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Subject: Civilian CSDP Compact - Mini-concept on possible civilian CSDP support to host States to fight environmental crime and to reduce its internal security forces' environmental footprint

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Delegations will find attached the revised Civilian CSDP Compact - Mini-concept on possible civilian CSDP support to host States to fight environmental crime and to reduce its internal security forces' environmental footprint.

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## Civilian CSDP Compact

### Mini-concept on possible civilian CSDP support to host States to fight environmental crime and to reduce its internal security forces' environmental footprint

**Executive Summary:** This mini-concept falls within the framework of the Civilian CSDP Compact which foresees that Civilian Common Security and Defence Policy (CSDP) missions contribute to wider EU efforts to tackle new security challenges. The development of a mini-concept on civilian CSDP and climate change has been referred to in the Climate Change and Defence Roadmap. To effectively contribute to wider EU efforts to support host States to fight environmental crime and to reduce its internal security forces' environmental footprint, the mini-concept outlines how civilian CSDP missions can support host State authorities through strategic advice and the strengthening of operational capacities.

This mini-concept outlines a possible role for civilian CSDP to help the host State's internal security forces to reduce their environmental footprint. It also proposes efforts to address environmental crime by working with local authorities of the host State and other relevant actors. The concept provides an overview of relevant policies and the current framework and outlines recommendations and possible tasks for CSDP missions.

Environmental crime and the reduction of internal security forces' environmental footprint are areas where a lot of stakeholders are active in. Civilian and military CSDP missions and operations, if deployed to the same operational theatre, should cooperate to exchange best practices and lessons learnt, to employ joint approaches, including in regard to the reduction of their environmental footprint. Furthermore, cooperation with relevant stakeholders is important, notably EU actors such as the relevant Commission's Directorates-General (DG), **EU bodies such as the European anti-fraud office (OLAF)**, as well as Justice and Home Affairs (JHA) agencies, especially Europol, Eurojust, Frontex and CEPOL, in addition to the support provided by EU delegations, and the EU Intelligence and Situation Centre (INTCEN). In this regard, strategic information exchange, through the relevant chain of command, could be strengthened in line with proposals described in other mini-concepts. Cooperation with Member States' (MS) JHA actors and line ministries, notably in the framework of the European Multidisciplinary Platform Against Criminal Threats (EMPACT), and, where relevant, other CSDP missions or operations in the region as well as increasing linkages with other international actors relevant in this field, such as the United Nations Office on Drugs and Crime (UNODC), the United Nations Environment Programme (UNEP), World Customs Organisation (WCO) and Interpol, are also of importance. Increased staff-to-staff cooperation with NATO on the climate-security nexus will further feed into this reflection.

#### Introduction

Civilian CSDP missions often operate in countries that are particularly vulnerable to climate change and environmental degradation due to strong dependencies on local ecosystem services, the extraction of natural resources and low resilience and/or weak coping mechanisms. Many host States also have to cope with environmental crime. Member States have therefore agreed to take the

adverse effects of climate change and environmental degradation into account when planning and implementing CSDP missions<sup>1</sup>. This includes the way missions conduct their activities, their mandates and tasks as well as the capabilities the missions need in order to address these challenges. In its June 2020 Conclusions on Security and Defence, the Council invited the High Representative to propose a set of concrete short-, medium-, and long-term actions to address the links between defence and climate change as part of the wider climate-security nexus. The Climate Change and Defence Roadmap<sup>2</sup> proposes concrete actions in three areas: operational dimension, capability development and diplomatic outreach. The part on the operational dimension foresees the development of a mini-concept on civilian CSDP and climate change in order to identify possible areas for increased and more effective engagement. Furthermore, the Concept for an Integrated Approach on Climate Change and Security<sup>3</sup> mentions the mini-concept among several other initiatives in this realm. The Concept presents the support to the host State's enforcement efforts to fight environmental crime, the strengthening of compliance with environmental laws and the improvement of security related aspects of environmental governance as potential areas of CSDP engagement. Finally, the Strategic Compass<sup>4</sup> states that climate change, environmental degradation and natural disasters will impact our security landscape over the next decades and are proven drivers for instability and conflict around the globe. It also calls for all CSDP missions and operations to have environmental advisors and report on their environmental footprint by 2025.

