

5 May 2023

Original: Arabic/Chinese/English/
French/Russian/Spanish

**Commission on Crime Prevention and
Criminal Justice****Thirty-second session**

Vienna, 22–26 May 2023

Item 6 (d) of the provisional agenda*

**Integration and coordination of efforts by the
United Nations Office on Drugs and Crime and by
Member States in the field of crime prevention and
criminal Justice: other crime prevention and
criminal justice matters****Strengthening the international legal framework for
international cooperation to prevent and combat illicit
trafficking in wildlife****I. Introduction**

1. The present report has been prepared pursuant to resolution 31/1 of the Commission on Crime Prevention and Criminal Justice, entitled “Strengthening the international legal framework for international cooperation to prevent and combat illicit trafficking in wildlife”. In that resolution, the Commission invited Member States to provide the United Nations Office on Drugs and Crime with their views and possible responses, including the potential of an additional protocol to the United Nations Convention against Transnational Organized Crime, to address any gaps that may exist in the current international legal framework to prevent and combat illicit trafficking in wildlife, as well as with their experience, good practices and challenges in terms of preventing and combatting illicit trafficking in wildlife, and their national legislation in this sphere.
2. In the resolution, the Commission further invited Member States that are parties to the Organized Crime Convention to provide the United Nations Office on Drugs and Crime with information on the use of the Convention as an international legal instrument to address illicit trafficking in wildlife, taking into account relevant resolutions in this regard, inter alia, Conference of the Parties to the United Nations Convention against Transnational Organized Crime resolution 10/6. The Commission also requested the United Nations Office on Drugs and Crime to compile a report on the information provided by Member States and submit it for the consideration of the Commission at its thirty-second session.
3. In accordance with this request and in the absence of sufficient extrabudgetary contributions for a report in all official languages of the United Nations, the present

* E/CN.15/2023/1.

** This document has not been edited.



conference room paper has been compiled on the basis of information submitted by Member States in response to note verbale CU 2023/14/DTA/CSS/OCB of 1 February 2023.

4. Within the deadline of 14 April 2023, contributions were received from the following sixty (60) Member States (in alphabetical order) and the European Union: Angola, Armenia, Austria, Belarus, Bolivia (Plurinational State of), Brazil, Burkina Faso, Burundi, Canada, China, Colombia, Côte d'Ivoire, Croatia, Czechia, Denmark, Finland, France, Gabon, Germany, Guatemala, Hungary, Italy, Japan, Kenya, Kyrgyzstan, Latvia, Madagascar, Malawi, Malaysia, Mexico, Morocco, Myanmar, the Netherlands, New Zealand, Nicaragua, Niger, Norway, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, United Kingdom, United States of America.

5. The contributions are reproduced as received. Legislation and relevant legislative provisions shared by the Member States as attachments to the Information Gathering Tool are referenced in the present conference room paper and will be uploaded in due course onto the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC).

II. Replies received from Member States and the European Union

Part I of the Information Gathering Tool

The following questions are for all Member States, pursuant to resolution 31/1 of the Commission on Crime Prevention and Criminal Justice.

Question 1:

Do you see any gaps in the current international legal framework to prevent and combat illicit trafficking in wildlife? If yes, please elaborate.

1. Angola:

Yes. We understand that stricter international standards should be created to prevent and combat the trafficking of specific specimens of wildlife species, with a view to ensuring the balance of ecosystems.

2. Austria:

No.

3. Bolivia (Plurinational State of):

Si bien se cuenta con la Convención sobre el Comercio Internacional de Especies Amenazadas de Fauna y Flora Silvestres, ratificada por Bolivia por la Ley N° 1255 de 5 de julio de 1991 y con la Guía de Elaboración de Legislación para el Combate de Delitos Contra la Vida Silvestre de la UNODC y demás normativa internacional, esta debe ser revisada y actualizada a la realidad y necesidad de los países latinoamericanos, para que estos puedan tener asistencia y apoyo de instancias internacionales al momento de elaborar su normativa interna.

4. Brazil:

Receita Federal (Customs): Not at the moment.

Federal Prosecution Service (MPF), International Cooperation Unit (SCI): Yes. The lack of a database for criminals. And the usual delay in information exchanging, especially during ongoing operations.

5. Burkina Faso:

Le manque d'harmonisation des cadres juridiques nationaux et la faible répression des infractions dans certains pays.

6. Burundi:

Oui:

- L'absence des lois nationales harmonisées entre les états portant sur la coopération judiciaire;
- L'absence des points focaux désignés dans les institutions nationales chargés de faciliter les demandes de coopération judiciaire régionale;
- Le non-établissement des mécanismes spécifiques pour application des conventions internationales;
- Des procédures trop bureaucratiques et la lenteur du temps de réaction des autorités nationales aux demandes de coopération en matière judiciaire;
- La méconnaissance des autorités responsables nationales sur les différentes exigences et les processus d'extradition;

7. Canada:

The UN Convention against Transnational Organized Crime (UNTOC) is the primary tool for combating transnational organized crime and is recognized as the most effective legal instrument to tackle the illegal wildlife trade as an international criminal activity. Given the breadth of the offences covered by UNTOC, improving the implementation and use of the UNTOC to investigate and prosecute activities related to the illegal wildlife trade where these activities meet the definitions of the Convention should be encouraged.

Supplementary tools to prevent and combat other forms of serious and organized crimes also already exist, such as the UN Convention against Corruption (UNCAC) in relation to corruption. Given the interconnectivity of the illegal wildlife trade, transnational organized crime and corruption, UNCAC may be a useful supporting tool in combating the illegal wildlife trade to the extent corruption is involved in the commission of wildlife crime and it is not covered by the UNTOC.

In addition, the Convention on International Trade in Endangered Species (“CITES”) is also a relevant and effective international legal instrument to regulate legal and illegal trade in wildlife species of flora and fauna. While CITES does not focus specifically on countering illicit trafficking, especially where serious or organized crime is involved, it should not be overlooked as a useful tool in addressing the illegal trade in wildlife.

It has been observed that these existing international instruments, although relevant in addressing the illegal wildlife trade, are under-utilized by Parties. In particular, a challenge that has been identified in the context of UNTOC, is the failure to develop national legislation criminalizing illegal wildlife trade activities by Parties such that these activities are offences in domestic law that meet the definition of “serious offence” in the UNTOC. In its 2020 World Wildlife Crime Report, the UNODC highlighted that such enforcement gaps are likely caused by “a combination of a lack of understanding of the nature of these crimes and their broader impact, insufficient prioritization and/or a lack of capacity or resources”.¹

8. China:

不存在

¹ https://www.unodc.org/documents/data-and-analysis/wildlife/2020/World_Wildlife_Report_2020_9July.pdf.

9. Colombia:

No. El actual marco jurídico internacional no tiene lagunas con relación a la prevención y combate al tráfico ilícito de fauna y flora silvestre. Bajo el marco de UNODC se cuenta con la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional, aprobada por la resolución 55/25 de la Asamblea General y la Convención de las Naciones Unidas contra la Corrupción. De manera más específica la Convención sobre el Comercio Internacional de Especies Amenazadas de Fauna y Flora Silvestres cuenta con mecanismos de cumplimiento y aplicación de la ley.

10. Côte d'Ivoire:

La Côte d'Ivoire a adhéré à la CITES en 1994 et contribue au vote de ses résolutions et décisions lors des conférences des Parties. La Côte d'Ivoire n'a pas encore émis de réserve sur une décision de la CITES.

11. Czechia:

We find the international legal framework for preventing and combating illegal trade in wildlife sufficient. Problems might be identified in the diversity of national legislations around the world, particularly in the area of sanctions.

12. Denmark:

No.

13. France:

S'il existe plusieurs instruments internationaux en matière de protection des espèces sauvages et de l'environnement au sens plus large, ceux-ci se concentrent essentiellement sur le commerce légal ou sur la prévention et la gestion des risques, plutôt que sur l'incrimination et la répression d'activités illégales :

- La CITES, sur le commerce international des espèces de faune et de flore sauvages menacées d'extinction, a principalement pour objectif de réguler le commerce légal international des espèces menacées d'extinction, mais n'a pas pour objet de pénaliser les trafics d'espèces. Bien que son article 8, paragraphe 1, prévoit que les parties à la CITES prennent des sanctions pénales frappant soit le commerce illégal, soit la détention illégale de spécimens, ou les deux, cette convention n'a pas pour objet de pénaliser les trafics d'espèces. Par ailleurs, elle prend insuffisamment en compte la dimension nationale et transnationale des trafics d'espèces sauvages et ne porte pas sur l'ensemble des espèces sauvages, menacées par les trafics. Elle ne permet pas non plus de faciliter l'entraide pénale, des enquêtes conjointes, des extraditions ou de recourir à des techniques spéciales d'enquête.
- La CMS, sur la conservation des espèces migratrices appartenant à la faune sauvage, prend en compte de facto une dimension transnationale, mais son périmètre couvre insuffisamment l'ensemble des espèces sauvages concernées par le trafic.
- La Convention sur la diversité biologique (CDB) a pour objectif la préservation et l'utilisation durable de la biodiversité. Si l'arrêt de l'extinction d'espèces causée par les activités humaines constitue l'un de ses objectifs (repris par le cadre mondial pour la biodiversité de Kunming-Montréal qui promeut un commerce des espèces sauvages durable, sûr et légal), elle ne comporte pas de dispositions précises pour pénaliser le trafic d'espèces.

