



IUCN ENVIRONMENTAL LAW CENTRE

FINAL REPORT

**Technical meeting of Experts
IUCN World Conservation Congress (WCC) Resolution 70
on “Crimes against the Environment”**

12-13 July 2018

Room 302, IUCN Environmental Law Centre
Godesberger Allee 108-112, 53175, Bonn, Germany

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MEETING OBJECTIVES

- Share and learn from each other the different experiences and approaches in response to crimes against the environment that every participating organization is involved in.
- Explore various strategies for potential areas of coordination and partnerships in relation to crimes against the environment.
- Identify opportunities to continuously enhance global attention in relation to environmental crime.
- Provide a platform to amplify the messages and recommendations (pertaining to environmental crime) of each participating organization at the upcoming IUCN World Conservation Congress to be held in Marseille, France in 2020.

INTRODUCTION

The IUCN welcomed and thanked the participants for honouring the invitation to attend the meeting. The participants were given an opportunity to briefly introduce themselves. The participants were mostly technical experts in the field of environmental crime across the globe. The agenda was then adopted.

SUMMARY OF DISCUSSIONS

IUCN

The IUCN commenced the meeting with a presentation on WILDLEX (www.wildlex.org) which is an information portal on wildlife-related law that *inter alia* contains court decisions and legislations from different countries. It was noted that currently the wildlex database contains mostly wildlife crime cases and legislation from Tanzania; however this is due to change since the IUCN is currently in the process of receiving additional cases and legislation from different countries in Africa (Kenya, Uganda, Malawi, Namibia, Zambia, Cameroon etc.) where some of the regional partners involved in wildlife crime collection and monitoring are located.

IUCN noted that it was planning to expand wildlex by getting additional cases and legislation from Asia (China) to populate it. This will mostly be achieved by working closely with civil society groups and NGO's that are involved in wildlife crime case monitoring and collection in China. However the cases will first be translated into English before they are uploaded through wildlex. The issue of conducting a wildlife crime case analysis and publication of a report (like was the case for Tanzania) in China was discussed; and it was noted that due to the political sensitivity of the nature of the exercise it would not be possible unless the Chinese government approves of it first.

The issue of corruption was also discussed and how it is usually an obstacle when it comes to accessing wildlife crime cases from the courts. There was a discussion of possible "red flags" in which some cases had potential evidence of corruption in the "wildlife crime cases in

Tanzania report”; from the analysis it was noted that 75% of the cases that went to the appeals court were overturned for minor reasons like failure for the judgment to be signed. The rate of overturning of court decisions was higher when the defendant was represented; this was often the case for the more serious or wealthy offenders who use their financial resources to secure their release as compared to the less wealthy offenders.

WWF International

A brief historical background on WCC 2016 Resolution 70 on crimes against the environment and how it came to be was presented. It was noted that the main reason for the resolution was to create an open platform for discussions by relevant partners. The resolution was first adopted by the U.N.G.A on 30th July 2015 (Res/69/314 – tackling illicit trafficking in wildlife). The initial aims of the IUCN resolution was to *inter alia* recognize shared modalities and enablers of wildlife crimes and other crimes that impact the environment; as well as to broaden the scope of wildlife crime within a more robust and holistic approach and framework linked to peace and security, human rights and sustainable development (UN pillars).

The discussions focused *inter alia* on who should be the target audience: policymakers, prosecutors, judges, environmental defenders, and enforcement officials. The need for capacity building workshops to train prosecutors, investigators etc. on how to enforce environmental crime laws and the need for international cooperation was also discussed. The need to have private environmental governance was also suggested. The link between financial crimes and environmental crimes; targeting illegal financial flows which would assist in tackling upstream and downstream criminalities and which will require multiagency cooperation with police, customs, environmental agencies etc. was also suggested. Environmental law and the human rights dimension also formed part of the suggestions for the discussion; as well as environmental rights vis a vis environmental crime.

INECE/Environmental Law Institute

During the discussions it was suggested that the immediacy of sanctions/penalties & tailoring of environmental crime sanctions should be considered e.g. the ability to comply, awareness of law and alternatives to non-compliance. The perceived legitimacy of the rules was also discussed; and it was noted that if outrageously criminalized it delegitimizes the rule itself and supports noncompliance. It was also noted that while addressing environmental crime, the laws should be tailored in such a manner that it takes into consideration socio-cultural factors as well. The differences between persistent violators vs. infrequent violators vs. constant compliers should also be clearly elaborated.

