



INTERNATIONAL CONFERENCE ENVIRONMENTAL CRIME – CURRENT AND EMERGING THREATS

Organised by the United Nations Interregional Crime and Justice Research Institute (UNICRI) and the United Nations Environment Programme (UNEP), in collaboration with the Ministry for the Environment and Ministry of Justice of Italy. Rome, 29-30 October 2012

ACTION PLAN ON COMBATING ENVIRONMENTAL CRIME

The present document was compiled by UNICRI on the basis of the discussion and recommendations from the Expert Group Roundtables during the Conference.

I. Background

UNICRI is one of five research Institutes of the United Nations and has a long-standing experience in applied research in relation to organized crime, crime prevention and criminal justice. The Institute considers environmental crime, including its links with other forms of crime, a serious and growing danger for development, global stability and international security. For over two decades, UNICRI has been actively involved in the field of environmental crime through applied research and provision of training, with the objective to increase awareness and understanding of the threat of environmental crime. In 1997 UNICRI started to study crimes against the environment and their transnational nature. An international conference was held in Rome in 1997 followed by other initiatives such as the regional workshop convened in Samoa, on criminal law and its administration in international environment conventions, organized by UNICRI, the Commonwealth Secretariat and the South Pacific Regional Environmental Programme. Today, countering environmental crime is an emerging priority for UNICRI work. On 26 July 2012, the Economic and Social Council of the United Nations adopted resolution 2012/19 entitled “Strengthening international cooperation in combating transnational organized crime in all its forms and manifestations”. In paragraph 12 the Council “Invites the United Nations Interregional Crime and Justice Research Institute to continue to conduct, in consultation with Member States and in cooperation with other competent international entities, research on different forms of transnational organized crime”.

For these reasons, UNICRI has joined forces with UNEP and the Ministry for the Environment of Italy and convened high level experts from around the world to participate in and contribute to the discussions and development of a new global agenda on environmental crime and justice, and collectively build a way forward on these important and urgent issues.

II. Environmental crime: the challenge

The well-being of human society is intrinsically linked to the state of our natural systems. As noted by the World Economic Forum in its 2012 global risks assessment, environmental risks are of high concern, from natural disasters such as extreme weather and geomagnetic storms, to human-made disasters such as irremediable pollution and species overexploitation. These risks have the potential to destabilize both economies and societies, trigger geopolitical conflicts, devastate the earth's vital resources and its inhabitants. Environmental crime and its links with other forms of crime in particular organized crime constitute a serious threat to sustainable development, peace and security. Environment crime undermines prosperity, security and human rights.

Environmental crimes take the form of illegal trade in protected species; smuggling of ozone depleting substances; illicit trade in hazardous waste; illegal, unregulated and unreported fishing; and illegal logging and trade in timber. Such crimes often fail to prompt the required response from governments and the law enforcement agencies, as they are often perceived as 'victimless' crimes. For most countries, combating environmental crime is currently not a priority and the issue often remains overlooked and poorly understood, despite the actual and potential scale and consequences.

In reality, such crimes affect all of society and all of nature. Criminal activities harming the environment have evolved to become a serious form of transnational organized crime with links to other crimes associated with high levels of violence and corruption. The involvement of criminal networks and organized crime groups acting across borders is one of main factors that have favored the considerable expansion of environmental crimes in the recent years. Led by vast financial gains and facilitated by a low risk of detection and scarce conviction rates, criminal networks and organized criminal groups are becoming increasingly interested in such illicit transnational activities.

Investigation have shown the level of organization needed for these crimes and the frequent links with other serious offences, such as theft, fraud, corruption, drugs and human trafficking, counterfeiting, firearms smuggling, and money laundering.

Environmental crimes represent therefore an emerging form of transnational organized crime requiring serious in-depth analysis and better-coordinated preventive actions and responses at national, regional and international levels.

III. Focus of the International Conference: Environmental Crime- Current and Emerging Threats

The focus of this International Conference was to address the current and emerging threats posed by the environmental crime. The objective of the conference was to serve as a platform for competent institutions and experts to discuss how to move forward and address these issues in a more effective and efficient way.

The Conference benefited from the active participation of representatives from governmental authorities, environmental and law enforcement agencies, civil society organisations, prominent scholars and private sector representatives. The Conference saw the participation of 130 experts from around the world and international organizations such as UNEP, UNDESA, CITES, INTERPOL, CoE and OSCE.

The stakeholders assessed emerging forms of environmental crimes in three thematic roundtables devoted to discussion of different environmental crime aspects and proposed recommendations included in this document.