14. Gabon:

Yes, the current international legal framework to prevent and combat illicit trafficking in wildlife presents serious regulatory gaps.

In recent years, there have been several important, yet non-binding, resolutions and initiatives to tackle the illicit trafficking of wildlife. Particularly noteworthy are the five United Nations General Assembly (UNGA) resolutions of 2015, 2016, 2017, 2019 and

2021, which have contributed to raising the profile of this issue within the UN and beyond. However, these efforts have not mobilized a response of the scale and nature required to end illicit wildlife trafficking. There is still no global centre of gravity for advancing cooperative efforts in this crime area, or for reviewing the progress made.

Illicit wildlife trafficking, including illegal fishing and logging, is widely accepted as one of the largest, most lucrative criminal activities, estimated to be worth between \$69-199 billion by the UN Environmental Programme (UNEP) and INTERPOL. According to the World Bank, this number rises to between \$1-2 trillion, when one includes the economic impact of the lost ecosystem services (e.g., carbon storage, biodiversity conservation and water filtration). Other recent reports clearly describe the severe consequences of illicit wildlife trafficking for our biodiversity, climate and ecosystems, as well as for human and animal health. In 2019, the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) estimated that around 1 million animal and plant species are now threatened with extinction, with overexploitation, including through illicit wildlife trafficking, being one of the main drivers. The following year, during the 2020 COVID-19 pandemic, the IPBES also warned that an estimated 1.7 million currently undiscovered viruses are thought to exist in mammal and avian hosts – half of which could have the ability to infect humans. This is concerning, because illicit wildlife trafficking is known to bring humans into close, unnatural and unmonitored contact with wildlife, increasing the risk of potentially zoonotic pathogen emergence, proliferation and spill-over.

Illicit wildlife trafficking also involves the theft of vital natural resources from local communities and indigenous peoples. This theft of natural resources also undermines the governments of source countries, including Gabon, by depriving them of revenue, fuelling corruption, destroying livelihoods, injuring and killing rangers, and creating national and regional instability. In spite of the destructive and high-risk nature of illicit wildlife trafficking to both people and biodiversity, there is currently no global agreement on tackling this dangerous form of transnational, organized crime.

In the absence of a dedicated international instrument to tackle illicit wildlife trafficking, relevant stakeholders sometimes refer to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) as providing some form of legal framework. However, CITES is a 50-year-old trade-related agreement. It is not an instrument to tackle organized crime. It does not oblige States to criminalize breaches of the Convention, it only applies to cross-border movement of wildlife, and not, for example, to illegal harvesting or poaching. CITES does not provide the international legal framework that is needed, and a comprehensive legally-binding regime for tackling illicit wildlife trafficking, within the framework of international criminal law, rather than trade law, is well-beyond the scope of CITES.

Moreover, CITES only applies to a fraction (approximately 0,4%) of the 8.7 million species of wild plants and animals in existence. As a result, the vast majority of wild animals and plants in global trade, both legal and illegal, are not subject to the Convention's trade controls. According to the 2016 and 2020 Wildlife Crime Reports of the United Nations Office on Drugs and Crime (UNODC), between 6,000-7,000 CITES-listed species are found in illegal trade and “millions of species that are not listed by CITES may be illegally harvested and traded internationally”.

Non-CITES-listed species that are harvested in violation of the national laws of their country of origin can often be legally traded into and within the destination country. Currently, most States do not have a legal basis by which to seize non-CITES specimens sourced illegally from their state of origin, or to prosecute traffickers.

15. Guatemala:

Este Departamento de Asuntos Judiciales y Administrativos, al momento de analizar el marco jurídico internacional identifica que la existencia de una laguna per se, no existe.

Pero cabe mencionar, que el sistema internacional referente al tráfico ilícito de fauna y flora no aclara si los individuos tutelados por tales cuerpos normativos engloban a las especies provenientes de un bosque natural y a las especies provenientes de plantaciones

voluntarias o en su defecto solo al primer caso o en su defecto, no regula un mecanismo o proceso por el cual la comercialización de las especies protegidas a nivel internacional producidas en plantaciones voluntarias puedan ser comercializadas o en su defecto.

16. Hungary:

No.

17. Italy:

The international legal framework to prevent and combat illicit trafficking in wildlife could be enhanced to better integrate the transnational organized crime dimension. However, it is worth noting that the United Nations Convention against Transnational Organized Crime and its provisions can be used and indeed are used – according to our national experience – to tackle this dimension. The most dangerous form of wildlife trafficking is the one carried out by organized criminal groups operating transnationally and these elements allow national law enforcement agencies and the judiciary to use the UNTOC’s provisions on international cooperation, mutual legal assistance, and law enforcement cooperation.

18. Kenya:

Yes. There is a variance in laws between the member and neighbouring states. For instance:

- Penalties vary from one state to the other and most member states do not have strict and high penalties for offences relating to.
- The lack of awareness as to what entail offences relating to Wildlife Conservation and Management have made nationals of some of the member states deficient in the fight against vices associated thereto.
- For instance, in some countries illegal trafficking of live/dead wildlife is not criminalized. Hence combating it has become difficult once such suspects/produce leave a jurisdiction.
- Wildlife crimes are often downgraded and not treated with same seriousness as other crimes.

19. Kyrgyzstan:

Имеется пробел в осуществлении контроля над торговлей объектами дикого животного и растительного мира внутри стран ЕАЭС.

Согласно Конвенции о международной торговле видами дикой фауны и флоры, находящимися под угрозой исчезновения (далее – Конвенция СИТЕС) и постановлении Правительства КР от 9 марта 2011 года № 101 для торговли (импорта, экспорта/реэкспорта) объектов животного и растительного мира подпадающие под действие Конвенции СИТЕС должны получить соответствующее разрешение СИТЕС.

Согласно Решению Коллегии Евразийской экономической комиссии от 21 апреля 2015 г. №30 «О мерах нетарифного регулирования» разрешение требуется в третьи страны, т.е. кроме стран ЕАЭС. В данном случае возникает вопрос об отсутствии контроля над торговлей внутри стран ЕАЭС объектов дикой флоры и фауны. Просим рассмотреть данный вопрос.

20. Latvia:

We have not encountered any gaps in the current international legal framework that would have had detrimental effect on our work.

21. Madagascar:

Non.

22. Malawi:

We are of the view that there are gaps presently in the international legal framework to prevent and combat illicit trafficking in wildlife. While recent United Nations General Assembly (UNGA) resolutions passed in 2015, 2016, 2017, 2019 and 2021 are welcome and have highlighted this matter on the international stage, significant follow up measures have not been adopted.

Illicit wildlife trafficking also involves the theft of vital natural resources from local communities and indigenous peoples. This theft of natural resources also undermines the governments of source countries, including Malawi, by depriving them of revenue, fuelling corruption, destroying livelihoods, injuring and killing rangers. In spite of the destructive and high-risk nature of illicit wildlife trafficking to both people and biodiversity, there is currently no global agreement on tackling this dangerous form of transnational, organized crime.

The absence of a dedicated international instrument to tackle illicit wildlife trafficking is a major gap that needs addressing.

23. Malaysia:

Regarding illicit trafficking in wildlife at the international level, Malaysia is already a party to the Convention for International Trade of Endangered Species of Wild Fauna and Flora (“CITES”) since 1978 in which CITES regulates international trade in CITES-listed species. CITES is an international agreement between governments with the objective to ensure that international trade in specimens of wild animals and plants does not threaten their survival. This agreement includes three categories of protection (Appendix I, Appendix II, and Appendix III) that have listed more than 34,000 species of wild animals and plants (<http://www.cites.org/>).

CITES regulates international trade in specimens of species of wild fauna and flora based on a system of permits and certificates issued under certain conditions and mandating penalisation of illegal trade. It covers export, re-export, import and landing from the high seas of live and dead animals and plants and their parts and derivatives.

Pursuant to Malaysia’s dualist approach, the International Trade in Endangered Species Act 2008 [Act 686] had been legislated and came into force on 28 December 2009 to give effect to the application of the CITES in Malaysia. Act 686 applies to all CITES-listed species that are listed under Schedule 3 of Act 686.

Enforcement of CITES is carried out at the domestic level by eleven (11) enforcement agencies.

Regarding the protection and conservation of wildlife at the domestic level, the Wildlife Conservation Act 2010 [Act 716] is being enforced to regulate wildlife activities in Peninsular Malaysia, including the hunting of wildlife, collecting birds’ nests, selling of wildlife as food or medicinal purposes, operating zoo and carrying of research on wildlife. Act 716 also provides among others the prohibition of possessing snare, carrying out hybridization activity and removing or taking any soil, timber or vegetation.

Further to the above, regarding fishing, the Fisheries Act 1985 [Act 317] is enacted to provide a comprehensive law for the conservation, management and development of marine fishing. Non-compliance to the provision is an offence and is subject to criminal penalty.

Thus far, Malaysia does not discern any gaps in the current international legal framework.

