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NOTE

From:	Presidency
To:	Delegations
Subject:	Draft Council conclusions on combating cross-border environmental crime

Following the comments received during the written consultation, delegations will find attached the **fifth revised version** of the draft Council conclusions on combating cross-border environmental crime.

Draft**Council conclusions
on combating cross-border environmental crime****General considerations**

1. Environmental crimes remain one of the most profitable unlawful activities, posing a major threat to the safety of citizens and future generations of Europe and of the world, through the significant damage to and deliberate destruction of the environment for illegal financial gain. Combating environmental crime is essential in protecting the safety of citizens, however, despite the high stakes involved, this type of crime is not always given sufficient priority. While environmental crime is one of the EU priorities for the fight against serious and organised crime implemented by the European Multidisciplinary Platform Against Criminal Threats (EMPACT)¹, the commitment of all the stakeholders is not at the same level compared to other priority crime areas.
2. The scale of the threat is unlikely to diminish in the medium term, in particular as long as the vulnerable market and easy money-making opportunities remain accessible to criminals.
3. Given the kind of threats posed, a comprehensive approach to environmental crime is needed. This form of crime, on a large scale, is currently severely affecting ecosystems, health and livelihoods of people, security and rule of law. Environmental crimes also cause significant economic damage, including by weakening the relevant market by exposing it to unfair competition with illegal operators, in particular in the waste management. It has been widely taken over by criminal networks and is frequently associated with other forms of serious crime, corruption, money laundering and financing of terrorism.

¹ 7101/23.

4. Crimes that affect the environment cover many forms of unlawful conduct, these include, for example, unlawful trafficking in waste, timber, wildlife, including inter alia flora and fauna and products thereof, such as bushmeat; trafficking in minerals, precious metal and illegal mining, as well as other emerging issues, such as fraud in the energy transition and illegal waste management; together with other infringements that affect the environment, when they are defined as a crime such as pollution, unlawfully caused large-scale forest fires, offences causing the depletion of water resources or offences against protected marine species².
5. The EU's outermost regions, as well as overseas countries and territories³, which have an exceptional and particularly fragile natural environment and facing a wide range of threats, must be protected on an equal footing with the EU's core territory.
6. Prevention of and effective action against environmental crime can reduce the cost implications related to repairing environmental damage and to dealing with the impact on human health, for example in the case of illegally dumped waste, which entails considerable costs for Member States.
7. On 8 December 2016, the Council adopted conclusions on countering environmental crime⁴.
8. In July 2020, the EU Security Union Strategy, presented by the Commission, identified environmental crime as an illegal business with growing profits exploited by criminal networks, which required further action.

² For example, those referred in recital 8 of Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law.

³ Denominated ultra-peripheral regions: Guadeloupe, French Guiana, Réunion, Martinique, Mayotte and Saint-Martin (France), the Azores and Madeira (Portugal) and the Canary Islands (Spain). And the status of overseas country and territory concerns 13 countries and territories belonging to three of the Member States of the Union: Denmark, France and the Netherlands.

⁴ 15412/16.

9. In April 2021, the EU Strategy to tackle Organised Crime 2021-2025 highlighted the harmful effects of environmental crime on biodiversity, health and social cohesion within the EU and in third countries; and called for strengthening the enforcement capacity at national and EU level. This strategy has been complemented by a comprehensive set of priority actions in the EU Roadmap to fight drug trafficking and organised crime for the period 2024-2025 focusing on four priority areas for increased action: strengthening the resilience of logistic hubs, dismantling the structures and their business models by seizing and confiscating their profits, implementing the administrative approach for prevention and international cooperation.
10. In May 2021, the Council adopted conclusions setting the EU's priorities for the fight against serious and organised crime for EMPACT 2022-2025⁵. One of these priorities is 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 a high level or set up their own businesses to facilitate their crimes.
11. On 9 November 2022, the Commission adopted the revised EU action plan against wildlife trafficking⁶, which outlines concrete measures, spanning prevention, policy and legislative development, enforcement and international cooperation, to combat this crime. It is important to ensure its effective implementation.
12. Efforts to tackle environmental crime should be improved, building on the results of the environmental crime operational action plans (OAPs) within EMPACT and in the light of the results of the 8th round of mutual evaluations on environmental crime.

