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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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Subject:	Draft Council Conclusions on countering environmental crime - Adoption

Delegations will find in annex the draft Council Conclusions on countering environmental crime, following the Law Enforcement Working Party meeting on 6 December 2016.

DRAFT COUNCIL CONCLUSIONS ON COUNTERING ENVIRONMENTAL CRIME

THE COUNCIL OF THE EUROPEAN UNION,

NOTING that environmental crime has become one of the world's most profitable organised criminal activities and has a significant impact not only on the environment, but on society and the economy in general, and that it has been identified as an emerging threat in the Serious and Organised Crime Threat Assessment (SOCTA) 2014-2017;

BUILDING ON the Council conclusions on the EU Action Plan against Wildlife Trafficking¹ adopted in June 2016;

UNDERSCORING that combating environmental crime in an effective manner requires a comprehensive, multidisciplinary approach at all levels and the use of all relevant EU, international and national policies and instruments, involving law enforcement, customs, and border guard authorities as well as environmental and administrative authorities, building on existing initiatives and efforts by Member States and international organisations, while respecting EU and Member State competences;

RECALLING that environmental crime encompasses a wide range of offences which wilfully or purposefully damage the environment, as indicated in Europol's threat assessment on environmental crime in the EU²;

RECALLING that environmental crimes are frequently closely linked to various fraud offences and involve the use of fraudulent documents and certificates;

¹ 10512/16.

² 15915/13.

HIGHLIGHTING the need to enhance dialogue and cooperation with relevant international organisations, and to involve as appropriate all relevant non-state actors, including non-governmental organisations and the private sector;

NOTING the differences in the national legislation of Member States relating to criminal proceedings, in particular varying distinctions between administrative offences and crimes and varying penalty limits, and the different legal conditions for the use of specific means of investigation;

NOTING that the effective fight against environmental crime requires the active exchange of information between law enforcement authorities and also between law enforcement, environmental and administrative authorities of the Member States;

WELCOMING the UN General Assembly Resolution 69/314 on Tackling illicit trafficking in wildlife and the UN Environment Assembly Resolution 1/3 on Illegal trade in wildlife;

WELCOMING the work in the field of combating environmental crime carried out by various international, European and regional networks, such as an informal network for countering environmental crime (EnviCrimeNet), the European network for the implementation and enforcement of environmental law (IMPEL), the European network for cross-border cooperation of law enforcement in the waterborne transport domain (AQUAPOL), the informal European network of prosecutors for the environment (ENPE), the European Union forum of judges for the environment (EUFJE), and the Southeast European law enforcement centre (SELEC), as well as the World Customs Organization's global communication tool for use in the fight against environmental crime at the border (ENVIRONET);

CONSCIOUS that environmental crime has an important external dimension that requires close cooperation with neighbouring and third countries and multidisciplinary interaction between all relevant authorities at the external border of the Union;

INVITES MEMBER STATES TO:

1. provide law enforcement and other relevant authorities with sufficient capacity to detect and investigate offences against the environment in a timely manner and bring their perpetrators to justice, and consider the potential added value of establishing specialised police units as well as extending the expertise of forensic and other scientific units to cover the investigation and examination of environmental offences. The specialisation of prosecutors at both national and regional level as well as of judges, in accordance with national law and practice, could also be considered;
2. coordinate activities related to fighting environmental crime at national level, including among law enforcement, customs, environmental and administrative authorities, by involving all relevant multidisciplinary actors, clearly defining their roles and ensuring a secure system for actively sharing information between these actors;
3. consider carrying out meetings at regional level between environmental agencies and specialised prosecutors;
4. support the activities of EU-Twix, involve its experts in wildlife identification and share their experience;
5. where appropriate, systematically address the organised crime angle of environmental offences, in particular in the areas of wildlife and waste trafficking as well as illegal chemicals and pesticides;
6. where appropriate, involve cybercrime units in countering illegal activities in the field of environmental crime, especially illegal wildlife trade and trafficking in illegal pesticides and other dangerous substances;
7. where appropriate, enable the involvement of financial investigators in environmental crime cases, at least for serious types of environmental crimes, in order to better understand the criminal structure of the phenomenon;