24. Mexico:

Sí. La delincuencia organizada, tanto a nivel nacional como internacional, ha superado las expectativas de las autoridades encargadas de menguar sus actividades criminales al actualizar y perfeccionar sus estrategias delincuenciales, por lo tanto, el marco jurídico también debe ser actualizado para mantenerse vigente.

Por lo anterior, aunque la Convención de Palermo ya define lo que se entiende por delincuencia organizada, se requiere legislación internacional específica que establezca delitos contra la vida silvestre, incluso perpetrados por grupos de delincuencia organizada, incluyendo la tala ilegal.

Asimismo, es importante contemplar la necesidad de incorporar medidas que promuevan la cooperación y coordinación entre países, con el fin de continuar fortaleciendo dicha interacción y de reconocer su importancia en el combate al tráfico ilegal de fauna y flora silvestre.

25. Morocco:

Oui. La réglementation du commerce international des espèces de flore et de faune sauvages ne couvre pas toutes les espèces menacées, en voie de disparition ou endémiques. En effet, certaines espèces de faune ou de flore même si elles sont menacées ou leurs populations ne sont pas viables. Elles ne répondent pas aux critères de leur inscription sur les listes des espèces couvertes par la réglementation du commerce international, à cause d'une évaluation incomplète du volume de leur commerce et de son ampleur et de sa gravité sur la viabilité de ces espèces. Cette sous-évaluation est due essentiellement au manque de données réelles sur leur commerce et sur la taille de leur population. Aussi, il est à signaler que certaines espèces, à faible valeur financière, même si elles sont menacées elles n'attirent pas l'attention pour être protégées. A ce titre, il est à souligner qu'un grand nombre d'espèces inscrites sur la liste rouge de l'UICN n'est pas concerné par les dispositions de la CITES. De ce fait, ces espèces pourraient être commercialisées malgré les risques sur la viabilité de leurs populations.

26. Myanmar:

Regarding the current international legal framework to prevent and combat illicit trafficking in wildlife, the Forest Department has no additional comments to provide for this issue.

27. Netherlands:

No.

28. New Zealand:

Yes –

Recognition of environmental, social and cultural impacts: There could be more robust provisions around the recognition of the impacts to the environment, society and culture through the international legal framework.

Retrieving information from technology companies to support investigations: Many countries face significant challenges when carrying out investigations into offending facilitated through private messaging apps. These companies are often located outside the jurisdiction of the investigating country, and obtaining information from them can be a difficult, if not impossible task. In New Zealand, there are provisions for law enforcement agencies to use remote access search warrants that enable them to obtain information from devices or individuals located in New Zealand, however this process becomes increasingly complex when the target individual, device, or company are located outside New Zealand, leaving law enforcement authorities with limited options for obtaining crucial information needed for investigations and prosecutions.

Information sharing across jurisdictions: While there are existing initiatives internationally to facilitate information sharing across jurisdictions, gaps still remain. To address these gaps, the international legal framework can play a crucial role in strengthening and expanding information sharing mechanisms.

29. Nicaragua:

La mayoría de las especies objeto de comercio ilegal están incluidas en los apéndices de la Convención sobre el Comercio Internacional de Especies Amenazadas de Flora y Fauna Silvestre- CITES la cual establece todo un marco normativo a nivel internacional

y que es legalmente vinculante a los países parte. En este sentido, más que una laguna en el marco normativo internacional es necesario fortalecer los mecanismos de comunicación y coordinación entre los países para hacer efectivo el marco jurídico internacional existente. Además la Convención CITES establece que los países partes deben de establecer regulaciones en la legislación nacional.

30. Niger:

Oui: insuffisance de la coopération et la coordination entre les Etats pour lutter efficacement contre la criminalité liée aux espèces sauvages à l'échelle des régions; insuffisance des capacités des institutions et des acteurs chargé de la mise en œuvre de la LCES.

31. Norway:

The most important international legal tool that exists to regulate illegal trade is perhaps the CITES convention. However, the convention has limitations. A stronger legal framework that facilitates international law enforcement collaboration in combating disrupting illicit trade, (as well as other kinds of environmental crime), is missing.

Especially with regards to increased illegal online trading of endangered species, there are gaps in the CITES convention. Permits may be subject to forgery, and the bilateral and multilateral collaboration could be improved.

32. Panama:

Sí.

Entre las lagunas observadas, es la poca comprensión de la dinámica de las distintas modalidades delictivas que involucra el tráfico ilícito de especies de vida silvestre relacionado al crimen organizado, y la limitada valoración que tienen algunos países, sobre la importancia de las especies de vida silvestre en los ecosistemas.

En ese sentido, los marcos jurídicos deben contemplar la situación y los impactos negativos a los ecosistemas y especies, debido al tráfico ilícito de fauna y flora silvestre, abordando aspectos de connotación ambiental, social y económica, entre ellos:

- La generación de los conflictos ambientales que se vinculan directamente a la destrucción y el deterioro de nuestra biodiversidad.
- Extinción de las especies de fauna y flora silvestre, sobre todo las endémicas
- Pérdida de ecosistemas.
- La destrucción de una especie implica el desplazamiento de la fauna silvestre e interrumpe su flujo.
- La disminución del bosque hace que las comunidades que demandan madera, se desplacen a otros lugares en busca del recurso natural.
- La introducción de especie invasoras, que destruyen ecosistemas.

33. Peru:

El CDB, adoptado en Nairobi (Kenia) en 1992, es un instrumento internacional que vincula a las partes para la consecución de tres objetivos: 1) conservación de la diversidad biológica; 2) utilización sostenible de sus componentes; y 3) participación justa y equitativa en los beneficios que se deriven de la utilización de los recursos genéticos. El Perú es parte del CDB al haberlo ratificado mediante Resolución Legislativa N° 26181 de fecha 30 de abril de 1993.

La importancia de esta convención internacional radica en ser el primer acuerdo global que aborda todos los aspectos de la diversidad biológica: recursos genéticos, especies y ecosistemas. Asimismo, reconoce por primera vez, que la conservación de la biodiversidad “es interés común de toda la humanidad”, así como parte integrante del proceso de desarrollo, debiendo evidenciar el aporte de la diversidad biológica al desarrollo de los países y su contribución a la reducción de la pobreza.

Sin embargo, **el CDB no se hace mención directa a la problemática del tráfico ilegal de fauna silvestre y las acciones que deben tomar los países en respuesta a ello**, declara que es responsabilidad de cada país mitigar las amenazas a su biodiversidad. **Por lo tanto, el Perú se encuentra en la obligación de dirigir acciones que busquen reducir el tráfico ilegal de fauna silvestre.**

Es así como, los grupos delictivos que cometen delitos contra la fauna y flora silvestres suelen utilizar las mismas rutas y técnicas empleadas para el contrabando de otros productos ilícitos y **aprovechan las lagunas y discrepancias de las leyes nacionales y los sistemas de justicia penal.**

Además, utilizan las nuevas tecnologías y plataformas para traficar con especímenes de fauna y flora silvestres. Al mismo tiempo, los ordenamientos jurídicos de todo el mundo enfrentan muchas dificultades a la hora de combatir eficazmente los delitos contra la fauna y flora silvestres. Entre esas dificultades figuran los marcos jurídicos débiles o incoherentes que regulan el uso sostenible de la fauna y flora silvestres, así como las leyes penales ineficaces en las que no se tipifican como delito la tentativa, la complicidad y la posesión y venta de especímenes de fauna y flora silvestres obtenidos de forma ilícita. Muchas de las leyes referidas específicamente a la esfera de la fauna y flora silvestres son inadecuadas y no están armonizadas con otras leyes. Algunas leyes carecen de definiciones de “fauna y flora silvestres”, prevén sanciones insuficientes y no designan los delitos contra la fauna y flora silvestres como delitos determinantes en la legislación contra el blanqueo de dinero.

34. Philippines:

Yes, inter coordination intervention wildlife trafficking to other countries many are caught (sic) but we don't have contact with other countries so we can pinpoint the problem. Yes, there is a lack of proper communication to all member states with regard to the international rules and regulation pertaining to the wildlife laws.

35. Poland:

Different legislation in different EU countries regarding the illegal trade in wild fauna and flora oaks. In some countries these are administrative offenses in others crimes. This should be unified.

The Economic Crime Department of the Economic Crime Bureau of the Police Headquarters recognizes the need to harmonize legislation in the world regarding illegal trade in specimens of wild fauna and flora. It should be pointed out that in some countries cases concerning illegal trade in specimens of wild fauna and flora are conducted in the form of administrative proceedings, misdemeanor proceedings, and not as criminal offences.

36. Portugal:

The answer is yes.

International trade in protected species is penalized by CITES at a global level, and at a national level by Decree No. 50/80, of July 23 (Article 8.º).

Trade in protected species is also penalized by the Environmental Crime Directive, which has a regional/EU scope (Article 3, paragraph g) of the Directive

At a global level, therefore, species that are not listed in CITES and in countries not covered by the EU Directive cannot be punished in international trade. In Portugal, the crime of article 278(2) is based on these obligations. The crime is punished with [a very low] 2 years' imprisonment and a fine of up to 360 days. If there is trade to spaces outside the borders of the EU, there is qualified contraband, with a penalty of up to 5 years.