⁵ 8665/21 and 7101/23.

⁶ 14718/22.

13. The new Environmental Crime Directive⁷ entered into force in May 2024 and adopts a rigorous and detailed comprehensive approach to environmental crime. It expands the list of offences to be established as crimes in national law and includes provisions on penalties for natural and legal persons and on strengthening the enforcement chain, including cooperation mechanisms within and between Member States. A new Council of Europe Convention on the Protection of the Environment through Criminal Law⁸ is expected to be finalised in Q4 2024 and be opened for signatures in Q1 2025.
14. The new Waste Shipment Regulation⁹ contains new important provisions on enforcement against illegal shipments of waste, including on inspections, penalties and cooperation.
15. To ensure that criminal networks behind environmental crimes are held accountable in practice, it is important to continue to enhance law enforcement and judicial cooperation between the Member States and beyond.

⁷ Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC, OJ L, 30.4.2024 (the ‘Environmental Crime Directive’).

⁸ A Council of Europe Convention superseding and replacing the 1998 Convention on the Protection of the Environment through Criminal Law (ETS No. 172, 9.11.1998).

⁹ Regulation (EU) 2024/1157 of the European Parliament and of the Council of 11 April 2024 on shipments of waste, amending Regulations (EU) No 1257/2013 and (EU) 2020/1056 and repealing Regulation (EC) No 1013/2006, OJ L, 30.4.2024.

16. The transnational dimension of environmental crime committed by criminal networks requires the strengthening of the cooperation of the EU institutions and the Member States as well as third countries, international organisations, and further public and private partners, taking into account e.g. the 2015 Paris Agreement on climate change¹⁰ and the 2022 Kunming-Montreal Global Biodiversity Framework¹¹ objectives. The EU should strengthen cooperation on bilateral level with interested third countries. The EU should promote increased cooperation between international agencies and bodies dealing with environmental crime (e.g. Interpol, UNODC, the World Customs Organisation¹², multilateral environmental agreements like the Basel Convention). In November 2010, the WCO, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Secretariat, Interpol, the United Nations Office on Drugs and Crime (UNODC) and the World Bank – founded the International Consortium on Combating Wildlife Crime (ICCWC), to provide more support to national wildlife law enforcement agencies as well as to regional and sub-regional networks combating the illegal trade in wildlife (i.e., fauna and flora). In March 2024, the Council conclusions on Green Diplomacy¹³ called for enhanced global cooperation to address international environmental crime, underlining the importance of implementing the section of the revised EU Action plan against wildlife trafficking related to strengthening the global partnership of source, consumer and transit countries.

¹⁰ United Nations, 2015, The Paris Agreement on climate change, available at: https://unfccc.int/sites/default/files/english_paris_agreement.pdf.

¹¹ United Nations, 2022, Decision adopted by the conference of the parties to the convention on biological diversity (Kunming-Montreal Global Biodiversity Framework), available at <https://www.cbd.int/doc/decisions/cop-15/cop-15-dec-04-en.pdf>.

¹² Two major international law enforcement operations under the World Customs Organisation (WCO) are Operation Thunder (tackling forestry and wildlife crime) and Operation Demeter (tackling illegal trafficking of waste and ozone depleting substances), involving customs, police, border control, environment, wildlife or forestry officials worldwide. This global approach makes these operations a yearly success in terms of reported cases.

¹³ 7865/24.

