Articles of the Bern Convention.

The UK has given local authorities little guidance on this, and Councils have met the force of dozens of applications per week, ill-prepared and un-supported due to confusions and changes in national advisory services. Natural England's Standing Advice statements now largely replace expert advisory services on species and provide a shadow of the former service; they are incomplete and ambiguous.

The small scale studies on damage to wildlife from wind turbines are barely significant in terms of sample sizes, yet favourable publicity for wind turbines has been encouraged behind the scenes and the negative impacts glossed over, particularly offshore where very few schemes have been modified or scrapped. The UK is taking a chance over the damage it is causing to many Bern Appendix II species in the name of reducing carbon emissions but without due precautions. Because of government subsidies, a plethora of small turbines are sprawling across important local landscapes and are positioned in some cases with almost no regard to the impact of cable laying, noise and other factors which impact on vulnerable species for which local recoveries have been pledged yet not materialised. The process has been an exemplar of how the UK has, despite a duty of care, expected LPAs to understand regional constraints and to enforce standards without sufficient guidance. This places agencies in conflicting roles that will undermine their credibility and create unwanted and damaging tensions in rural planning.

DEFRA's inability to give national guidance on 'least damaging' locations or areas to be avoided by wind turbines is a direct breach of the Bern Convention, given that many listed species are impacted. Selecting best areas for installations was feasible in the run up years to the current mass construction, yet required national support of those bodies, particularly local Councils with restricted resources to control such developments. The smashing of birds and ripping out of the insides of bats within local populations should be considered significant until it is shown not to be. The UK and other government have gambled with the significance, despite having plenty of time for forward planning and studies. If this is an example of avoidance of derogation then the problem should have been openly declared and the matter raised at a higher level.

Economically, the result has seen finance companies use subsidy schemes to generate private income for small landowners from public funds to promote returns above bank interest rates. This is surely a crude and misguided manner in which to tackle climate change. Such questionable approaches appear also to be contrary to the duty of care as the sustainability of wind turbines, in addition to the environmental damage they potentially cause, is unproven.

Recommendations:

- The UK should take immediate steps to ensure that the UK planning system returns to a state where there is adequate independent and proper scrutiny of the impact of planning applications concerning Appendix II and III species.
- There is an urgent need to improve the Standing Advice information including flow-diagrams and to replace them with effective and detailed systems that include regular and detailed checking and enforcement activities. These should be done both by LPAs and enforcement bodies including the police constabularies who require much more assistance to be credibly involved. Standing Advice services should return to the agencies with improved resources.
- Greater resources must be given to enable an effective planning system to be put in place. This needs to include regular tests to demonstrate compliance and the positive effect of any essential derogations and avoidance of the hiding of poor adherence ‘under the carpet’. Every derogation should be open to public scrutiny at every stage including the 5-year monitoring period.
- All licences given for Appendix II and III species over the last 5 years should be investigated and adequate mitigation should be enforced if it has been lacking in implementation.

2.3 Pond and newt problems. The decline and fall of a habitat and species

Great crested newt *Triturus cristatus* was given Appendix II Bern Convention listing and status. Since then concerns have been repeatedly raised by the UK and European ngo's in Strasbourg and elsewhere over its decline, together with that of its pond breeding habitat in the UK. Over 25 years the UK has been unable to implement significant wider countryside measures for this species.

Following some limited studies post-1985 and a period of relative inactivity, the UK government decided that agri-environment incentives should deliver pond restoration and create new ones in the right places for protected species. It replaced existing small scale County schemes with the hope of delivery through Stewardship grants. Following a National Action Plan in 1995 that suggested around 216 populations (over 1%) were being lost each year, by 2002 and with a further near 10% decline, conservation bodies were becoming nervous about the abandonment of the 1995 plan by key government stakeholders; pond conservation work was not being promoted to or taken up by landowners to any significant degree. With just a handful of 'major' sites designated as protected areas it became clear that through lack of survey and as a result of bad contractor advice, government was unable to carry out pond conservation work for this and many other species dependent upon ponds as freshwater reservoirs.

Often, newly constructed farm ponds were stocked with fish due to lack of controls. Some ponds have been restored but the 25 year neglect of the vast majority of ponds brought diminishing aquatic plants, invertebrate and vertebrate faunas. These remain a shadow of their former importance, yet the degraded habitat is still latent with the potential for recovery. However, many ponds are polluted with farm chemicals with inadequate safeguards from run-off. They require minor engineering to let drainage water from agricultural fields bypass them and for clean water catchments and buffer areas to be reinstated around them. The major losses of pond, as with those of herb-rich grassland habitats in Britain before 1980 is yet to be adequately addressed in the UK.