The United Nations Convention against Transnational Organized Crime (with the additional Protocol on the Prevention, Suppression and Punishment of Trafficking in Persons, in particular Women and Children, and the Additional Protocol against the Illicit Smuggling of Migrants by Land and the Protocol against the Illicit Manufacturing

of and Trafficking in Firearms, Their Parts, Components and Ammunition) does not necessarily cover international trade, and does not cover non-international trade, because this concerns serious crimes, understood as those punished above with sentences exceeding 4 years in prison.

Therefore, at international level, there are flaws arising from the fact that, on the one hand, CITES does not cover international trade in all species of fauna and flora and, on the other hand, that international trade (apart from rules) of species of fauna and flora is necessarily subject to the requirement that a prison sentence of more than 4 years is involved.

In addition, difficulties include the lack of adhesion by States to the main instruments of international law in the field of environmental crimes and, in particular, crimes against wildlife; the insufficiency of international agreements - bilateral and multilateral - in this area; the inexistence of internal legislation of States (or its insufficiency and/or gaps) applicable to this specific area; but, above all, the indispensability of the use of strict and objective legal concepts, as well as the densification of legal concepts whenever there is a likelihood that their content may not be clear to the interpreter and/or applier, thus ensuring respect for the principles of legality and typicity, and thus allowing the creation of a transparent system, with a view to affirming the indispensable legal certainty.

It is essential to approximate legislation, preferably on the basis of the provisions of international law and its guiding criteria, in order to build harmonised or similar national legal systems based on identical legal concepts, regular and constant sharing of information, in order to anticipate the signposting and investigation of situations of suspected illegality or the commission of crimes, and the use of harmonised or similar legal procedures, thus allowing for greater transparency and cooperation between the authorities of the States.

37. Qatar:

لا نرى وجود ثغرات قانونية في الوقت الحالي

38. Romania:

From Romania's perspective, an answer to this question implies, firstly, a mapping of the current international legal framework. There are links between illicit trafficking in wildlife and serious crimes, including, primarily, organized crime, and also corruption, money laundering, tax fraud, obstruction of justice. In this respect, we should refer to the existing legal framework (EU instruments, Council of Europe and UN Conventions, such as UNTOC and UNCAC), which offer an adequate international legal framework.

Furthermore, special attention must be given to international cooperation for financial investigations and recovery of proceeds of crime.

The gaps in cooperation in the field of combatting illicit trafficking in wildlife stem mainly from different legislative, sanctioning and investigative approaches. These various approaches can hamper cooperation regarding for example extradition (the seriousness of the crime or the punishment does not amount to the threshold necessary for granting extradition) or execution of MLAs (lack of double criminality, in cases this precondition is necessary, or the investigations have an administrative nature, rather than a judicial one).

A comparative analysis of the Member States' legislative systems in this area may highlight the need for harmonisation of both prevention (administrative) and enforcement (administrative and criminal) measures. Only after undertaking such a study, it will be possible to provide concrete answers.

To sum up, in our opinion, there are existing gaps and there is a clear need to address them. Especially regarding protected wildlife species. For example, in some countries some species can legally be hunted, in other countries hunting them is prohibited. As such, legal hunters who legally shot wildlife, when transiting specific countries can

unintentionally commit crimes in the countries where the possession of such hunted wildlife is prohibited.

39. Russian Federation:

Незаконный оборот объектов дикой природы – весьма разветвленный преступный бизнес, который наносит не только невосполнимый ущерб природе, но и канализирует миллионные доходы на цели криминального интернационала, в т.ч. подпитку террористических структур. Более того, с учетом развития информационно-коммуникационных технологий нелегальный оборот редких видов дикой фауны и флоры увеличивается ежегодно.

На текущий момент главным международно-правовым инструментом, помогающим государствам-членам регулировать противоправные деяния в области дикой природы – Конвенция о международной торговле видами дикой фауны и флоры, находящимися под угрозой исчезновения. Ключевая цель Конвенции – гарантировать, что международная торговля дикими животными и растениями не создаст угрозы их выживанию.

В качестве альтернативной законодательной базы некоторые государства используют и положения Конвенций Организации Объединенных Наций против транснациональной организованной преступности (КТОП) и Конвенций Организации Объединенных Наций против коррупции. Данные документы содержат подробные положения о поддержке международного сотрудничества по уголовно-правовым вопросам, таким, как выдача и взаимная правовая помощь. Хотя они и имеют положения рамочного характера, которые могут применяться в отношении преступлений против дикой природы и лесных ресурсов, унифицированного подхода в том, что касается криминализации незаконного торговли всеми видами объектов дикой природы – т.е. как исчезающих, редких, так и любых иных, в указанных инструментах нет. На свое усмотрение странам остается и способ возврата в страны происхождения изъятых из противозаконного оборота объектов дикой природы.

Как представляется, требуется максимально детальное и сугубо прикладное международно-правовое уточнение всех этапов борьбы с данным видом преступления.

40. Senegal:

Le cadre juridique international dans l'application des lois en matière de trafic de faune ne comporte pas de lacunes à notre sens. Toutefois, il est en avance avec notre positif interne par rapport à la classification des espèces et la prise en compte du trafic.

41. Serbia:

Legal framework is on a high level. However, improvement of international cooperation of all relevant institutions is needed, such as Ministry of Internal Affairs- Eco crime Unit, Border Police, inspections, CITES offices, prosecutions and courts.

42. Slovakia:

Ministry of Interior: The major obstacle of the legal framework in the area of illicit trade in endangered species is deemed to be different legislations of individual states. Even in spite of certain efforts to unify, especially in the EU, it is still possible to consider a certain action a criminal offence in one state, and administrative offence or misdemeanour in another. In various countries it is not possible to use interception of telecommunications or making a copy of visual and audio recordings or use an agent for this criminal activity which makes it practically impossible to detect and record criminal activity committed by organized groups. A particular issue is the fact, majority of countries has not established specialized police bodies aimed at this type of criminality. Thus, in case it is necessary to investigate in several countries, the interest to cooperate is missing.

43. Slovenia:

No.

44. South Africa:

Yes, there is a lack of the practical application and execution of the legal framework. The framework needs to be tested by all member countries to be effective in combating illegal IWT. The fact that not all countries legislate or regulate species similarly or don't regulate them at all is posing challenges to request mutual legal assistance. Per example, abalone is regulated in RSA but not necessarily in certain Asian countries or landlocked regional countries in Africa. Practical this result in when abalone is illegally trafficked to the latter, where it is not necessarily illegal to import abalone, reliance has to be placed on money laundering for the purposes of mutual legal assistance. Similarly, fraud and customs & excise charges cannot be relied upon. The further result is that these consignments are not necessarily reported for further investigation by the country from which the species was smuggled through the Rilo system or Interpol.

45. Spain:

En líneas generales, el contexto normativo internacional es adecuado para la protección de las especies silvestres en lo que se refiere a las incluidas en el Convenio CITES. Sin embargo, existe una falta de marco normativo para aquéllas que se encuentran protegidas por las diferentes legislaciones nacionales, pero no son parte de dicho Convenio. En tales casos, el marco normativo actual resulta insuficiente para aplicar todas las herramientas de investigación aplicables a otras tipologías delictivas.

46. Sweden:

Yes. One would hope for a better and more efficient way to communicate and share information between countries considering that investigations regarding wildlife trafficking many times stretches beyond national frontiers. Existing channels for communication/information today works but could be a lot more effective.

47. Switzerland:

The sharing of information with other countries and also how we are able to use that information can be difficult, depending on the country. Each country has different national legislations that need to be respected, and this can be a gap or a hindrance, for example regarding controlled deliveries. Controlled deliveries are an important tool but often difficult to conduct in real time due to constraints such as having the contact details of the correct agency or person in charge and uncertainties in the legal framework, time differences etc.

There is also a certain level of uncertainty as to which agency/ organisation has which competency and a lack of routine with these processes which can make the process slow and ineffective.

48. Thailand:

Office of the Attorney General: Yes, the international cooperation both formal and informal among States still needs to be enhanced in order to prevent and combat wildlife trafficking.

Department of National Parks, Wildlife and Plant Conservation: Yes. Online illegal wildlife trades are not being sufficiently addressed by the existing national and international laws from various perspectives.

49. Tunisia:

Oui, puisque le cadre international existant ne protège que des espèces qui sont classées dans les annexes, alors que le trafic peut concerner des espèces non classées.

50. United Kingdom:

The current international legal framework to prevent and combat illegal wildlife trade (IWT) is based on several key international instruments, including the Convention on

International Trade in Endangered Species of Wild Fauna and Flora (CITES), the United Nations Convention against Transnational Organized Crime (UNTOC) and the United Nations Convention on Biological Diversity (CBD). While we have not conducted a comprehensive review of the international legal framework to prevent and combat illicit trafficking in wildlife, there are some initial views on potential gaps:

- There is a lack of a common approach to legislating against IWT at an international level. This results in inconsistent approaches within different jurisdictions, creating challenges around tackling IWT from a transnational perspective. This can lead to loopholes and difficulties in enforcement, which criminal networks can exploit.
- The capacity to implement existing legislative frameworks. Many countries lack the necessary resources, expertise, and political will to effectively enforce existing laws, making it easier for wildlife traffickers to operate with impunity.
- There is a gap in addressing broader issues of wildlife trafficking and illegal trade in other species that do not come under the scope of CITES. This is important because many species that are not listed under CITES also face threats from illegal trade and the lag in adding species to CITES Appendices to respond to emerging threats.