The Civilian CSDP Compact<sup>5</sup>, as adopted by the Council and Member States in November 2018, highlights that civilian CSDP missions should contribute *inter alia* to the EU's wider response to tackling new security challenges. As noted in the Civilian CSDP Compact and the subsequent Joint Action Plan by EEAS and Commission services<sup>6</sup>, the EEAS will develop specific concepts for civilian CSDP, stemming from the new security environment (mini-concepts<sup>7</sup>), which could also form the basis for new lines of operation or pilot projects<sup>8</sup>.

This mini-concept outlines a possible increased role for civilian CSDP, building on ongoing efforts. The focus of the document lies on addressing environmental crime<sup>9</sup> by working with local authorities of the host State and other relevant actors. In addition, the mini-concept includes support to adaptation measures with a view to reducing the environmental footprint of the host State's internal security forces. The concept provides an overview of relevant policies and the current framework, highlights obstacles and outlines recommendations and possible tasks for CSDP missions. Possible changes in **the** conduct of civilian CSDP missions, including efforts to reduce the environmental footprint, will be taken forward ~~in another workstrand~~, **on the basis of, inter**

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<sup>1</sup> As far as Security and Defence is concerned, landmark is the Council Conclusions on Security and Defence in the context of the EU Global Strategy of June 2019, where the Council acknowledged for the first time the relevance of environmental issues and climate change for CSDP missions and operations.

<sup>2</sup> Doc. Ref. 12741/20, 9 November 2020.

<sup>3</sup> Doc. Ref. 12537/21, 5 October 2021.

<sup>4</sup> Doc. Ref. 7371/22, 21 March 2022.

<sup>5</sup> Doc Ref. 14305/18, 19 November 2018.

<sup>6</sup> SWD(2019) 173, 30 April 2019.

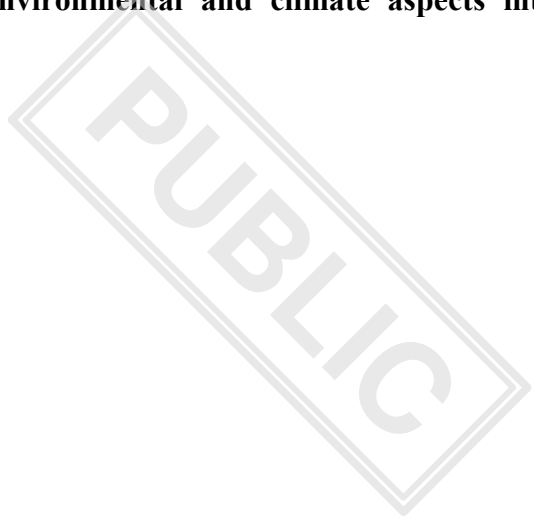
<sup>7</sup> See FFT EEAS(2019) 617 for a general introduction to mini-concepts.

<sup>8</sup> The tasks which the mini-concepts envisage are in line with the TEU and do not go beyond the civilian nature of CSDP missions and do not envisage changes to the current manner of funding such missions.

<sup>9</sup> Following a similar approach as Eurojust, this mini-concept uses as reference for a definition of environmental crime the environmental offences set out by Directive 2008/99/EC on the protection of the environment through criminal law, as well as the typology of environmental crime applied by Europol, the United Nations Environment Programme and Interpol. Environmental crime is thus understood as any illegal action with a negative, harming impact on the environment, as well as any offence in relation to endangered species. Environmental crime covers activities that breach environmental legislation and cause significant harm or risk to the environment, human health, or both.

alia, the Operational Guidelines for integrating environmental and climate aspects into civilian CSDP missions.<sup>10</sup>

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<sup>10</sup> Doc. ref. EEAS(2022) 769, 6 July 2022.

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**a. Environmental crime**

Environmental crime has become the fourth most important criminal business in the world<sup>11</sup> as it is lucrative, sanctions are weak and offences difficult to detect. Overall, transnational environmental crime has been estimated to be worth up to USD 258 billion per year<sup>12</sup>, increasing by five to seven per cent every year. Environmental crimes are often related to other crimes, such as document fraud (for export purposes), corruption of officials, money-laundering and cybercrime (selling wildlife online, connecting poachers and buyers). As tackling environmental crime is often closely linked to the fight against organised crime and even terrorism, recommendations derived from other mini-concepts on organised crime and counter-terrorism should also be taken into consideration. Additionally, links with the respective mini-concepts on border management and maritime security are also relevant.