It was also suggested that in order to combat delegitimization, methods for assessing/calculating environmental crime harm should be considered ; assessing harm of wildlife crime can be a useful tool to put into place tangible terms and human impacts/SDGs i.e. governmental income generated from wildlife tourism can be used as a basis to increase

legitimacy of wildlife protection laws. During the discussions it was also noted that some environmental crime acts are better addressed through using criminal sanctions while others through administrative sanctions depending on the context.

O.E.C.D

A presentation of their recent report *“Strengthening governance and reducing corruption risks to tackle illegal trade in wildlife: Lessons from East and Southern Africa”* was done. It was noted that data on wildlife seizures and arrests involving corruption were never reported. The main goal of the report was to *inter alia* develop specific recommendations and identify good practices to inform: policy makers; donors; law enforcement agencies and wildlife authorities. The main areas of corruption were identified along the trade chain (poaching, internal transit, warehousing, and export) and in the chain of custody (Investigation /Arrest, Prosecution and court procedures, Evidence control, Chain of custody of exhibits, Conviction and incarceration).

The drawbacks in investigation and prosecution of known corruption cases was found to be due to: Nearly no direct charges of corruption for IWT crimes; Gaps in chain of custody, exhibit control, i.e. evidence disappears, witnesses fail to appear, bail unreasonably granted; Low IWT training and awareness of state prosecutors for such cases weakens cases and interest; Gaps in magistrate decisions and outcomes i.e. “case drift” and irregularities; Low level of priority and importance given to IWT offenses; and External interference and pressures on prosecutors and magistrates. Some of the options to be explored in addressing governance gaps were also discussed and they included: addressing political will; role of NGO’s (i.e. assisting in investigation and prosecution of cases); private sector engagement; international cooperation; and the media.

TRAFFIC

Their work involves monitoring wildlife trade at the national, regional and global levels as well as focusing on the implementation and enforcement of CITES. They also provide technical advice to governments and regional organizations (e.g. European Commission) and assists enforcement agencies on wildlife trade related issues. Some of TRAFFIC’s initiatives include:

- **ROUTES’** (Reducing Opportunities for Unlawful Transport of Endangered Species) covering **2015-2020**: Aims to support transport sector in order to reduce wildlife trafficking via land, sea and air.
- **Wildlife TRAPS** (Wildlife Trafficking, Response, Assessment and Priority Setting): Aims to increase co-operation between stakeholders impacted by illegal wildlife trade between Africa and Asia.
- **EU-TWIX** – which is an Internet tool developed to facilitate information exchange and international co-operation between wildlife law enforcement and management officials in Europe. The main focus being IWT species protected under the EU Wildlife Trade Regulations and CITES.

- **AFRICA TWIX** – This is similar to EU-TWIX and currently being replicated in Central Africa: Cameroon, Central African Republic, the Democratic Republic of the Congo, Gabon and the Republic of the Congo.

During the discussions it was noted that there is currently no internationally agreed protocol/guideline that addresses some of the following issues like for example: how to return captured live species to their native habitats; possibility of placing species in alternative habitats; further protection and monitoring of recovered live species etc. Thus accordingly it was suggested that a global protocol that addresses the aforementioned issues needs to be developed.

ICCWC

The International Consortium on Combating Wildlife Crime is the collaborative effort of five inter-governmental organizations (CITES, Interpol, UNODC, World Bank, and World Customs Organization) working to bring coordinated support to the national wildlife law enforcement agencies and to the sub-regional and regional networks that on a daily basis act in defense of natural resources. ICCWC's focus area includes: institutional support; national capacity analysis to strengthen law enforcement; institutional criminal justice and preventive support; increased awareness and support for measures to combat wildlife and forest crime; and technology and innovation etc.

It was also noted that additional funding had already been secured by ICCWC to implement further activities in relation to the following: cybercrime; anti-corruption; trainings (e.g. crime scene investigation and management); global and regional operations etc. It was also suggested that environmental crime can be tackled effectively as long as all the partner organizations are willing and able to work together.