51. United States of America:

There are gaps in the consistency in application of Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) across all member parties, from the enforcement of permit requirements, permit lay outs, species-specific requirements, non-detriment findings, and so forth. Many provisions within CITES are suggestive in nature, or otherwise non-binding.

On occasion, the existence of species-specific exemptions or special annotations in national and international law creates opportunities for criminal organizations to exploit.

The willingness of law enforcement and governments to cooperate with international counterparts to criminally enforce wildlife trafficking laws varies and can be challenging when trying to apprehend and disrupt criminal wildlife trafficking organizations.

52. European Union:

As highlighted in the EU Strategy to tackle Organised Crime 2021-2025 ², environmental crime deserves particular attention due to its harmful effects on biodiversity and on the environment, health and social cohesion within the EU and in third countries. All kinds of wildlife – plants, animals and derived products – as well as companion animals continue to be traded illegally, often on a large scale and sometimes with potential devastating consequences.

However, inspection, law enforcement and judicial authorities often lack the capacity and resources to effectively detect, investigate and prosecute environmental crime. This happens particularly in the absence of specialised enforcement or prosecution bodies and of established strategic approach to combating environmental crime. EU considers that there is a need to strengthen the enforcement capacity at the international level. Sanctions imposed are not sufficiently dissuasive and the coordination and exchange of information, particularly between administrative authorities and law enforcement bodies, is insufficient. Since the international dimension of wildlife trafficking is crucial, more efforts are needed to investigate globally the criminal networks behind environmental crimes and dismantle these networks and their business models, by reinforcing asset recovery and confiscation, as well as anti-money laundering measures, while promoting financial investigations.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy to tackle Organised Crime 2021-2025 COM/2021/170 final

It could be explored whether the international legal framework on wildlife trade and combating wildlife trafficking should be enhanced to better integrate the transnational crime dimension, including through provisions to criminalize the illicit trafficking of wildlife. Moreover, as highlighted in the EU Strategy to tackle Organised Crime and the recent EU action plan against wildlife trafficking, adopted in November 2022,³ recognising and addressing the international dimension of wildlife trafficking is crucial to fight it effectively. Further, prospects of addressing environmental crime as a broader category could be explored, in order to cover other sectors beyond wildlife.

Question 2:

If applicable: What are, in your opinion, possible responses to fill these gaps in the current international legal framework to prevent and combat illicit wildlife trafficking?

1. Angola:

Possible responses to address these gaps are: Harmonization of penalties for violators of legal norms; Current legislation; Adoption of a multidisciplinary approach; Special search techniques; The urgent need to support the ongoing training of justice operators with a view to combating this type of crime; Effective law enforcement; Greater institutional international cooperation.

2. Bolivia (Plurinational State of):

Apoyo y capacitación a las instituciones públicas y privadas que luchan contra el tráfico ilícito de fauna y flora silvestres, para que a raíz de eso se puedan generar instrumentos normativos que sirvan para combatir contra el tráfico ilícito de fauna y flora silvestres.

3. Brazil:

Receita Federal (Customs): Not applicable

Federal Prosecution Service (MPF), International Cooperation Unit (SCI): The development of a network for exchanging information and the access to databases concerning illicit trafficking in wildlife.

In 2002, Brazil established a permanent network of public agents and private partnerships (Fiscalização Preventiva Integrada – FPI [<https://www.mpf.mp.br/se/sala-de-imprensa/fpi-sao-francisco>], in its Portuguese acronym) as means of preserving and recovering the São Francisco river. Initiated in the national state of Bahia, it has been extended to Minas Gerais, Alagoas, Pernambuco and Sergipe. The project has been considered a pioneer environmental policy as it assembles specialized bodies for regional integrated inspection, clarifying and education, not only for the watershed ecosystem maintenance but also the riverside population social safety. It is also noteworthy that the program has won an award from the National Council of Public Prosecution in 2020, in the category ‘induction of public policies’ (<https://www.mpf.mp.br/pgr/noticias-pgr/fiscalizacao-preventiva-integrada-do-sao-francisco-ganha-premio-cnmp-2020-na-categoria-inducao-de-politicas-publicas>). In this sense, the national network is example of good practices’ normalization in terms of wildlife rescue, for instance, which requires efficiency in data sharing and information exchanging, as pointed out by the first answer.

4. Burkina Faso:

Harmoniser les cadres juridiques nationaux améliorer les sanctions

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Revision of the EU action plan against wildlife trafficking COM/2022/581 final

5. Burundi:

- Harmonisation et uniformisation des textes et règles juridiques en matière de prévention et de répression de la criminalité contre les espèces sauvages ;
- Instaurer un cadre permanent d'échange d'information et d'expérience dans la lutte contre la criminalité portant sur les espèces sauvage ;
- Désigner et former les points focaux chargés de relais de l'information sur les crimes contre la faune et la flore
- Intégrer l'usage des nouvelles technologies dans le monitoring de la criminalité contre la faune et la flore;
- Créer un fond de support des initiatives privées en matière de protection et de préservation des espèces sauvages.

6. Canada:

Possible responses to address enforcement gaps include encouraging and fostering greater implementation of UNTOC to prevent and combat the illegal wildlife trade. This could be achieved by encouraging countries to align their national legislation on the issue with the UNTOC.

In addition, a more in-depth study of the synergies between existing international legal frameworks, including UNTOC, UNCAC, and CITES, could be undertaken. This would be a relevant step in optimizing the use and implementation of these tools in the context of the illegal wildlife trade.

Finally, increased sharing of information and best practices at the policy, operational and legislative levels would be relevant in increasing the global understanding of the nature of these crimes and their broader impact. It could also be helpful in identifying new or enhanced tools for cooperation and new approaches to addressing the issues.

7. China:

不适用

8. Colombia:

Si bien no se considera que haya lagunas en el marco jurídico, en la práctica se necesita un trabajo articulado tanto del sector ambiental y agrario con las autoridades penales para mejorar los resultados en cuanto a delincuencia organizada transnacional.

9. Czechia:

We would consider it important to increase public awareness of this topic. This could be done by various means, including by creating campaigns that get society interested in this issue.

10. France:

Plusieurs mesures pourraient être envisagées, sous réserve d'être élargies aux autres formes de criminalité environnementale :

- Harmoniser les mesures de pénalisation d'activités de trafic d'espèces et des autres formes de criminalité environnementale, en exigeant l'adoption de mesures de sanctions efficaces, proportionnées et dissuasives à l'encontre des auteurs. Ces mesures pourront aussi comprendre une indemnisation visant à la restauration des habitats et des écosystèmes endommagés ;
- Mettre en place un mécanisme de renforcement de capacités des services nationaux de répression compétents en matière de lutte contre le trafic d'espèces et les autres formes de criminalité environnementale (dont partage

des informations, transfert de technologies, formation, renforcement des législations) ;

- Mettre en place des mesures de protection des lanceurs d’alerte pouvant fournir des informations sur des activités ou sur des auteurs de crimes liés au trafic d’espèces ou aux autres formes de criminalité environnementale ;
- Disposer d’une définition commune pour l’incrimination du trafic illicite incluant l’importation, l’exportation, le transport, la vente (y compris par des moyens électroniques), la réception, l’introduction en provenance de la mer, l’acquisition, la détention, l’achat, la livraison, le mouvement ou le transfert de spécimens de faune et de flore sauvages et autres ressources (minerais et métaux notamment), ainsi que l’offre de vente et la publicité de spécimens de faune et de flore sauvages et autres ressources naturelles issus de trafics illicites et l’acte de prélèvement illégal (braconnage d’une espèce, abattage illégal de bois, pêche illégale, exploitation minière illégale, etc.) ;
- Envisager la question de l’incrimination de l’utilisation ou de la consommation des spécimens issus de trafics illicites ;
- Incriminer les crimes portant atteinte aux habitats des espèces sauvages, voire les effets induits sur les habitats par des actes illicites ;
- Prendre en compte les liens entre le trafic d’espèces sauvages et (i) les enjeux sanitaires avec la diffusion de zoonoses émergentes ou ré-émergentes ou encore la contamination des espèces endémiques par des agents pathogènes importés, (ii) les risques d’importation d’espèces exotiques envahissantes ;
- Fournir des moyens de contrôle des navires dans les eaux internationales en cas de suspicion de trafic illicite d’espèces sauvages, de matière minérale ou autre forme de criminalité environnementale (aucune disposition juridique internationale n’existant actuellement, contrairement à l’article 17 de la convention de Vienne contre le trafic de stupéfiants) ;
- Envisager l’incrimination des activités pouvant affecter les espèces marines sauvages menacées (commercialisation des espèces inscrites sur les listes CITES), le milieu marin (rejets de substances polluantes par des navires) ou passant par voie de mer (transport de déchets dangereux, bois et minerais illégaux par exemple), afin de faciliter la coopération administrative et judiciaire pour la recherche, le contrôle en mer, la poursuite des infractions et l’application de sanctions pénales élevées.