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<sup>11</sup> UNEP-INTERPOL Rapid Response Assessment: The Rise of Environmental Crime, June 2016.

<sup>12</sup> See, for instance, the Report on Eurojust's Casework on Environmental Crime, January 2021: Three out of the twelve most financially rewarding transnational criminal activities are linked to environmental crime: illicit wildlife trafficking (for an estimated annual value between 7.8 and 10 billion USD), illicit timber trade (7 billion USD) and illicit fish trade (between 4.2 and 9.5 billion USD).

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- Strengthening host States' operational capacities

The strengthening of capacities is necessary to enact the policy and legislative framework mentioned before. CSDP efforts could aim at increasing the effective performance of national authorities through training and through the implementation of targeted projects, as well as through coaching, Monitoring, Mentoring and Advising (MMA) or operational advice. **As far as training is concerned, host State authorities should be supported in their efforts to participate in international training programmes, also with the aim of facilitating the establishment of networks and possible future cross-border investigative activities.**

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- Cooperation with EU security instruments, JHA agencies and Commission services

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Equally important is the cooperation with relevant Commission services (and Commission funded projects in host States). Addressing climate and environmental security requires a multidimensional approach and often relevant and/or related Commission funded projects exist in host States alongside CSDP missions. The Neighbourhood, Development and International Cooperation Instrument (NDICI – Global Europe) has a 30 % target for climate action and must contribute to MFF objectives on biodiversity. On top of this, President von der Leyen announced in her State of Union address in September 2021 an additional commitment of EUR 4 billion for Climate action as well as doubling of EU external funding for biodiversity. Close coordination and cooperation is therefore necessary. In addition, CSDP missions can facilitate exchanges between host State authorities and other EU actors, in close coordination with EU Delegations.

Finally, CSDP missions can benefit from data issued by the Joint Research Centre, imagery provided by SATCEN as well as other relevant data sources. The data and the imagery can be exploited by missions in order to better analyse climate related events. Imagery from SATCEN can also be useful instruments in the fight against environmental crime, for instance in the fight against illegal logging.

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**Annex A – The international framework regarding environmental crime***The EU's framework*

The cornerstone of the EU's legal framework is the 2008 Environmental Crime Directive (ECD)<sup>13</sup>, which obliges Member States to provide for criminal penalties in their national legislation in respect of serious infringements of provisions of EU law on the protection of the environment. A revision of the Environmental Crime Directive is currently being negotiated. Other key pieces of EU legislation cover specific sectors (e.g. the EU timber legislation) or implement international agreements (i.e. the Ship-Source Pollution directive<sup>14</sup> implementing the MARPOL convention). In February 2016, the European Commission adopted a communication on the EU Action Plan against Wildlife Trafficking<sup>15</sup>. It sets out a comprehensive set of measures against wildlife crime inside and outside the EU. Other important acts of legislation are the Directive on port reception facilities for the delivery of waste from ships<sup>16</sup> (7 June 2019), the New Circular Economy Action Plan<sup>17</sup> (March 2020) with an ensuing package of legislative proposals on waste, the Environmental Liability Directive<sup>18</sup> (ELD) (30 April 2004), establishing a framework for environmental liability (the 'polluter pays' principle, Article 191(2) TFEU).

The Commission is currently reviewing the EU waste shipments regulation and the Action Plan against Wildlife Trafficking, and it will consider whether the latter should be extended to environmental crime more generally. The Commission is also carrying out an evaluation of the ECD which will include, inter alia, data collection both on the scale of environmental crime and analysis of the effectiveness of the Directive with its current scope and of its consistency with other relevant EU level legislation and cooperation instruments. Furthermore, the Commission will explore avenues to ensure that international instruments dealing with serious crime forms apply to environmental crime such as on wildlife trafficking. This can be achieved through a protocol to the UN Convention against Transnational Organised Crime (UNTOC).