17. On 21 November 2023, the Council conclusions on relations between the EU and Latin America and the Caribbean (LAC)¹⁴ were adopted in which the Council calls for stronger EU-LAC cooperation on justice and security at all levels as a matter of priority to tackle the manifold and increasingly significant challenges posed by transnational organised crime that negatively impact both sides of the Atlantic. These include among others, environmental crime.
18. There is also scope for more effective consultation with and active contribution to Interpol and with the active working groups of Interpol's Environmental Compliance and Enforcement Committee, one focusing on damage to the natural environment and wildlife, on forestry crime and on environmental pollution, as well as consultation with the WCO's environment programme.
19. Various international, European, and regional networks¹⁵ have carried out work in the field of combating environmental crime with strategic or operational objectives, including the European Environmental Crime Network (EnviCrimeNet), the European Network of Prosecutors for the Environment (ENPE), the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) and the European Union Forum of Judges for the Environment (EUFJE). The role of these networks is crucial for the exchange of good practices and the development of innovative tools to tackle cross-border environmental crime. Best use should be made of the sector-specific skills of these networks to develop an operational and strategic response against environmental crime.

¹⁴ 15737/23.

¹⁵ These networks include the Team Europe Initiative on conserving five great forests of Mesoamerica, the Network of prosecutors on environmental crime in the Baltic Sea region (ENPRO) and the JAGUAR Network, which is also relevant as a platform for police cooperation between countries in Latin America and EU Member States.

20. The fight against environmental crime requires close national and international cooperation between many actors: judicial authorities, administrative bodies, law enforcement authorities, customs authorities, NGOs and private partners with a societal gatekeeper responsibility in terms of both strategic planning and operational action. Synergies also need to be developed with relevant environmental associations, who are often on the front line when it comes to environmental damage, and with civil society. The general public should be made more aware of its role and potential in the fight against environmental crime and encouraged to report indications of this crime to the competent authorities.
21. A more effective law enforcement action, when necessary backed up by covert operations and investigative tools, in this area is useful to ensure effective tackling of criminal networks and targeted investigations, detection, as well as the swift exchange of information and intensive operational cooperation, considering the need to follow the money and the challenges relating to the abuse by criminals of the online space.
22. Successful action against this threat also requires a clear understanding and mapping of the threat, which are essential starting points for setting strategic priorities, and up-to-date, specific knowledge of the actors involved, in particular in relation to the sectoral rules that set out the regulatory framework. Therefore, well trained law enforcement and judicial authorities are paramount for a successful fight against environmental crime.
23. Member States are encouraged to take effective measures and to provide an appropriate level of tools and resources such as necessary human resources, laboratory capabilities and analytical technologies, and the examination of licencing, and in those contexts also require cooperation between EU Member States. Environmental crime investigations sometimes require in-depth investigations using scientific methods, the sampling and testing of substances (e.g., chemicals or coloured liquids) to obtain evidence against environmental criminals is a critically important and specialised area. Scientists and specialised technical experts are needed to gather this evidence.

24. The initiatives taken in recent years to facilitate cross-border cooperation in the fight against environmental crime should be recognised. Since environmental crime has become an EMPACT priority (2018-2021; 2022-2025), Europol has set up an Analysis Project dealing with environmental crime and has supported Member States in their criminal investigations regarding all environmental crime phenomena. Europol is also a co-driver of the relevant EMPACT operational action plans and produces reports on environmental crime¹⁶.
25. The European Anti-Fraud Office (OLAF) plays an active role in the fight against environmental fraud and works in close cooperation with customs authorities to support cross-border investigations and to coordinate or participate in joint customs operations in this area.
26. Eurojust also plays a crucial role in fighting environmental crime. It has extensive experience in dealing with cross-border environmental crime cases referred to the agency, including by facilitating coordination meetings, coordination centres and supporting Joint Investigation Teams (JITs). Eurojust produces reports on casework such as a report on cases relating to environmental crime to highlight obstacles in the field of judicial cooperation and to share best practices. That report also draws attention to the importance of coordination mechanisms at national level, the inadequately small number of environmental crime cases referred for judicial coordination and cooperation at European and international level, and the significance of the difficulties in cross-border judicial cooperation arising from differences in legal concepts and penalties regarding environmental crime in national legislation.
27. The digitalisation of communication in the field of judicial cooperation can also contribute significantly to facilitating cross-border cooperation in support of the fight against environmental crime.

¹⁶ Such as the recent report “Combating environmental crime: Key threats and challenges” (9251/24).