Par ailleurs, le Comité français de l’UICN préconisaient dans ses recommandations de :

- mieux mobiliser les outils juridiques dans une logique de dissuasion et de sanction (rehausser les sanctions des délits en les ajustant sur celles prévues en matière de trafic de stupéfiants, sensibiliser les magistrats des parquets quant à l’existence de qualifications pénales assorties de la circonstance aggravante de bande organisée, ainsi qu’à l’importance de délivrer des instructions de politique pénale visant à renforcer la répression en matière de criminalité environnementale, sensibiliser les procureurs et les juges lorsque les conditions sont remplies à requérir et à prononcer des peines complémentaires, notamment celle de la confiscation des biens ayant servi à commettre l’infraction, systématiser la procédure d’avis à victime pour constitution de partie civile, approfondir les avancées juridiques en matière de commerce en ligne).
- mieux mobiliser les outils juridiques dans une logique de soutien financier aux structures d’accueil des animaux saisis ou confisqués (informer les magistrats de la possibilité pour les établissements d’accueil de rédiger un mémoire de frais de garde pour qu’ils soit mis en œuvre lors des procédures judiciaires, inciter les magistrats à s’assurer que l’application des dispositions légales ne fassent peser sur les structures d’accueil la charge

financière de l'accueil ou la garde de l'animal, prendre un arrêté définissant le statut juridique des établissements prétendant à la qualité de refuge ou de sanctuaire et y insérer les modalités de subventionnement public attachés à ce statut et à leur mission d'intérêt général).

11. Gabon:

It is Gabon's view that Member States should negotiate and adopt a global agreement to prevent and combat illicit wildlife trafficking, taking the form of an additional Protocol to the United Nations Convention against Transnational Organized Crime (UNTOC).

On 17 May 2021, the President of Gabon, H.E. Ali Bongo Ondimba, and the President of Costa Rica, H.E. Carlos Alvarado Quesada, released a joint statement calling for a global agreement against wildlife trafficking, taking the form of an additional Protocol to the UNTOC. On the same day, Gabon's Minister of Water, Forests, the Sea and Environment, intervened during the 30th session of the UN Crime Commission on Crime Prevention and Criminal Justice (CCPCJ) to convey that very statement. In the following months, the President of Angola, H.E. João Lourenço and the President of Malawi, H.E. Dr Lazarus McCarthy Chakwera, both supported this call through their own powerful statements.

12. Guatemala:

El establecer de forma expresa y taxativa si el establecimiento de plantaciones voluntarias de especies tuteladas por convenios y tratados internacionales referentes al tráfico ilícito de fauna y flora silvestre encuadran dentro de la prohibición, ya que algunas especies son de alto valor comercial y son "producidas" en mecanismos propios a plantaciones voluntarias con condiciones controladas.

13. Hungary:

Not required.

14. Kenya:

- There is need to enhance international responsibility and inter-dependence/cooperation through Mutual legal agreements and co-operation between members/neighbouring states to combat trafficking of wildlife.
- The existing legal framework requires extensive reviews to incorporate trafficking of wildlife as a transnational organized crime.
- Regular trainings to create awareness on trafficking of wildlife and ensure that authorized/ enforcement officers have vast knowledge on the evolution of wildlife crimes.

15. Kyrgyzstan:

В настоящий момент Министерство природных ресурсов, экологии и технического надзора Кыргызской Республики в процессе разработки единой базы данных по торговле объектами дикой флоры и фауны с доступом контролирующих и надзорных органов. Основной целью данной базы – пресечение незаконного оборота объектов дикой флоры и фауны.

16. Latvia:

Not applicable.

17. Madagascar:

Pas de réponse.

18. Malawi:

We propose that Member States should negotiate and adopt a global agreement to prevent and combat illicit wildlife trafficking, taking the form of an additional

Protocol to the United Nations Convention against Transnational Organized Crime (UNTOC).

19. Malaysia:

Not applicable.

20. Mexico:

- Establecer sanciones más severas para las personas dedicadas a la tala incesante de árboles o el tráfico de vida silvestre que sirva como un factor disuasor, para que las personas dedicadas a estos delitos sean más conscientes de las repercusiones que pueden sufrir si infringen la ley.
- Un marco jurídico que, sin el ánimo de violentar derechos humanos, tenga la capacidad para mermar y debilitar a esos grupos delincuenciales.
- Fortalecer la legislación existente mediante la creación de nuevos tipos penales que incluyan disposiciones específicas del tráfico ilegal de fauna y flora silvestres, incluso en un contexto de delincuencia organizada.
- Que al bien jurídico que tutelan los tipos penales relativos a la tala se les dé un rango más alto, ya que los órganos jurisdiccionales, así como las autoridades encargadas de combatir la tala ilegal, aún no sensibilizan acerca de que, si se siguen realizando este tipo de actividades, la comunidad a nivel mundial se encontrará en riesgo y los daños a la biodiversidad serán irreversibles.
- Establecer medidas y canales para compartir información de manera ágil y coordinar esfuerzos en la lucha contra el tráfico ilegal de especies silvestres.

21. Morocco:

- Des bases de données puissantes et à jour portant sur le commerce de toutes les espèces de flore et de faune sauvages sont nécessaires, pour une meilleure évaluation de cette activité sur la survie des espèces
- La mise en place d'une plateforme d'échange d'informations sur le commerce des espèces de flore et de faune sauvages est également indispensable pour mieux intervenir et de façon plus efficace.

22. Myanmar:

We do not have further comment to provide for that.

23. New Zealand:

Increasing international cooperation

Illicit trafficking in wildlife is a transnational crime that requires international cooperation to effectively combat it. Countries need to work together to share information, coordinate enforcement efforts, and prosecute offenders.

Enhancing public awareness and education

Many people may not be aware of the negative impacts of illicit trafficking in wildlife, or that particular products are the result of, or derived from, illicit wildlife trafficking. Increasing public awareness and education, including for relevant agencies, can help to reduce demand for wildlife products.

Further education around the elements of wildlife trafficking to agencies that are accessing encoded messaging as part of their investigations into illegal activities, and further information sharing capabilities as part of this. The use of international police sharing networks have potential to support this – if police are able to first identify wildlife offending and then share information to other/partner agencies this would support further detection, disruption, convictions, and prevention in this area. The Interpol and Europol connections show this – to a point – but require police to have a knowledge of what needs to be passed on to

other agencies (in New Zealand's context, these agencies are primarily: Department of Conservation, Ministry for Primary Industries, New Zealand Customs Service).

24. Nicaragua:

Fortalecer los niveles de comunicación y coordinación entre los países

Capacitar al personal de control aduanero en temas de prevención y control del comercio ilegal de vida silvestre.

Fortalecer la coordinación de la INTERPOL con las instancias nacionales de regulación y control de la fauna y flora silvestre.

25. Niger:

- Elaborer et mettre en œuvre un Protocol sous régionaux de coordination et de coopération sur la LCES Favoriser l'entraide judiciaire au niveau des Etats.
- Intensifier les renforcements des capacités des institutions et des acteurs chargé de la mise en œuvre de la LCES en moyens logistiques et techniques.

26. Norway:

In order to combat international wildlife crime, all countries must have a robust legal system as well as the competence and capacity to enforce the regulations and prosecute criminals.

A fully digitalized solution for permits will be able to provide greater security against forgeries. This will have an additional utility value because it will enhance collaboration between the environmental agencies, the judicial and customs authorities both at the national and the transnational level.

27. Panama:

Se requieren razonados ajustes en los marcos legales internacionales para prevenir y combatir el tráfico ilícito de fauna y flora silvestres, toda vez que actualmente no existe una legislación armonizada y vinculante a cada uno de los Estados que permita el prevenir y combatir este flagelo, puesto en algunas jurisdicciones solamente tiene connotaciones administrativas.

Lo anterior, es indispensable para reforzar el intercambio de información/comunicación internacional, de forma tal que los Estados puedan de forma efectiva y oportuna orientar y dirigir los procesos de cooperación jurídica internacional que le realizan otros Estados, evitando que aspectos como la doble incriminación impidan una constructiva cooperación.

En ese sentido, sería favorable contar con redes de especialistas a nivel de autoridades competentes para propiciar el intercambio de información internacional a nivel de prevención y represión los que serán de gran utilidad para poder obtener la información y colaboración entre la mayor cantidad de países, de una manera eficaz y disminuir los plazos que conlleva este tipo de asistencia.

28. Peru:

Cooperando directamente con los Estados a fin de proteger las especies de fauna y flora silvestres mediante la tipificación de delitos graves contra la vida silvestre y así mejorar la capacidad de los Estados en materia de enjuiciamiento y justicia penal. Asimismo, la creación de instrumentos de asistencia técnica para ayudar a los Estados a examinar y modificar la legislación vigente y aprobar nuevas leyes para combatir los delitos contra la fauna y flora silvestres en consonancia con la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional (en adelante, "la Convención contra la Delincuencia Organizada") y la Convención de las Naciones Unidas contra la Corrupción. En este sentido, es importante poner de relieve que la tipificación de los delitos contra la fauna y flora silvestres complementa el marco jurídico general y debe integrarse en él a

fin de garantizar un enfoque equilibrado y evitar la penalización excesiva de delitos leves.