The matter was made much worse from 2000 by poor quality research, mis-calculation of UK pond & breeding site numbers and a subsequent culture of denial. The JNCC 2010 appraisal giving the latest UK Population/extent estimate of 18,300 UK sites has finally drawn a line under the past errors. However, an almost total lack of strategic implementation of any pond programmes resulted from a decade of procrastination and this continues today. A recent 'million pond' proposal turned into little more than a poorly structured publicity project with targets reduced and delivery pathways complicated so as to make the wider hope futile. As the future funding aspirations dissolve, the governments retained contractor *Pond Conservation* announced recently and conveniently for the UK that pond restoration is no longer considered a priority.

This disastrous and ever worsening outcome over 25 years has resulted in a great crested newt breeding site decline that is estimated as averaging 1% per year over the 25 years (Langton 2009). Although pond infilling has slowed and some new pond creation has been carried out, the latter has been done only at a low level and not even at a rate to compensate losses from neglect, let alone to recover the species as is required to pre-Convention levels. This sorry story is underlined by a letter from the UK government in 2012 (Annex 1) revealing that the UK avoided establishing a Bern Action Plan in 2006 because of the existence of the old unfulfilled SAP plan (1985-2005) that has now been considered obsolete. Nothing has been done to prepare a new plan nor to kill off the unsubstantiated claims by the government's permanent long-standing advisory contractor that the species status remains unclear, a position that the UK may try to cling on to but that has no origin in science.

The general problem of lack of continued decline of great crested newt in Europe is highlighted in the Bern Convention paper for 2012 (TEHS 2012). The 2011 Council of Europe report on implementation of R. 119 shows limited progress in some countries including useful funding of initial projects by the European Commission including those within EU enlargement countries. These are more than tokenistic in the smaller countries but they are the tip of a half-melted iceberg overall. The UK stands out as doing the least in Europe for great crested newt in terms of both designating sites and giving special protection as is required by its listing on Appendix II and embodiment in domestic legislation over the last 25 years. An appraisal of performance using Bern Action Plan headings is at Annex 2.

Recommendation

The UK must immediately implement practical conservation actions to recover the species to 1982 levels and a plan to take recovery from that point to recovery of historic losses.

Particular attention should be given to confirming in 2013 the financial mechanisms to deliver and the implement:

- Large scale field surveys, starting in pond-rich landscapes to establish a baseline for breeding site protection, noting the JNCC 2010 estimate and identifying important regions in each country and County/District.
- Identify and notify with Site Designation and within three years, the 30 best pondways in England, the best 10 pondways in Wales and all pondways in Scotland
- Identify assess and survey prior to restoration, 200 neglected ponds per year in each County/District of great crested newt distribution until surveys, appraisals and recovery are complete.
- Investigate and enforce against at 500 sites cases of unlicensed fish stocking of ponds in great crested newt metapopulations per year and conduct advisory programmes until the issue is considered resolved.
- Investigate the failure of licensed and unlicensed mitigation projects 2005-2010 and ensure that an adequate enforcement inspectorate is effective including checking back to 2005 and requiring any failed projects are redone or otherwise suitably compensated for locally.
- Investigate a UK-wide sample of developments claiming nil significant damage in planning procedures and issue and promote revised advice should significant damage be shown to have been caused in unlicensed activities.

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2.4 Blasted heath. Damage to sensitive habitats by inappropriate management

Lowland heathland in Britain supports all six of the Bern Appendix III species of reptile including all UK smooth snake populations and over 95% of the UK sand lizard populations.

The increasing use of livestock grazing since 2000 to manage natural habitats in recent years and concerns about the potential damage this may cause to the structure of delicate heathland habitats has brought about a Natural England funded study of the associated issues in 2012 (Jofré & Reading 2012 a).

This was conducted with particular reference to grazed areas around the world where reptile populations occur. The report concluded that at sites where reptile conservation is the primary objective, grazing, particularly by cattle and ponies, is not, and should not be considered to be an appropriate form of habitat management as it will destroy the reptile interest.

As a result of similar concerns about the use of controlled burning to manage lowland heathlands and the perceived lack of substantiated evidence about its impact on reptile populations in the UK, a further review was carried out. The clear conclusion of the second review is that fire destroys reptile habitat and is likely to result in significant mortality to the animals present in burnt areas (Jofré & Reading 2012 b).

The current law relating to the burning of lowland heathland provides guidelines on the frequency of burning but sets the recommended overall target height of the regenerated heathland too low (300 mm) to provide the necessary habitat structure required to support reptiles.