28. Access to special investigative tools such as covert surveillance and investigative tools (human intelligence) in combating serious or organised environmental crimes is not always available to Member States, which largely have only standard investigative tools at their disposal. This limits effectiveness in the fight against criminal networks and hampers cross-border cooperation, for example when surveillance ordered in one Member State cannot be continued or supplemented in another Member State concerned¹⁷.
29. Particular attention is paid to the processes behind the typical forms of environmental crime in the business sector, which could be prevented and mitigated by administrative means of combating organised crime, in particular by applying customer due diligence systems, excluding the rental of premises.
30. Not all judges, prosecutors and investigators may have the specialised expertise to facilitate the effective investigation of crime in this area.
31. Emphasis should be placed on the importance of providing adequate training as a response to improving capacity to prevent, detect, investigate and prosecute environmental crime and related offenses, and the priority of investing in the development of a training portfolio on environmental crime as well as the laundering of their illicit profits to develop the skills and knowledge needed by the European law enforcement community, prosecutors and judiciary.

¹⁷ See Council Recommendation (EU) 2022/915 of 9 June 2022 on operational enforcement cooperation.

The Council invites the Member States to:

32. Timely transpose the new Environmental Crime Directive. When transposing the Directive, particular attention should be paid to the formulation of the new offences and measures to respond to law enforcement challenges. Prior exchange of existing best practices and experiences to help establish an equivalent level of protection should be considered.
33. Seek to promptly adopt national strategies and establish effective national coordination and data sharing mechanisms with appropriate capacities mainly in intelligence gathering and statistics. In that context, facilitate the capacity building and specialisation of relevant staff of the bodies involved in those mechanisms, including by integrating training on environmental crime in national curricula of relevant training academies and schools.
34. Promote voluntary specialisation and facilitate the effective investigation of crimes in this area, consider developing appropriate procedures to make those specialised capacities available in a timely manner to assist law enforcement and judicial authorities. When promoting such specialisation, the independence and autonomy of the judiciary and prosecutors should be respected.
35. When prosecuting cross-border environmental crime of an organised nature, encourage, where appropriate, taking full advantage of the opportunities offered by the Joint Investigation Teams facilitated by Eurojust, and the European Judicial Network (EJN), and ensure the legal and organisational conditions for smooth judicial cooperation. Use Eurojust's assistance to facilitate and speed-up cross-border exchange of information and cooperation at the judicial level, to develop common investigation and prosecution strategies in linked or parallel criminal proceedings, to facilitate transmission and execution of European and international judicial cooperation instruments. In particular, consider establishing national focal points and specialised law enforcement and prosecutorial units, as well as encourage targeted trainings within the judiciary for those frequently confronting these cases.

36. Incentivise the development and uptake of digital and innovative tools to enable investigative services to be faster and more effective¹⁸.
37. Take advantage of the opportunities offered by the available Union funds, including the Internal Security Fund.
38. In particular within the framework of EMPACT, engage, cooperate, whenever necessary, with Member States and non-EU partners in international law enforcement cooperation with a truly operational character the conduct of law enforcement operations against cross-border forms of crime, make the widest possible use of existing instruments for operational law enforcement cooperation, and propose and lead any necessary operational actions in the relevant operational action plan. These schemes also help to give the necessary impetus to promote the fight against environmental crime, which remains a medium priority for some police forces.
39. When fighting cross-border environmental crime, foster effective cooperation between customs authorities, which play a crucial role in detecting shipments infringing environmental rules, and environmental authorities in case of suspicions to ascertain illicit activities, investigating flows and combat strategies to circumvent rules/controls and exchanging information among Member States and with other authorities (via CSW EU-CERTEX or CENcomm, as appropriate), as well as with the Commission (TAXUD and OLAF, via CRMS and AFIS).

¹⁸ In this context, Member State authorities are encouraged to take note of the currently ongoing EU-funded Horizon Europe research projects PERIVALLON and EMERITUS that are developing tools to provide an improved, comprehensive intelligence picture of organised environmental crime and are designing detection technologies based on geospatial intelligence, remote sensing, online monitoring, analysis, risk assessment, and predictive analytics technologies to support investigative capabilities for countering environmental crime. Moreover, complementary training programs are being developed fostering environmental enforcement authorities.