8. support the development and the use of forensic techniques to tackle environmental crime, in particular wildlife crime, and share the experience of their use with other Member States;
9. develop the expertise of environmental crime units in asset investigations within the framework of environmental crime, where possible with the aim of recovering assets in order to ensure civil responsibility for environmental crimes;
10. support the development of various partnerships between public and private actors in the field of environmental protection and the fight against environmental crime;
11. make best use of existing organisations and networks such as INTERPOL, EnviCrimeNet, IMPEL, AQUAPOL, ENPE, EUFJE, SELEC as well as project TECUM and their expertise, and encourage efficient coordination among those organisations and networks as well as with other existing initiatives at European and international level;
12. monitor the current threat posed by environmental crime as well as its systematic development, including through regular collection and sharing of relevant information with all relevant partners both regionally and within the EU as a whole, in particular via Europol;
13. initiate or organise joint intelligence-led and regionally focused operations to tackle environmental crime, with the support of Europol and Eurojust, participate in the creation of joint investigation teams and ensure that financial investigations can be carried out as part of the basic investigation;
14. increase the focus on education and training for law enforcement authorities and the judiciary in the field of fighting environmental crime at both national and international level in cooperation with the European Judicial Training Network (EJTN), support CEPOL activities by offering tailor-made training programmes, including on financial investigations, and ensure the participation of Member States' representatives in such training;
15. consider introducing an obligation for an offender convicted of an environmental crime to cover the costs of the environmental agency which uncovered the facts that led to the prosecution;

16. effectively use available funding opportunities for the fight against environmental crime, including the funding of national programmes under the Internal Security Fund, and take into account the organised crime dimension of the phenomenon;
17. share relevant experience and knowledge with Europol in order to strengthen its expertise in the field of environmental crime;
18. initiate public-private partnerships in line with applicable national law in order to share knowledge, experience, information and capabilities in the fight against environmental crime, primarily in the detection of wildlife trafficking and illegal waste activities, where possible, with the non-governmental organisations;

INVITES THE EUROPEAN COMMISSION TO:

1. monitor the effectiveness of EU legislation in the field of countering environmental crime;
2. support cooperation between the relevant partners, such as Member States, EU agencies, in particular Europol and Eurojust, as well as INTERPOL;
3. support the development of good practices identified by Member States, EU agencies and INTERPOL, and promote the sharing of good practices and lessons learned from the implementation of the EU Action Plan against Wildlife Trafficking, including the use of or need for technologies;
4. support capacity building, including financially, of Member States (both at national and regional level) and EU agencies, especially in relation to operational cooperation in the fight against environmental crime;

INVITES EUROPOL TO:

1. strengthen its expertise in the field of fighting environmental crime;
2. as far as possible and based, in particular, on information received from Member States, regularly monitor and evaluate cross-border environmental crime, and provide information to Member States on the current trends in this illegal activity;

3. support the vigorous development of cross-border multidisciplinary cooperation between Member States, with a special focus on achieving a rapid exchange of information on cross-border environmental crimes, and encourage Member States to participate in the detection and investigation thereof, for example through the promotion of joint investigation teams;
4. on request of Member States and based on risk analysis and intelligence, prepare and coordinate joint operations aimed at the detection of environmental crime, taking into account the priorities identified in the environmental crime assessment;
5. facilitate the activities of EnviCrimeNet;

INVITES EUROJUST TO encourage and if necessary support the establishment of joint investigation teams as well as the sharing and exchange of information in the field of investigating environmental crime;

INVITES CEPOL TO increase the number of training courses dedicated to law enforcement in the field of fighting environmental crime, including those on financial investigations in this area;

INVITES EJTN TO provide training courses aimed at increasing the expertise of specialised prosecutors and judges in the field of environmental crime in Member States, where relevant with the involvement of EnviCrimeNet;

INVITES ENVICRIMENET TO:

1. support the exchange of information, expertise and best practices between Member State experts;
2. facilitate the cooperation of Member State experts;
3. prepare and coordinate European initiatives against environmental crime;

INVITES IMPEL TO increase the number of cooperation projects, including training dedicated to law enforcement in the field of fighting environmental crime, and seek cooperation with ENPE, EUFJE and EnviCrimeNet.