The purpose of controlled burning of heathland appears to be to provide new plant growth that is suitable as food for domestic grazing animals, also used to manage heathland, rather than managing it for wildlife. The report states that burning appears not to be governed by the specific requirements of the animal species whose conservation is/are of concern in a particular area and that it is not an appropriate management tool for lowland heathlands where reptile conservation is a primary concern.

The conclusions can be applied to a range of other grassland habitats where Appendix III reptiles are present and not just in the UK but across Europe and in other similar habitats in many countries where over-grazing has become an increasing world problem.

Further findings of the reports were that although grazing can be critical for the maintenance of species rich grasslands, animal dung falling on nutrient deficient habitats (acid grasslands and heathlands) together with loss of the litter layer (all habitats) that sequesters nitrogen, grazing actually speeds the rate of succession to woodland. Cattle were found not to prevent the encroachment of pine and birch trees on lowland heathland.

The lack of specific research linking the effect of grazing on natural habitats, and its subsequent impact on reptile populations was a serious omission in advance of the UK's recent trend towards agri-conservation. The hard hitting ARC report states that the

“use of grazing to manage and ‘conserve’ natural habitats in the UK appears to be governed by a ‘one size fits all’ mentality in which the specific habitat requirements of different animal groups are ignored resulting in habitat mis-management and the conservation of nothing in particular, other than dogma. The management of lowland heathlands in the UK, through the use of ‘conservation grazing’, amounts to little more than large scale ‘habitat gardening’ in which the primary objective appears to be the achievement of an aesthetically pleasing landscape, driven by low financial cost and the welfare of the grazing livestock, rather than concerns about habitat and wildlife conservation.”

Adverse lowland heathland management practices in Council of Europe countries identified in the Bern 2012 report (TEHS 2012) includes problems with over-burning, over-cutting, cyclical heather rotation over too short a time scale for its important mature structure to develop, turfing & plaggen (soil stripping with machines), grazing by heavy cattle and over-grazing by horses and sheep.

In short, Europe's responsibility to protecting Atlantic heaths has been approached in more than one country in a manner that is ill-informed with regards to regional protection of certain declining species and that does not protect key species in their last fragmented areas. Yet these are the areas from which future re-colonisation of recovered habitats has been committed and that are a part of planned habitat restoration targets. The UK, Netherlands and some Germany Landers have a lot of habitat loss and degradation reparation to undertake and to promote as a matter of some urgency as the damage has accelerated over the last 10 years and important sites are being damaged.

The UK example of the New Forest in Hampshire being burnt from early in autumn when female reptiles are giving birth and finishing late in spring as reptiles emerge from hibernation is one example of where careful management prohibitions need to be negotiated.

Further, in a bizarre new twist, Natural England are proposing to use grazing as a management tool over large areas of sensitive habitats throughout the UK (e.g. Purbeck heath lands) before its potentially damaging effects have been studied

Equally in East Anglian Breckland there are government funded plans being implemented that are considered unlawful, that destroy mature heather areas with valued protected species components to form low sward and bare ground habitats. This is being done as it is easier and cheaper than nutrient stripping land in arable reversion programmes. Good habitats and species are being destroyed under a guise of nature conservation while what is being carried out is indiscriminate vandalism of protected Appendix II and Appendix III habitat and species, contrary to the Bern Convention.

As the European Herpetological Society puts it in this year's paper to the Standing Parties :

“In the UK., there is an awareness of an increasing recognition of the need to integrate faunal species conservation needs and to avoid management measures that are more inappropriate.

We can only hope that such common sense is accepted and if so we see this as a future opportunity for increased involvement and influence of the Bern [Action] Plans. Formal support from T-PVS for this approach would help toward mechanisms to promote this.”

Recommendations

- The Bern Convention should seek greater commitments from Member States for measurable progress from national reptile and amphibian action plans especially those relating to grazing and burning. This should include messages to countries to revoke and better control the over-prescription of agricultural solutions to nature sites that is bringing about local declines of a wide range of species including amphibians and reptiles.
- The UK must undertake an urgent review of how its species conservation work for sensitive and less well known species can be better delivered within Stewardship programmes and other new initiatives to ensure recovery of declining species.
- The UK and other Member States should promote delivery that is not so heavily focussed upon agricultural compensation culture and that encourages sustainable management that places nature protection as its primary objective and without over-emphasis on human access and recreation.
- The UK and other Member States should promote farming methods that employ more people on the land and that favour local supply chains including chemical free and low energy farming techniques that are demonstrably effective in biodiversity protection.

References:

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2.5 Agri-incentives, farmland birds and government cuts

There is little doubt that the closing down of major wildlife grants by local authorities and English Nature in favour of Stewardship Agreements in the late 1990s and early 2000's was well intended. The idea of funding across a much wider landowner base and via a large payments agency was potentially sound and many funding agreements merely switched across easily.