Expert Group I: “Environmental crime in the current international legal framework: the way forward” looked at improving international legislation and its implementation. Participants discussed flaws in the current international legal framework in relation to environmental crime at the regional and international level, and developed specific recommendations to promote compliance with and enforcement of international and regional legal framework.

Expert Group II: “Environmental crimes: a growing business for organised crime and corruption” looked at the role of organised crime and corruption in different environmental crimes. Participants discussed case studies from different countries and regions to identify trends, patterns and modalities of intervention and prepared specific recommendations on how to improve investigations and prevention, and better exchange information across borders.

Expert Group III: “Illicit trafficking of waste: an international emergency” discussed the issue of illicit trafficking in waste (including toxic waste, e-waste and plastics) as an emerging international threat, the increasing role of organised crime groups, its links with other serious crimes, such as counterfeiting, corruption, money laundering, and the role played by the different actors into this crime. Participants presented data and case studies and developed specific recommendations on how to improve data collection and analysis, exchange of information, and international investigations in this field.

This collective effort and multidisciplinary approach was encapsulated in the expert recommendations for a common platform of action to address the growing threat of environmental crime to the health, peace and security and suggest potential future actions at national, regional and international levels.

EXPERT GROUPS RECOMMENDATIONS

Problem: tackling environmental harm requires urgent action as the scale, pace and specific nature of the harm affects everyone.

Goal: to achieve a robust system of prevention, criminalisation, enforcement and sanctioning of environmental crime from local through to global levels.

Mission: to initiate a strategic plan for immediate implementation, that builds capacity, and incorporates staged transitions toward achieving the end-goal.

BACKGROUND

1. **Acknowledge the threats posed to all of the society and environment today**
 - Serious negative environmental, social and economic impacts (particularly for developing countries) of environmental crime.
 - Weak and un-coordinated preventive initiatives taken by governments at national and international level.
 - Close links between environmental crime and other serious and organized crimes (e.g. bribery, illicit drug trafficking, human trafficking, money laundering, etc.).
 - Security threats due to the increased involvement of organized criminal networks in environmental crime, and the challenges this creates for law enforcement. Organized criminal networks are not restricted by national borders or legal frameworks, and can therefore adapt and evolve quickly.
 - Inefficiency of criminal justice systems, lacking of capacity, flexibility and expertise to respond to environmental crime.
 - Insufficient collective responsibility to tackle corruption linked to environmental crime.

2. **Acknowledge the need for improved collaboration and partnershi**
 - Importance of engaging stakeholders from all regions of the world.
 - Importance of drawing upon resources and sources of information and knowledge from diverse sectors.
 - Importance of collaboration involving agencies and partnerships across government, UN, IGOs, NGOs, private sector and academic researchers.

3. **Recognize the importance of awareness of the problem and acknowledge shared responsibilities**
 - Importance of raising awareness among law enforcement, institutions, public opinion.
 - Necessity of acquiring more criminological data and data on waste.

- Importance of raising awareness on the links with organized trans-border crime.
- Importance of raising awareness on the links with corruption.
- Necessity of acquiring more information on sea and land routes.
- Recognition of the responsibility of the exporting countries in contrast to the “Not in my backyard” philosophy.
- Acknowledgment of the responsibility of industrialized, developed countries that have better capacities to prevent, combat and dismantle the networks of organized crime.

Recommendations by the Experts Groups touched upon three main areas: research; law enforcement and prosecution; and training and awareness. In addition, some specific recommendations have been proposed with regards to the issue of illegal trafficking of waste.

1. RESEARCH

- Recognize the need for in-depth research and analysis at national, regional and international levels of the involvement of organized crime networks in environmental crime, to provide clear analysis of criminal patterns and links for policy makers and law enforcement.
- Recognize that tackling organized environmental crime is an ongoing process and that interventions need to be continually evaluated and adapted to the evolving circumstances.
- Invite UNEP and UNICRI, in collaboration with relevant agencies, communities and experts, to undertake an international research and analysis.

Proposed structure/topics:

What is Environmental Crime – part 1: descriptions and definitions

- Descriptions and definitions that capture the nature and substance of ‘environmental crime’
- Identification of environmental criminal offences at international and national levels, and the link between the levels
- Clarify what a victim of environmental crime is

What is Environmental Crime – part 2: examination of possible need for revised or new internationally binding instruments

- Environmental harm and issues of thresholds for criminalisation
- Possibility of new international environmental crime instrument and/or Arrangement

Lessons from the Grounded Practice

- Study of ‘best practice’ and ‘problematic issues’ with regards to legal processes and judicial decisions surrounding environmental crime at local, national, regional, global and transnational levels
- Assessment of previous experiences in constructing criminal offences and responses and relevance in relation to, and future prospects for:

- ✓ Protocols of existing conventions (and need to adjust new instruments in accordance to substantive needs of combating environmental crime).
 - ✓ Instruments or arrangements on environmental crime, including victims of environmental crime.
 - Examination of public-private partnership arrangements (including private sector role vis-à-vis crime prevention), and diverse ‘soft law’ and ‘hard law’ initiatives
- Invite UNEP and UNICRI to compile a ‘digest’ of relevant cases (including themes such as types of crimes, investigation, prosecution, penalties, remedies).