40. When speaking of environmental crime linked to illicit transboundary shipments, given the fundamental role of customs authorities in fighting this phenomenon, ensure the systematic use of AFIS (Anti-Fraud Information System). While being the main secure channel of communication for customs authorities, it can be used also by law enforcement and administrative authorities in Member States and even in third countries. Communication through AFIS is able to ensure the coordination between all the involved authorities, given that administrative inspections/assessments are often the first step to detect illegal shipment.
41. Recommend the extended use, by law enforcement authorities (including customs authorities) that already have access to them, of existing secure channels of communication namely Europol's Secure Information Exchange Network Application (SIENA) and, whenever necessary, Interpol's Global Secure Police Communications System [I-24/7], in order to ensure rapid and comprehensive transmission of operational information on cross-border environmental crime cases and, in accordance with the Europol Regulation, include Europol in those exchanges, so that Europol can better support both national and joint investigations through better quality analysis and cross-check.
42. Map the threats and identify priority threats based on a credible, comprehensive, up-to-date picture of the situation, which demands an extensive sharing of information and appropriate analytical work among Member States and with Europol, OLAF and other relevant bodies such as Interpol, WCO, the secretariats to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the secretariat to the Basel, Rotterdam and Stockholm conventions (BRS MEA's).
43. In order to target the threat concerned, place particular emphasis on possible administrative approaches to this form of crime, in particular to deter corruption linked to the threat.

44. When investigating and prosecuting environmental crime, in line with the Financial Action Task Force (FATF) recommendations and the provisions of the Directive on Asset Recovery and Confiscation¹⁹, launch ~~as may be necessary~~ financial investigations in parallel to criminal investigations to put the ‘follow the money’ principle into practice, especially against cross-border environmental crime, with the aim of disrupting and dismantling the criminal networks behind the individual cases. This includes a systematic launch of financial investigations as well as the use of appropriate tools to effectively and swiftly trace, identify, freeze and confiscate proceeds of crime and property that stem from criminal activities. To this aim, enhance or establish at national level a cooperation between the financial intelligence units and specialised law enforcement authorities, by sharing relevant financial information, knowledge and training on risks and types of illegal activities related to environmental crimes in line with EU law, such as the Directive on Asset Recovery and Confiscation.
45. In accordance with national law, systematise financial investigations to identify the circuit of illicit funds and consider the use of confiscated assets, where possible and appropriate for public interest or social purposes, such as to contribute to conservation measures.
46. Embed digital investigation specialists within specialised law enforcement units dedicated to combatting environmental crime when needed.
47. When developing national strategies, include training for the subsequent dissemination of the strategy to all relevant staff and authorities. It is also important to put a strong emphasis on prevention, including with local communities and the youth, to make them aware of the consequences of offences.

¹⁹ Directive (EU) 2024/1260 of the European Parliament and of the Council of 24 April 2024 on asset recovery and confiscation, OJ L, 2024/1260, 2.5.2024.

48. Employ efforts to create, in partnership with the civil and private sectors, targeted awareness-raising campaigns to raise public awareness, increase the willingness of citizens who experience illegal activities to report them and educate children to prioritise the safety of their environment in order to protect it.
49. Take into account existing best practices, where national structures allow, such as the Law enforcement directorate for environment and public health (CESAN, French Gendarmerie) (France), the Carabinieri Training Center in Sabaudia (Italy), the Environmental National Intelligence Office of Nature Protection Service of the Spanish Guardia Civil (SEPRONA), Nature and Environment Protection Service (SEPNA) of the National Republican Guard (GNR, Portuguese Gendarmerie) and the effective operational action teams for the detection of illegal waste shipments in Slovenia, which use a multidisciplinary approach, and the need for Member States to have adequate capacity in all relevant organisations.
50. Take into account the related activities of the European Network of Law Enforcement Technology Services (ENLETS) on Green Policing.
51. Where appropriate, communicate widely about successful cases in environmental crime prevention and prosecution to enlarge the reach of individual actions.
52. Encourage the development of tools, in a coordinated manner, to foster waste control (in both countries of origin and destination), to quickly and effectively have the necessary information available and, if needed, compare it with the data to prevent in some cases very dangerous waste transport or storage, and to determine if these transports and storage are lawful.