Left out however were the small-scale landowners who could not receive much income, those whose land was not predominately 'agricultural' in nature and those sites where specific management for rare and declining species did not 'fit' with the detailed descriptions in the basic schemes offered.

In effect, while huge sums were being placed into the agricultural sector where it could 'fit', many traditional nature conservation bodies suffered declining income for certain types of site and small private non-agricultural land owners were left out. Those larger voluntary bodies and those working closest to the government were compensated to a degree with large Lottery and Landfill Tax payments. While these compensated to a degree, funding for some conservation groups including many if not most of those promoting species conservation measures and less recognised/ more neglected habitats lost out, as did the delivery of their recovery in many places.

After 15 or so years from the start of Stewardship schemes, the limitations of the approach are visible. As the funding runs down, questions are being asked about getting better value from the spending, around £400 million per year. The 2012 Natural England Ecosystem Services review reads like an agricultural handbook. Many species including farmland bird species continuing to decline. In 2011 the head of the National Farmers Union said that he did not see a biodiversity crisis which is a selective or mis-interpretation of available studies.

In hindsight, many aspects of agri-incentive schemes are struggling to deliver because they were not sufficiently well focused and staffed on the ground. As with the Biodiversity Action Plan process now being phased down, the government consulted only one or two dominant charities in developing them. In monetising nature conservation within the farmed countryside, the need to ensure that environmental care is not too broad brushed, and that it actually delivers the identified recovery targets for habitats and species is paramount. Once sufficient levels have been established in urban and rural areas, landowners need to see environmental protection as a duty and not something to be rewarded for in the long term and this will require future legislation.

Funds could have been and still could be better mobilised to do more successful conservation work and to better reward those doing imaginative work. Reducing the intensity of agricultural production as major aim and movement away from high energy demanding approaches would have required a political will that is still lacking in nearly all of Europe. In short, there seems to be no general appetite to reform intensive agriculture and to enable better biodiversity progress as required by the Bern Convention. This seriously challenges the sincerity of its signatory parties.

While it could be argued that any poor or under-investment in UK Stewardship type schemes is 'spilt milk' the shortfalls of the Stewardship programmes will not go away and the demand for wildlife recovery becomes greater and more expensive in the long run for many species and habitats. The UK lacks the independent scientific procedures needed to guide grant giving. The link between Action Plan delivery and individual site management plans requires mending.

There is an increasing need to re-form the kind of former national independent scientist teams of expert ecologists and conservationists of a kind progressively scrapped by the unwilling governments of old. Committees comprised of vested interests deciding matters in their own fields now appear parochial, looking poor on the world stage. They lead to bad decision making at a time when this is becoming less affordable.

Habitat management has become detached from its driver – the position and role of the wildlife community that it is trying to conserve. Wildlife management risks becoming a series of prescriptions that involve a series of simple actions with minimal engagement, understanding or appreciation needed to make the process of any value. Expertise has been lost, not deliberately but because training and skills sharing has been underdeveloped. Emphasis on over-mechanised broad scale actions was always a risky approach due to the unforgiving demands and inflexibility of modern market-forced agriculture.

The promotion of field margin strips was not accompanied by measures to prevent them being used as roadways for vehicles nor protected from crop sprays being used in windy weather or otherwise without authority. The problem created is that while the measures are clearly of some general benefit, they are insufficient alone to bring about the anticipated and required benefits. These include expanding extensively but without wastage or poor value, upon the additional options within Higher Level Stewardship type UK schemes.

In addition, strategic projects that approach landowners at the Parish scale, with the aim of achieving specific goals across multiple holdings are warranted, rather than waiting for passive approaches for participation. This will be essential for delivery of a range of pond conservation activities. This in return will require an expanded scientific and delivery field staff and inspectorates working under the guidance of nature conservation experts, a restructuring of organisation/s may be required. However it is the departure from agriculture being the sole beneficiary of heavy grant aid that is needed, so that nature areas, brownfield and other land types can equally and fairly access resources.

There is a lot of work to do with the impact of chemicals and pollution on farmland. Spraying and the applications of other highly toxic pesticides is still commonplace and under-controlled/ inspected. Massive input of manufactured fertilisers run off into water bodies and water courses and flow into the water table, across large expanses of lowland Britain. This remains a major threat to rural water quality. Deterioration of rural water quality has been a major finding of the governments Countryside Survey (Carey 2007);

“data provided consistent evidence that ponds in England and Wales were widely degraded, with around 80% of ponds Poor or Very Poor quality. On average, ponds supported 38% of the expected number of wetland plant species and 21% of the expected number of uncommon plants. Mean Trophic Ranking Scores were 13% above predicted levels suggesting ponds were commonly polluted by nutrients.”