The European Commission also developed in 2018 the Action Plan on Environmental Compliance Assurance and established the Environmental Compliance and Governance Forum which brings together Member States representatives and representatives of practitioners' bodies, such as the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) and the European Network of Prosecutors for the Environment (ENPE), in order to work more closely together on compliance assurance and wider governance issues. The Environmental Compliance and Governance Forum endorsed a Guidance on combating environmental crimes and related infringements, which supports the work of environmental inspectors, police officers, customs officers, prosecutors, judges and other relevant actors.

In the Council Conclusions on countering environmental crime (8 December 2016)<sup>19</sup>, the Council promoted good practices, including gathering of information and cooperation of relevant authorities and other actors, in order to reinforce the countering of environmental crime. In the Council

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<sup>13</sup> Directive 2008/99/EC.

<sup>14</sup> Directive 2009/123/EC.

<sup>15</sup> COM(2016) 87 final, 26 February 2016.

<sup>16</sup> Directive 2019/883/EU.

<sup>17</sup> COM(2020) 98 final, 11 March 2020.

<sup>18</sup> Directive 2004/35/EC.

<sup>19</sup> Doc. Ref. 15412/16, 8 December 2016.

Conclusions on setting the EU's priorities for the fight against organised and serious international crime between 2018 and 2021 (18 May 2017)<sup>20</sup> one of the priorities set was to disrupt OCGs' involved in environmental crime, more particularly in wildlife and illicit waste trafficking.

Environmental crime is also one of the EMPACT priorities, under the 2022-2025 EMPACT cycle, with the aim to disrupt criminal networks involved in all forms of environmental crime, with a specific focus on waste and wildlife trafficking, as well as on criminal networks and individual criminal entrepreneurs with a capability to infiltrate legal business structures at high level or to set up own companies in order to facilitate their crimes.<sup>21</sup>

### *The international conventions*

An extensive body of treaties, agreements and declarations that cover environmental crime has developed over the last decades. Many international treaties provide frameworks that, directly or indirectly, regulate, control and limit international trade in wild fauna and flora, and criminalize illegal activities in the wildlife and forestry sectors. While some international treaties foresee the criminalization of certain acts of non-compliance, others allow for regulations that open pathways to administrative or civil liability. International law leaves signatory parties to relevant treaties the choice as to which form might be best adapted to the domestic situation.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is the principal international instrument to control and regulate international trade in protected species and to suppress any illegal dealings in wild fauna and flora. The treaty has 183 Parties, thus constituting the single most important instrument in this field. CITES is the only treaty that requires Parties to penalize some aspects of illegal trade in protected species.

In addition to CITES, the offences and international cooperation frameworks established by the United Nations Convention against Transnational Organized Crime (UNTOC) and the United Nations Convention against Corruption (UNCAC) enable the criminalization, investigation and prosecution of those aspects of wildlife and forest offences that are linked to organized crime or corruption. Since its inception, UNTOC has become an important and nearly universal tool (190 Parties) in preventing and combating organized crime, including illegal trade in wild fauna, flora, and their parts and derivatives. Environmental crime is often transnational in nature, and given the frequent involvement of organized criminal groups, there is considerable potential for invoking the Convention against Transnational Organized Crime in a legal response to the cross-border aspects of wildlife and forest offences. Insofar as the different forms of environmental offences are connected with corrupt practices, UNCAC can provide an important legal basis for combating them. As stated above, environmental crimes are often linked to other crimes, and corruption appears to be one of the most common crimes in this area.

Other relevant international treaties are the Convention on Biological Diversity, focussing predominantly on habitat protection by endeavouring to balance the need for economic development with the protection of biodiversity, the Convention Concerning the Protection of the World Cultural and Natural Heritage, protecting designated cultural and natural sites from destruction, encroachment and exploitation, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Other Wastes and their Disposal, various regional fisheries management organisations

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<sup>20</sup> Doc. Ref. 8654/17, 12 May 2017.

<sup>21</sup> Doc. Ref. 8665/21, 12 May 2021.

that impose controls on illegal, unregulated and unreported (IUU) fishing, and finally, bilateral agreements that curtail illegal trade in wildlife and forest products.