La flora y fauna silvestres y su comercialización deben estar regulados por leyes y reglamentos para, entre otras cosas, garantizar su protección. La creación de infracciones penales, civiles o administrativas es uno de los mecanismos que permiten a los Estados utilizar leyes y reglamentos con miras a lograr esos objetivos. El tipo de responsabilidad adecuado para cada infracción variará necesariamente en función de su gravedad y del ordenamiento y la cultura jurídicos del Estado en cuestión, si bien es posible que los Estados deban imponer sanciones penales en caso de infracciones graves de esos reglamentos y leyes sobre la fauna y flora silvestres. Entre los delitos graves se incluyen aquellos actos en los que participen grupos delictivos organizados y sean insostenibles o perjudiciales para la biodiversidad o el bienestar público.

29. Philippines:

Member state must have a regular consultation or meeting to update the status of wildlife in their area of responsibility, mode of transaction, modus, and the financial proceeds must be strictly monitored by the AMLC.

30. Poland:

Unification and equalization of legislation and sanctions in all countries.

31. Portugal:

The solidity and effectiveness of international cooperation, in our opinion, inevitably passes, as we stated in the answer to the previous question, through the building of cooperation based on a delimited international legal framework, which uses strict and objective concepts to enable the approximation of national laws.

The efficiency of cooperation, as a way to favour a concerted and harmonized action of the various States depends on a multidisciplinary approach (administrative entities, in particular customs, inspection and licensing entities, the police, the Public Prosecutor's Office the Courts and private entities – companies and NGOs), in order to cover the diversity of criminal practices that promote, facilitate and aim at erasing the trail of environmental crimes, which although appearing to be mere illegal or illicit localized practices, are often pieces of a complex criminal plan with a transnational nature.

We are convinced that international cooperation will be optimised by the proper functioning of each State's internal cooperation, structured in public (administrative, police and judicial) and public-private partnerships, based on the sharing of information and the specialized training and constant and up-to-date training of experts.

Once it is understood that the perpetrators of these crimes do so with the aim of obtaining high economic benefits, it is essential that the States create measures at the level of domestic law to confiscate the assets of the defendants and return the proceeds of these assets to the injured States, with the possible reversal of these assets (or part of them) to promote the policy of combating environmental crime.

32. Qatar:

لا توجد مقترحات ، وذلك لعدم وجود ثغرات قانونية في الوقت الحالي

33. Romania:

Along with addressing gaps at international level, we should bear in mind that effective application of international legal instruments implies also taking measures at national level, in order to improve the capacity of national authorities to respond and cooperate efficiently.

Addressing gaps should consider measures at national level, such as an efficient awareness raising, focusing on specialized knowledge for investigators and prosecutors, on cooperation between national authorities (given the multidisciplinary nature of the investigations), efficient training and dissemination of relevant soft law instruments (such as UN Guidelines for investigators and prosecutors).

States should also consider measures to improve legislation, considering, inter alia, guidelines adopted at international level, such as the Guide on drafting legislation to combat wildlife crime (UNODC).

So, the uniformization of the international and national legal frameworks is extremely beneficial, especially from the aspect implied by the determination when a case represents a crime and when it doesn't.

34. Russian Federation:

На наш взгляд, целесообразность разработки под эгидой ООН нового профильного документа подтверждается ежегодным ростом криминального рынка в сфере дикой природы. Эффективное противодействие этому развивающемуся виду преступности требует консолидированного комплексного ответа. В то же время наблюдается определенная "разногласия мнений" и даже "конкуренция" в подходах государств и международных организаций к практическому противодействию этому криминальному вызову.

Привести международное сотрудничество в этой сфере к "общему знаменателю" способна только ООН, в лице такой ее специализированной структуры, как Управление ООН по наркотикам и преступности.

35. Slovakia:

Ministry of Interior: In our opinion, a possible solution of the abovementioned issues represents unification of legal framework in the manner securing the illicit international trade in endangered species will be deemed a criminal offence in all the countries regardless of its extent, plus, it will be enabled to use interception of telecommunications or making a copy of visual and audio recordings or use an agent. A prerequisite we deem necessary is for every state to establish a specialized body for the investigation of such criminal offences the size of which will be proportional to the extension of the particular state.

36. South Africa:

The legal framework needs to be ventilated amongst Member States for better interpretation and execution.

37. Spain:

Por una parte, sería conveniente agilizar el procedimiento de inclusión de determinadas especies en los Apéndices del Convenio CITES, especialmente en los casos en que se descubren especies endémicas en determinados países y suelen ser altamente demandadas por las organizaciones criminales. Por otra parte, se podría plantear la suscripción de algún tipo de acuerdo internacional que garantice de manera automática la protección de una especie a nivel global cuando esta se protege por parte de cualquier país.

38. Sweden:

To allow a better communication between countries law enforcement officers and other personnel during both intelligence stage but also in the stage of crime investigation.

39. Switzerland:

Simple and clear points of contact regarding these issues if it comes to transnational cases of illegal wildlife trade, easy access to information which is relevant to the situation or case in question.

40. Thailand:

Office of the Attorney General: The International conference, meeting or workshop will help each States to know each other and learn more about channel and legal limitation of other States.

Department of National Parks, Wildlife and Plant Conservation: Establishing a specific working group to closely monitor possible online illegal wildlife trade.

41. Tunisia:

Le renforcement du cadre juridique international actuel et diversification des mécanismes de lutte contre le trafic des espèces de faune et de flore sauvage.

42. United Kingdom:

Possible responses to address gaps in the current international legal framework to prevent and combat illicit trafficking in wildlife should be informed by robust analysis of the current criminal justice response to determine the root causes, drivers and barriers. Multiple responses could be considered at different levels to strengthen activities to prevent and address IWT. These may include, but are not limited to:

- National or regional implementation: Supporting key countries to identify the issues and barriers to tackling the IWT. Followed by more targeted, bespoke, bilateral engagement, programming and capacity building.
- National or regional legislation: Encouraging and supporting greater use of existing frameworks and assisting countries to amend their national legislation, for example, in line with UNTOC to support transboundary efforts on IWT organised crime.
- International collaboration: Enhancing the use of existing mechanisms for international cooperation and information sharing to facilitate greater cooperation between jurisdictions/countries/regions.
- Strengthened international legal framework: Developing and implementing a globally agreed approach from a criminal legislative perspective to address IWT.
- Evidence based approach: Developing an evidence base on what legislative approaches work, and enhancing opportunities to share best practice and lessons learned.

43. United States of America:

The establishment of an international wildlife law database, readily accessible to law enforcement responsible for clearing wildlife at ports of entries, would help to more easily identify wildlife products that are being imported or exported contrary to international law. It would also assist identifying country-specific provisions for imports and exports in CITES.

Continued sharing of real-time law enforcement intelligence, to include suspected or known criminal wildlife traffickers and their organizations, tactics, techniques, and practices employed by wildlife traffickers, and advances in technologies and methodologies used to further criminal investigations will allow law enforcement to combat wildlife trafficking more proactively on a global scale.

In addition, we should be encouraging all parties to the UN Convention against Transnational Organized Crime (UNTOC), CITES, and the UN Convention against Corruption (UNCAC) to effectively implement those treaties, giving

special consideration, where necessary, to enacting measures to address wildlife trafficking, including foundational incorporating into their domestic frameworks best practices, such as treating wildlife trafficking as a predicate offense for money laundering, establishing wildlife trafficking as a serious crime in domestic legislation and using relevant provisions in the Conventions related to international cooperation, including as appropriate, provisions on extradition, joint or parallel wildlife trafficking investigations and legal assistance.

44. European Union:

The EU considers that further reflection should take place, at international level, whether to:

- (1) Establish as a criminal offence, when committed intentionally, the trafficking in wildlife specimens in contravention of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), or other relevant international legal agreements;
- (2) Provide adequate tools for cooperation to better address the transnational character of the crime.

Question 3:

What is your view on the potential of an additional protocol on illicit trafficking in wildlife to the United Nations Convention against Transnational Organized Crime? Why?

1. Angola:

Angola defends the adoption of an Additional Protocol on Illicit Trafficking in Wildlife to the United Nations Convention against Transnational Organized Crime (UNTOC). Therefore, it becomes imperative to adopt it in order to fill in the omissions that UNTOC currently presents in relation to the matter related to wildlife crimes. It is imperative to create additional protocols to address the omissions contained in Resolution 31/1, of the Crime Prevention and Criminal Justice Commission.

2. Austria:

The question should be, which actions can lead to an improvement – thus to a better protection of wild animals and plants. Criminological research agrees that this cannot be achieved through stricter regulations (especially stricter punishments), but rather that the probability of being discovered deters potential offenders from committing the acts. The logical consequence of this realization is therefore that there must be improvements in enforcement. New, stricter, regulations will not (alone) solve the problem of illicit trafficking in wildlife.

3. Belarus:

Высказать обоснованное мнение относительно потенциала разработки нового протокола к названной Конвенции не представляется возможным ввиду отсутствия сведений относительно противоправной деятельности на территории Республики Беларусь транснациональных организованных преступных групп в сфере незаконного оборота объектов дикой природы.