Recommendation

There is a need for an urgent review of and public consultation on the details of delivery of agri-incentives and for dramatic improvements including:

- Greater focus on establishing strategic programmes in local (sub-county/district) areas to deliver regional objectives.
- Better linkage between area targets and delivery programmes with realistic completion timescales.
- Increased woodland planting without damage to semi-natural grasslands, heathland or scrub habitats.
- Greater research into, control of and restrictions upon the use of farm chemicals leading to rapid phasing down and out of the more toxic types and tighter rules for application with detailed enforcement. These should be funded by a small tax on farm chemical sales. Far greater promotion of organic options.
- Greater water quality checks, testing and enforcement of pollution control in ponds and lakes and across farmland and industrial areas in general.
- Greater landscape evaluation to identify wildlife corridors that can be restored/created.

References:

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3.0 A key to success? The Bern Convention - European Commission relationship

As a signatory party, the European Union, represented by the Commission has had a growing role in the Bern Convention and particularly since the Habitats and Species Directive; Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora was adopted in 1992 and the significant enlargement over the last ten years.

However, noting the previously and widely accepted statements by the eminent legal expert *Cyril de Klemm, that ***“the ngo’s are the life blood of the Bern Convention”*** it has been worrying to see ngo organisations attending Bern excluded from much of the daily briefing sessions of Member States by the European Commission representative.

While these meetings are carried out in the name of coordination, it became quite clear from an early stage that the EC has so many votes by virtue of its numerous membership, that unless all countries attend and vote against the EC at such meetings, that the EC view will always predominate.

This situation has been nicknamed ‘the rotten club’ by those who see a monopoly view being imposed upon the otherwise autonomy of the Bern Convention. It represents a problem because debate and reasoning is being withheld from the main Standing Party meetings, reducing openness.

It may be that the EC sees this as preventing it from being requested to take action by Member States and non EU countries, but its current approach looks and feels undemocratic and may stifle cooperation and collective decision making during the meeting including the involvement of the ngos. The coterie of ‘favoured ones’ (particularly Birdlife International) play politics here to favour their agenda and to get in the room.

Recommendations

- Bearing in mind the extensive failure of the meeting of 2010 biodiversity targets by the European Union countries, The E.C. and C.o.E. should cooperate to greatly increase the resourcing and coordination for more positive outcomes of the Bern Convention, via increased expert scrutiny, expert working groups, publications, conferences and policy reviews. This will enable a much clearer insight into the core reasons for continued biodiversity loss and lack of recovery, and help bring adequate programming and monitoring of progress and with a high degree of certainty the rapid recovery of biodiversity in Europe by 2025.
- The Bern Convention/CoE should enable full access to and participation in European Commission Member State briefing meetings by all ngo groups attending the Bern Convention in the interest of openness and the spirit of international cooperation and productivity.
- The Bern Convention/CoE should establish a new task force with the European Commission to oversee the meeting of the EC 2020 biodiversity targets and their equivalent levels in non-EU CoE countries to ensure delivery on-time, including provision of resources if needed to ensure this outcome.

****"Cyril de Klemm was particularly remarkable for his ability to bridge the wide gap between science and law. He was fascinated by the natural world, and nature and was incredibly creative. His vision led to the adoption of a large number of new legal approaches to the management of the environment "*** Daniel Navid, First Secretary General of the Ramsar Convention

4.0 Conclusions and recommendations for the Bern Signatories

The aim of this report is not to point a finger at the UK or to blame anyone. There is a need for those involved to become used to constantly adapt until the best approaches emerge. Getting things wrong is only a problem if there is reluctance to change.

The secrecy and vested interest of old should be gone, in the spirit of cooperation and communication, replaced by a much more flexible, open, friendly and cooperative approach. Countries need to forget their national boundaries as barriers to involvement and work together far more closely, unifying their knowledge and policies until common advantage and achievement can be obtained.

In fact the likelihood of substantial climate shift, sea level rise, fuel and food price rises and public unrest are all factors that point to the need for an environment that by 2035 is ready and capable of providing robust ecosystem services. These are needed to buffer potential lowering of the standard of living within Europe. In addition to being greener and less energy demanding, the need to have a clean, productive and well managed environment with abundant wildlife is due to it being the basis for a future economy and future human welfare.

The standards that we set now and the reaching of levels set must not be the struggle over the next 25 years that the last 25 has been. There is a need for the environment to arrive in 2035 mended, not mending or un-mended. We have spent the last 25 years practicing nature conservation, here now is the real thing with little scope for future regrets. Once recoveries have been made a phase of greater abundance of wildlife can only help human survival. As human populations grow and space is limiting, we will need protected areas, rules and enforcement and should not shy away from good new legislation that should be planned-for well in advance, and that we must ensure is excellent.