The Council calls on the European Commission to:

53. Closely monitor the effectiveness of the implementation of the new Environmental Crime Directive and support the relevant stakeholders in its implementation.
54. To explore possibilities to enable Member States to support the development of national strategies to combat environmental crime within the available funds and with the support of relevant agencies.
55. Involve the core actors of the relevant EMPACT operational action plans when designing and implementing projects to avoid any duplication of efforts or overlap.
56. Promote best practices on national coordination and promote the use of the existing platforms of Interpol, the four networks (IMPEL, ENPE, EUFJE, EnviCrimeNet) and notably Europol's platform for experts as well as Eurojust at prosecutorial level to enhance the exchange of such best practices.
57. Continue and further strengthen its cooperation with the existing networks of environmental enforcement practitioners, such as-IMPEL (inspectors); ENPE (prosecutors); EUFJE (judges); and EnviCrimeNet (police and other enforcement officers); and promote the results of their work.

The Council invites Europol to:

58. Continue supporting EU law enforcement agencies in their criminal investigations regarding all environmental crime phenomena with specific attention for new challenges associated with waste trafficking, the illegal trade in Fluorinated gases and other ozone depleting substances, fraud schemes in environmentally relevant sectors as well as illegal logging, timber and wildlife trafficking and offences against protected marine species, and on public health consequences.
59. Continue encouraging Member States to share information on relevant cross-border cases and actively engage with Europol, where appropriate.
60. Strengthen its links with the active working groups and task force of the Interpol Committee on Environmental Crime, in particular in the field of combating illegal exports and imports of waste shipments, the trafficking in endangered species of wild fauna and flora and the falsification of documents used in the legal trade of the goods concerned and the work by the WCO.
61. Explore possible solutions at EU level to reduce related document fraud by expanding participation in the relevant EMPACT Common Horizontal Strategic Goal.

The Council invites Eurojust to:

62. Continue to encourage and support Member States to set up Joint Investigation Teams in this area.
63. Facilitate judicial cooperation between Member States in order to improve implementation of the legal framework aimed at fighting environmental crime.
64. Work with the EJTN to ensure that the new guidelines, best practices and recommendations stemming from the Eurojust casework experience and the extensive background legislation are made available to prosecutors and judges as soon as possible so that they are prepared to provide effective justice in the context of the fight against environmental crime.

The Council invites EnviCrimeNet to:

65. Continue to support Member States' experts by exchanging best practices and facilitating cooperation between Member States.
66. Follow up on projects, EU initiatives and research in the field of combating environmental crime in coordination with activities developed in the EMPACT Operational Action Plans.
67. Increase the emphasis on the role of online activities and on aspects relating to financial investigations.
68. Support countries in setting up or review their Environmental National Strategy.

The Council invites CEPOL to:

69. Continue to support the EU law enforcement community and provide increased training capacity for Member States in the prevention and investigation of environmental crime, building on the strategic training priorities identified by EU-STNA 2022-2025, in line with the priorities identified by the European Green Deal and the Justice and Home Affairs Agencies Network, and the results of the Operational Training Needs Assessment (OTNA) on environmental crime.

The Council invites the Jaguar Network to:

70. Increase the exchange of information between Latin American, the Caribbean and the European Union by encouraging third countries of these regions to enhance cooperation with Europol, encourage the relevant authorities of these regions to cooperate regularly and actively based on planned coordinated operations, increase the number and scope of operations, and share experiences following incidents and lessons learnt.
71. Support the Council in achieving its Council Conclusions on relations between the EU and Latin America and the Caribbean adopted on 21 November 2023 in the field of combating environmental crime.