ECOLOGIC INSTITUTE (EFFACE PROJECT)

The European Union Action to Fight Environmental Crime (EFFACE) was a project that was conducted between 2012-2016 and which had 11 partners in various EU countries including Norway and which developed recommendations to the EU on how to combat environmental crime more effectively. The following were some of the key recommendations from the EFFACE Project: existing frameworks should be used more efficiently (harmonization of sanctions at EU level not necessary e.g. in the EU Crime Directive); specialized enforcement institutions should be established amongst EU member states as well as they being obliged to provide data on violations of environmental criminal law and the type of sanctions imposed.

Recent EU policy developments on environmental crime were also discussed and they included:

- **EU Action Plan against Wildlife Trafficking (2016-2020)** which focuses on : preventing wildlife trafficking and addressing its root causes; implementing and

enforcing existing rules and combating organized wildlife crime more effectively; and strengthening the global partnership of source, consumer and transit countries against wildlife trafficking.

- **Action Plan on Environmental Compliance Assurance (2018-2019)** which contains nine actions for implementation with environmental crime being one of them; development of guidance documents for practitioners on combating environmental crime (focus on waste and wildlife crimes).

It was noted that the discrepancies in the level of sanctions varied from one country to the other. During the course of the discussions it was also suggested that administrative sanctions are effective too when addressing environmental crime issues and not just relying on criminal sanctions. The issue of drawing the line between environmental crimes and other crimes was also discussed in order to encourage compliance: What is the definition? Is it a good one? ; Is this the right focus? etc. In terms of pragmatism it was argued that a tool box approach is the best when there is no clear cut definition; it will depend on the context of what you are talking about and the view that you take on it.

U.N.I.C.R.I

The organizations goals include *inter alia* advancing the understanding of eco-crime related problems as well as fostering efficient criminal justice systems in the field of environmental crime and environmental governance. UNICRI's programme on environmental crimes focuses on: interlinkages between environmental crimes and other serious crimes; illicit trafficking of hazardous wastes; illicit trafficking of precious metals; illegal counterfeit and substandard pesticides; and the interlinkages between environmental crimes and corruption. The following are some of the recent publications that relate to environmental crime that UNICRI has published:

- **UN Environment/UNICRI research project (2018)**-Technical report on the state of knowledge on crimes that have serious impacts on the environment.
- **Illicit pesticides, organized crime and supply chain integrity (2016)**-Research report and Action Plan.
- **Strengthening the security and integrity of the precious metals supply chain (2016)**- Technical report + International strategy (2016).
- **Countering WEEE Illegal trade (2015)**-Research report: Market, Legal and Crime Analysis + Recommendations Roadmap.

The following are some of the key findings from UNICRI's reports in relation to crimes against the environment:

- **Wildlife crime** is a particularly persistent problem in Africa, Asia and Latin America, where all kinds of species are affected.
- **Illegal logging** has affected all continents of the globe and is widespread across all tropical forest regions.

- **Fisheries crimes** are occurring worldwide within both the exclusive economic zones of respective countries and international open seas.
- **Waste trafficking** originates mainly in developed countries, within the EU, North America (the US), Japan, and Australia.
- **Illegal trafficking of ozone-depleting substances (ODS)** still occurs in East Asia and the Pacific.
- **Illegal mining** is an increasing threat in Africa, Latin America, and also in Asia.

UN Environment

They have different approaches when it comes to addressing environmental crime:

- **Sector specific approach** that focuses on: law makers; actors of the enforcement chain; and also focuses on local communities, demand reduction and awareness raising for the general public.
- **Holistic approach** that promotes the concept of environmental crime. They have also released some publications in this regard including :
 - The Rise of Environmental Crime: UN Environment-INTERPOL Rapid Response Assessment (June 2016).
 - The State of Knowledge of Crimes that have Serious Impacts on the Environment (July 2018) – which *inter alia* recognizes the fact that environmental crimes are widespread serious crimes interlinked with other forms of transnational organized crimes undermining peace, development and security.

It is worth noting that the UN Environment has come up with a working definition of environmental crime:

*“Although the definition of “environmental crime” is not universally agreed, it is often understood as a **collective term** to describe **illegal activities harming the environment and aiming at benefitting** individuals or groups or companies from the exploitation of, damage to, trade or theft of natural resources, including, but not limited to serious crimes and transnational organized crime”.*

It is noteworthy that the working definition of environmental crime was however criticized by the participants particularly due to having the phrase “**aiming at benefitting**” which most of the participants were not comfortable with. It was also observed that due to the broad nature of environmental crime it can be difficult to define it appropriately;

There were also discussions in relation to the gender dimension and its interlinkages with environmental crime. Some of the challenges that need to be addressed in relation to gender were also discussed e.g. gender discrimination, gender based violence, access to resources etc.