Getting the detail right in nature conservation is a matter of expertise and very careful implementation. Parties need to be able to fully embrace the much more open communications between government and ngo's that prevailed in the 1980s. There is a need to change policy and to operate systems without the need for cumbersome administrations and long delays in decision making, and to be more open and inclusive in consultation. Ultimately it is the strength of experience in nature conservation and in science that is needed to show direction and there has been a distinct lack of these working together in the past.

It may prove useful to consider the challenges and sacrifices of those scientists and administrators solving problems in the past 100 years that have got us where we are today. To consider those endeavours working in poor conditions, often ill-health and alienated by single-minded determination to make the world a better place. Not sitting back in protected careers and watching others mess up. Modern administrators need to think on this and adopt a similar hunger and to work harder for better solutions and a better future, not as pioneers but taking their achievements as those before would have hoped, into more applied areas of keeping humans and ecosystems healthy and stable and from being spoilt or destroyed.

Sharing of natural resources fairly will become the norm within the next decade unless division, civil unrest and worse returns to blight Europe. The battle is now to create policies and where necessary legislation that enhances animals and plants, those unspoilt and recoverable habitats and landscapes

that is left. It is vital to solve major problems of pollution, sustainable energy use and food shortages before poverty and social deprivation accelerates to make this unachievable.

Scientific advances began to help the better definition of many issues at the 2000 millennium and our initial responses have not been enough. Climate, energy, agricultural and social upheaval will be harder to influence the later that proper environmental planning and action is left. It is not our children that will need to face the defining moment in what humans have done to Europe but us and in the next 20 years, starting now.

The problems highlighted in this report represent a test of how well we can adapt to make changes and like the Wildlife Link report in 1985, will form a reference in the future to how well the undertakings that were necessary were done.

ANNEX 1.

Letter showing the UKs intention not to prepare a Bern Action Plan for Appendix II great crested newt.

ANNEX 2

Evaluation of UK progress of great crested newt protection using the Bern Action Plan indicators.



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Our ref:

6th September 2012

Dear [REDACTED]

Thank you for your telephone conversation and follow up letter dated 24th July concerning the Bern Convention Species Action Plans (SAPs) for the Great Crested Newt (GCN) and the Sand Lizard (SL) in GB. I have asked Welsh (WG) and Scottish (SG) Governments, JNCC and the three country agencies for their input to help formulate my response. I have amalgamated their answers to address the questions raised in your letter below:

1) Are you aware of these plans?

The UK is aware of the plans but did not formally adopt them at the time they were produced because the UK already had an Action Plan in place for the Great Crested Newt and the Sand Lizard when the Bern Convention Plans were produced, and they have been retained as priority species following a review of BAP in 2007. There is reference to the Bern Convention in both of the historic SAPs, but no specific reference to the Bern SAPs.

2) Have the Plans been disseminated, used and/or promoted through the nature conservation authorities and/ or in the delivery of the national conservation plans or strategies?

There was no specific promotion of these SAPs across the UK. Defra, WG and SG decided not to formally adopt the above SAPs because we already had action plans in place. The plans have not been directly disseminated or promoted throughout the country agencies, but have on occasions been used as a useful reference to help inform knowledge of the species.

3) How are the species specific measures and conservation recommendations taken forward?

Great crested newt and sand lizard conservation actions are being taken forward through management of habitat for the species in a Habitat Action Plan. However, these actions have not been taken forward specifically as a result of the Bern SAPs.



4) Do you find these plans helpful for taking forward conservation work in the UK?

The SAP plans set a European context for the work of the UK Government and the country agencies. As said above although they were not officially used they have been a useful reference.

5) If the priority actions identified in these Plans have not been taken forward, please would you provide some information as to why this is the case?

See answer at 1.

I hope the above response is of some use in assisting with writing your report to the Bern Convention Standing Committee.

Regards,

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ANNEXE 2.