2. TRAINING AND AWARENESS

- Support awareness raising campaigns, training and advocacy to raise the political and law enforcement priority of combating environmental crime.
- Recognize that high political will is crucial. Law enforcement agencies need a clear message from the Governments of the priorities related to environmental crime.
- Recognize the need to build capacity and expertise within the criminal justice system to improve law enforcements operations, investigations, prosecutions and sentencing. Ongoing professional training makes the difference.
- Support the incorporation of specialist environmental expertise/advice in court proceedings.

3. ROLE OF LAW ENFORCEMENT AND PROSECUTION

- Recognize the need for increased investigations and prosecution of environmental crimes.
- Recognize the need for stronger criminal laws to address the emerging involvement of criminal networks and organized crime groups in environmental crime.
 - ✓ Attempt should be criminalized.
 - ✓ Allow proof of intentionality and negligence from factual circumstances.
 - ✓ Include clear grading of offences from administrative irregularities to crime and aggravated crime.
 - ✓ Envisage mandatory corporate criminal liability.

- Recognize the importance of harmonization of laws and environmental law enforcement approaches across national legislations.
- Recognize the importance of clear international legal instruments, containing a unified environmental crime definition, and providing guidance on types of offences and penalties, including providing legal basis for mutual legal assistance.
- Acknowledge the role of International Organisations such as the World Customs Organization, International Maritime Organization, Europol, Eurojust, Interpol, UNEP and UNICRI.
- Use of special investigative techniques as those foreseen in UNTOC and UNCAC Conventions (such as wiretapping and electronic surveillance), when and where applicable, for both national and international investigations.
- Facilitate financial investigations to follow the money trail and prevent the use of legal entities and financial instruments to hide criminal activity.
- Promote a multi-agency approach to prevent and combat environmental crime by effectively bringing together relevant authorities and needed expertise to generate the evidence-based response to environmental crime, such as in the case of National Environmental Security Taskforces (NEST). Such partnership will help to analyze the trends and patterns of environmental crime and help intelligence-led investigations. The importance of Interpol Contact points should also be acknowledged.
- Establish partnerships between law enforcement and other stakeholders (including private sector and Non-Governmental Organizations), defining clearly the respective roles and responsibilities, for example through a MoU, to increase information exchange which could be used for crime analysis.

4. SPECIFIC RECOMMENDATIONS ON ILLEGAL WASTE TRAFFICKING

- Support the adoption of a clear legal definition of end of life products to be defined as waste, not as products.
- Support the adoption of clear definitions of buyer and seller.
- Promote the certification of brokers and companies involved into the waste management and export sector. “Positive labeling” of legitimate entrepreneurs while ban on business activities by offenders.
- Establish legal responsibility of the waste producer until proper waste management.

- Establish clear procedures for seizure of waste in ports as those applied in airports.
- Establish clear economic responsibility of the producer for the freezing and confiscation of waste procedures.
- Promote the establishment of recycling facilities.
- Prevent market distortions caused by the lack of raw materials through the promotion of recycling.
- Create of an International Observatory on illicit trafficking of waste and “data dots” to monitor movements of waste.

IV. Follow-up from the expert groups recommendations: UNICRI role in supporting Member States and the international community in preventing and countering environmental crimes.

The outputs of the Conference will complement and provide guidance to the activities of UNICRI in the field of environmental crime.

The outputs of Conference will be brought by UNICRI to the attention of Member States on the occasion of the next session of the United Nations Commission on Crime Prevention and Criminal Justice in April 2013, which will focus its thematic discussion on "The challenge posed by emerging forms of crime that have a significant impact on the environment and ways to deal with it effectively".

The indications from the experts and the outputs of the Conference will be included in a number of applied-research projects covering different aspects of environmental crime, such as the intersection between counterfeiting and waste or transnational environmental crime and corruption. In addition, following the expert recommendations related to the **Point 1 - Research** of this document, UNICRI will develop a comprehensive proposal to be shared with interested partners and donors.