CMS

The Convention on Migratory Species is a UN Environment treaty that deals with the conservation of migratory species of wild animals; species that cyclically and predictably cross one or more national jurisdictional boundary. There are over 1000 species of avian, aquatic and terrestrial fauna that are covered by the CMS convention and there are 126 signatory parties to the convention. They also have initiatives that deal with special species e.g. Central Asian Mammals Initiative and the African Carnivores Initiative. The CMS-CITES cooperation was also noted and which usually involves knowledge gathering and information sharing and coordination between range states.

The illegal killing, taking and trade of migratory birds in the Mediterranean region is another area of concern that was discussed. It was noted that overexploitation, including illegal killing (25 million birds illegally killed annually), taking and trade, is one of the main drivers of bird extinctions globally, and is the second most significant threat (after habitat loss) to migratory birds. It was also noted that there is clear need of enhanced international cooperation and support to countries towards effective law enforcement responses to assist in the prevention of illegal killing, taking and trade of migratory birds. There has been some important international court decisions with regard to illegal killing of birds; for example on 21st June 2018, the European Court of Justice (ECJ) delivered a judgement concluding that Malta was found guilty of infringing the European Birds Directive when it allowed finch trapping to reopen in 2014.

The issue of aquatic wild meat was also discussed and it was noted that there is a growing reliance of many communities on aquatic wild meat; there is emerging evidence of a conservation problem on a scale similar to that documented for terrestrial bush meat.

NEXT STEPS

During the final session the I.U.C.N invited the participants to reflect upon the text of WCC 2016 Resolution 70 which *inter alia* explicitly calls upon the W.C.E.L and E.L.C to: engage relevant partners; consider the meaning of 'crimes against the environment'; consider existing laws, frameworks and approaches; and develop a comprehensive response to crimes against the environment. The participants were also invited to give their views on the key themes that were on the agenda such as: gaps and potential opportunities for coordination between IUCN and other partners; roadmap for implementation of WCC Res.70 and next Steps.

- During the discussions the IUCN was unequivocal with the fact that for the resolution to be implemented the IUCN will have to build upon the work that has already been achieved by other organizations such as CMS, CITES, UN Environment etc.
- The participants were in agreement that it would be a good idea to collect and share data on a regular basis amongst the various partner organizations dealing with environmental crime issues in order to avoid duplication of work.
- It was also proposed that a mailing list be created in order to facilitate the effective communication amongst partner organizations. Everyone agreed with the fact that

there is a need to centralize the data or at least create links between different data websites, to help the coordination between the organizations and to also assist with the gap analysis.

- There was a discussion about the meaning of “environmental crimes” and “crimes against the environment” and the possibility of exploring ways to create a global and shared definition.
- There was general consensus for the need to engage with the private sector and to build partnerships with them for purposes of addressing the issue of environmental crime.
- Establishing inter-organizational groups or working groups within the W.C.E.L for purposes of continuously addressing environmental crime.
- Creation of a calendar of events that contains the planned activities of the various partner organizations.
- Utilizing the IUCN Academy of Environmental law which is uniquely positioned in building environmental law education capacity and promoting the conceptual development of environmental law.
- It was also proposed that every organisation be sending their information to Interpol on a regular basis so that they can centralise the information and they can see if it matches with the networks that they are working on.

Further on, four possible roles for IUCN were presented:

- Information sharing, platforms for sharing resources (mechanism)
- Policy influencing and agenda setting
- Coordination mechanisms to avoid the duplication
- Conceptual development (publication) or disseminating information, create review, producing documents or discussion papers

Overall, during the afternoon discussion, everyone accepted the following points/assessments:

- Coordinating activities through a mail list
- Combining data
- Creating a global understanding of environmental crime
- Creating a sub-group of actors to meet regularly on this project
- Establishing working groups to keep in touch, and within WCEL, or an inter-organisational group
- Creating a calendar of events from all of the different organisations
- Utilising of IUCN academy on environment law to conduct research

Thanks and closing remarks .