IMPLEMENTATION OF PROTECTION AND RECOVERY MEASURES
FOR:

Northern crested newt *Triturus cristatus*

IN ENGLAND, SCOTLAND AND WALES

Cited in 2006 ACTION PLAN T-PVS/Inf (2006) 17



**AN ASSESSMENT OF THE IMPLEMENTATION
OF THE 2006 URGENT PRIORITY ACTIONS OF
COUNCIL OF EUROPE *RECOMMENDATION 119*
(2006) BY THE
UNITED KINGDOM**

Ref: Strasbourg November 2012

Habitat Protection

Urgent Priority Action for the United Kingdom	Progress recorded
<p>Action ref. 4.1.1 <i>Ensure that all key areas within the range known to support substantial internationally significant populations are protected from any threats of further habitat loss by appropriate national designations and where possible incorporated into the Natura 2000 series</i></p>	<p>As documented in the Council of Europe 2006 Action Plan, The UK has still the lowest density of Natura sites than any other neighbouring country. The UK takes a position that its measures outside Natura 2000 sites are sufficient substitute for compliance. However, following complaints about continued rapid decline, prospects in the UK are being downgraded by the UK government from its 2007 report of ‘favourable’ status, to ‘unfavourable inadequate’ in 2012.</p> <p>Conclusion: INADEQUATE WORSENING</p>

Habitat Management

Urgent Priority Action for the United Kingdom	Progress recorded
<p>Action ref. 4.2.1 <i>Prepare general agreed guidelines for the management of the aquatic and terrestrial habitats taking into account particular ecological requirements.</i></p>	<p>Some old guidance on pond restoration and creation exists but there are no guidelines for a landscape-scale approach, so there is a near complete lack of meaningful local area strategy within the relevant regions as has been achieved in other countries.</p> <p>Conclusion INADEQUATE-MINIMAL</p>
<p>Action ref. 4.2.2 <i>Disseminate guidelines to governments, local authorities, land managers, farmers, foresters, conservation bodies and other relevant organisations and individuals incorporating advice tailored to local conditions where appropriate.</i></p>	<p>This has not been actioned due to lack of 4.2.1 [above]. A national sample of Local Authority Ecologists and Wildlife Trust Conservation Managers and Farmers conducted in June 2012 in England said that they had not been informed of and had no indication that a new Action Plan existed from 2006.</p> <p>Conclusion INADEQUATE-MINIMAL</p>
<p>Action ref. 4.2.3 <i>Control and prohibit if necessary, the excessive use of pesticides, fungicides and fertilisers in areas close to large populations.</i></p>	<p>There are some actions within agri-incentives that may enable land close to ponds to be left unsprayed but the few examples have not been extended in any meaningful way due to lack of direction. Agri-industry standard ‘insurance-spraying’ often requires spraying whether it is needed or not and there is no mechanism to measure and compensate for any minor reduced crop yields. This is due to lack of research into good practise and the power of the chemical manufacturing companies to resist simple direct approaches to more sustainable agriculture in the UK and despite a range of other legislative drivers.</p> <p>Conclusion INADEQUATE-MINIMAL</p>

Habitat Management (continued)

<p>Action ref.4.2.4 Remove introduced predatory fish from ponds or ditches that are known to be breeding sites or in areas that are being managed for crested newt and prohibit any further uncontrolled introductions of such fish.</p>	<p>There have very few documented fish removals from sites per year since 2006 however there is some evidence that fish releases are still occurring and even increasing in some places. There needs to be around 200 enforcement actions and 400 removals per year for 8 years to address the backlog. The Environment Agency and Police have apparently been asked not to prioritise Section 30 (Freshwater and Fisheries Act 1975) infringements due to lack of resources. This is due to a lack of investigation into and identification of offenders and breeding sites ‘in need’ which would be a multi-agency initiative. Police advise that a lack of prior surveillance and site lists hinders investigation of unlawful stocking of fish by private landowners and the public.</p> <p>Conclusion INADEQUATE-WORSENING</p>
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Species protection

Urgent Priority Action for the United Kingdom	Progress recorded
<p>Action ref. 4.3.1 Review effectiveness of current legal protection and enforcement and recommend improvements.</p>	<p>The great crested newt already has the highest protective listing of any species. The UK position is not to require additional resources to be made available to train and mobilise enforcement agencies because of the concern it will counter government policy to reduce spending.</p> <p>Conclusion INADEQUATE WORSENING</p>
<p>Action ref. 4.3.2 Ensure that derogations from the species protection legislation is accompanied by suitable environmental assessments and, where necessary, by adequate mitigation measures to maintain the conservation status of crested newts and to replace lost habitats.</p>	<p>It is accepted from government research that the fate of thousands of derogations is completely unknown and that there is no intention to go back and investigate what happened at each site and to put things right, which is inexcusable given that the locations are known. Most offences are still thought to occur due to lack of adequate survey and planning loopholes, so derogation does not even get registered. Licensing has become less open to abuse but overall there are still massive problems in that Area Plans and large as well as medium and small developments fail to mitigate landscape-scale damage. This is due to lack of surveys and context (strategy and proactive programmes) for pondscape preservation and enhancement. Many Competent Authorities remain untrained and subject to ambiguous, insufficient, poor quality and often generic guidance.</p> <p>Conclusion INADEQUATE MINIMAL</p>

Distribution Surveys

Urgent Priority Action for the United Kingdom	Progress recorded
<p>Action 4.5.1 Collate existing records and monitoring results and investigate the status of newly discovered or poorly known populations</p>	<p>The UK system has completely failed almost everywhere due to its policy of reliance on surveys by a few small charity and volunteer clubs. Studies have shown without proper government partnership voluntary survey cannot consistently deliver adequate information over a relevant time period. Planning law and government policy relies on data held by government but this is normally small, patchy, out of date and reflects a long period of underfunding of local record centres that has created copyright issues and a lack of support mechanisms for regional government. Failure to take forward proven methods reflects the reactive rather than proactive approach to threats, giving extreme focus on a few developers and little in the main area of need – the wider countryside and the system continues to fail to deliver. Monitoring results are not made available. Probably 50% of the poorly known populations are going to extinction due to pond neglect and these are not being investigated due to the determined government strategy to make do with desk study modelling rather than programmes for supervised and trained surveyors in the way done nationally for bird and general habitat assessments.</p> <p>Conclusion INADEQUATE WORSENING</p>

Population and Conservation Status Monitoring

Urgent Priority Action for the United Kingdom	Progress recorded
<p>Action 4.6.1 Develop a simple standardised sampling methodology for monitoring and calculating the condition of crested newt populations that can be readily and cheaply deployed</p>	<p>This was available in 2006 but no specific monitoring programme has been implemented because of the government resistance to a field-based baseline and the cost of creating a credible baseline and a national monitoring exercise that adequately reflects regional trends and that uses professional supervisors.</p> <p>The need has been replaced by low levels of funding on a string of poor quality, ineffective and inconclusive desk studies to a favoured contractor regarding distribution modelling.</p> <p>Conclusion. INCOMPLETE AND NOT SIGNIFICANTLY DEPLOYED</p>

Population and Conservation Status Monitoring (continued)

Urgent Priority Action for the United Kingdom	Progress recorded
<p>Action 4.6.2 To most effectively target limited resources, produce a European monitoring strategy for the crested newt species complex that takes into account the reportedly higher levels of habitat destruction in certain regions and the correspondingly greater population declines of some taxa.</p>	<p>No such strategy has been devised. In the UK, urban destruction would indicate; London & the Home counties, Manchester, Cheshire, east Wales and south Scotland.</p> <p>Agricultural destruction would indicate Eastern England, east Wales and south Scotland</p> <p>Conclusion. NOT DONE</p>

Improved liaison and coordination

Urgent Priority Action for the United Kingdom	Progress recorded
<p>Action 4.8.1 Ensure government authorities and conservation bodies adopt this action plan</p>	<p>A specific initiative would require UK ministerial approval if it is other than re-deployment of existing resources.</p> <p>Conclusion. NOT DONE</p>
<p>Action 4.8.2 Establish pan-european Crested Newt Working Group</p>	<p>This would require collaborative planning by governments and international stakeholders.</p> <p>Conclusion. NOT DONE</p>

Conclusion.

The UK scores -3 (minus 3) out of 60 for its achievements since 2006.

Assessment category	Description of assessment criteria	Overall score
Completed	The activity has been planned, undertaken and completed with measurable outputs that demonstrate levels of performance against aims.	5
Part completed 80%	The activity has been planned and undertaken (80%) with measurable outputs that demonstrate levels of performance against aims.	4
Part completed 60%	The activity has been planned and undertaken (60%) with measurable outputs that demonstrate levels of performance against aims.	3
Part completed 40%	The activity has been planned and undertaken (40%) with measurable outputs that demonstrate levels of performance against aims.	2
Part completed 20%	The activity has been planned and undertaken (20%) with measurable outputs that demonstrate levels of performance against aims.	1
Underway	The planning stages are being undertaken to a point where the initiative has been instigated at least to some extent throughout the relevant areas, including major but not minor trials and pilots.	1
Not done	There are no demonstrable signs of action	0
Inadequate minimal	Some activity has been undertaken but it is either insufficient, inappropriate or at too small a scale and with no visible prospects of expanding to be considered sufficient to achieve the aims of the activity	0
Inadequate worsening	Some activity has or may have been undertaken but it is either insufficient, inappropriate or at too small a scale and with no visible prospects of expanding to be considered sufficient to achieve the aims of the activity. The cause/s of the problem are getting worse and adding to the work needed to reverse the negative trend.	-1

Table 1. Method to assess progress with UK urgent priority measures for *Triturus cristatus* by the United Kingdom government with scores for attaining different levels of achievement.