4. Bolivia (Plurinational State of):

Sería de gran beneficio, si el protocolo adicional se estuviera contextualizado a la realidad de los países y a los problemas que enfrentan el tráfico ilícito de fauna y flora silvestres.

5. Brazil:

Receita Federal (Customs): We think it is a good measure to further protect our biodiversity, but if a draft protocol is available, we have no knowledge of it and we would like to receive it.

Federal Prosecution Service (MPF), International Cooperation Unit (SCI): The Federal Prosecution Service supports the idea if the additional protocol on illicit trafficking in wildlife also embraces exchanging information facilitations and storing data, as means of access provision without further diplomatic procedures or bureaucratic obstacles.

6. Burkina Faso:

Ce serait une bonne idée parce que cela pourrait aboutir à un consensus sur la lutte contre le trafic des espèces sauvages.

7. Burundi:

Comme la Convention des Nations Unies contre la Drogue et le Crime admet déjà des protocoles additionnels, un protocole relatif à la prévention et à la répression du trafic d'espèce sauvages aurait pour effet positif de contribuer à son application effective sur l'aspect de criminalité contre les espèces sauvages.

8. Canada:

Canada recognizes the importance of preventing and combating the illegal wildlife trade and its associated links to climate change, socio-economic hardship, terrorism, public health, and species extinction. In December 2021, the Minister of Environment and Climate Change Canada was mandated to work with partners to address this issue.

The challenges around the international legal framework for international cooperation in addressing the illegal wildlife trade are complex. While Canada acknowledges that there have been a number of calls over the past few years for an additional protocol under the United Nations Convention against Transnational Organized Crime to tackle illicit wildlife trafficking specifically, we believe that current efforts should be focused on promoting a better implementation of existing legal instruments with regards to this crime, more particularly UNTOC and UNCAC. A potential additional protocol would run the risk of facing similar implementation challenges.

9. China:

非法贩运野生动植物不仅危害生物多样性，也影响人类安全和公共卫生安全，面对有关危害环境犯罪带来的全球性挑战，各国是同舟共济的命运共同体。中国高度重视生态文明建设，坚持依法惩治非法贩运野生动植物等危害生态环境类犯罪，切实履行《联合国打击跨国有组织犯罪公约》、《濒危野生动植物种国际贸易公约》等国际公约责任，不断加强与联合国毒品办、国际刑警组织等交流合作，积极参与打击危害环境犯罪国际联合行动。中方认为各方应加强预防和惩治环境犯罪国际交流对话，首先查明现有国际法律框架可能存在的漏洞不足，以更好探讨制定新的附加议定书的必要性和可行性。

10. Colombia:

Para Colombia la lucha contra el tráfico de vida silvestre debe partir de un enfoque amplio que abarque la prevención, que privilegie la conservación y los Derechos Humanos y la Agenda 2030, más allá de la acción punitiva de los Estados; sólo así se podrán encontrar soluciones sostenibles para los ecosistemas y las comunidades. La adopción de un protocolo sobre el tráfico ilícito de fauna y flora silvestres debe garantizar que se fortalece el uso legal, sostenible y trazable de los especímenes de fauna y flora silvestre. La mejor medida para proteger las especies son las medidas preventivas de conservación y uso sostenible, las cuales tienen un amplio desarrollo en el marco de la Convención sobre Diversidad Biológica y la Convención CITES, entre otros.

Un protocolo sobre el tráfico ilícito de fauna y flora silvestres en el marco de la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional coadyuvaría a la adopción de normas que definirían, en todos los países que se adhieran, el tráfico ilícito de cualquier especie o planta silvestre como delito penal grave y podrían facilitar la labor de los Estados para fortalecer herramientas de cooperación judicial, la consolidación de procedimientos, y el fortalecimiento de la realización de actividades de control y vigilancia al tráfico ilegal de flora y fauna transfronteriza que permitan articular los esfuerzos globales en la lucha contra este delito.

No obstante, es necesario primero definir cuál sería el objetivo exacto de protocolo, el alcance y ámbito de aplicación para poder valorar de manera realista los beneficios y costos de la implementación de este instrumento. Para la creación de un protocolo sobre el tráfico ilícito de flora y fauna silvestre contra la delincuencia organizada transnacional que afecte a quienes realmente se lucran en la cadena de valor de este delito, se debe realizar un levantamiento de información, analizar estadísticas y tendencias, que orienten a la toma de decisiones respecto del enfoque que el protocolo debería tener.

Lo anterior, es importante teniendo en cuenta que en la CITES ya existe la obligación de tener legislación nacional adecuada para la implementación de la Convención, lo cual incluye la normativa en relación a tráfico ilegal.

Es cierto que se requiere fortalecer los mecanismos de asistencia judicial recíproca y las investigaciones conjuntas que permitan frenar el tráfico ilegal transfronterizo, no obstante contar solo con la visión punitiva, ha demostrado en otras dinámicas ilegales no ser suficiente para controlarlo. Por lo anterior, la construcción del protocolo debe incluir la evaluación de los costos de la conservación, de las herramientas para implementar las medidas y de la generación de incentivos para que las comunidades y sociedad en general opten por la prevención como primera medida de lucha contra el tráfico de fauna y flora silvestre.

11. Côte d'Ivoire:

Le MINEF n'est pas le Point focal de la Convention des Nations Unies contre la criminalité transnationale organisée en Côte d'Ivoire. Le MINEF ne comprend donc pas le cadre de ce protocole, ni ses avantages et inconvénients, ni les moyens de le mettre en œuvre.

12. Czechia:

From the perspective of current application practice, we do not see the necessity of adopting the Additional Protocol on Illicit Trade in Wildlife to the UN Convention against Transnational Organized Crime. Both national as well as international legislations are gradually being reshaped. Investigative activities on organised crime are being developed within Europol and Interpol. The illegality of such behaviour and the consequences of condoning it need to be brought to the attention of the public consistently and in the given context across continents, however, we do not see a need for a new instrument.

The Czech Republic is not opposed in principle to the idea of an additional protocol, provided that shortcomings in countering such criminal activities are identified that exist due to the possible gaps in the current international legal framework and which, rather than in practice or by legislative measures of individual Member States at the national level, should, due to their nature or impact, be remedied by complementing the existing international legal framework. However, our final position would depend on its proposed content and, at the moment, we consider the current legal framework to be sufficient and do not see the necessity of an additional protocol.

13. Denmark:

No Danish position on this.

14. France:

Dans un premier temps, s'agissant de la méthode : un **état des lieux préalable des différents instruments juridiques internationaux**, permettant de lutter contre le trafic d'espèces sauvages, et plus largement contre les crimes portant atteinte à l'environnement est nécessaire, afin d'identifier les marges de manœuvre pour améliorer leur application et leur efficacité et le besoin de créer un nouvel instrument juridiquement contraignant.

S'il ressort de cet état des lieux le besoin de renforcer le cadre juridique international permettant une harmonisation des législations nationales en matière de lutte contre le trafic d'espèces sauvages, et plus largement les crimes portant atteinte à l'environnement, les Etats membres pourraient envisager le renforcement du cadre juridique international par la négociation d'un nouveau protocole additionnel à la Convention de Palerme.

Dans un second temps, s'agissant du périmètre d'un protocole additionnel : il convient de noter que **le trafic d'espèces protégées ne représente qu'un volet de la criminalité environnementale** et, à lui seul, ne constitue pas la majorité ou une grande partie des retombées financières générées par le crime organisé (**l'orpaillage illégal et le trafic de déchets** par exemple constituent des secteurs bien plus rentables pour le crime organisé). En ce sens, l'adoption d'un protocole qui porterait uniquement sur la lutte contre le trafic d'espèces sauvages manquerait en partie sa cible. En effet, les crimes portant atteinte à l'environnement vont bien au-delà de ce phénomène.

Par ailleurs, la criminalité environnementale est aujourd'hui une problématique de plus en plus liée aux phénomènes de grande criminalité organisée.

Aussi, sous réserve que la plus-value juridique d'un tel instrument soit démontrée, un 4^e protocole pourrait constituer une option à envisager, à condition qu'il traite de la criminalité environnementale sous ses formes, telle que définie par la résolution 76/185 du 16 décembre 2021 par l'Assemblée Générale des Nations Unies et dans la résolution 10/6 de la Conférence des parties à la Convention des Nations unies contre la criminalité transnationale organisée.

15. Gabon:

Gabon strongly supports the adoption of an additional Protocol to the UNTOC prevent and combat illicit wildlife trafficking.

Three protocols already exist, dealing with other serious forms of transnational, organized crime: human trafficking, firearms manufacturing and trafficking, and migrant smuggling. A fourth Protocol on illicit wildlife trafficking would have numerous benefits. For instance, in negotiating such a Protocol, State parties could develop and adopt a definition of illicit wildlife trafficking. As with the existing Protocol on trafficking in persons, such a definition could facilitate a convergence of national approaches, thereby enhancing international cooperation.

States would also agree on how they will cooperate to prevent and combat these serious crimes. This could include, for example agreeing:

- the conduct that is to be criminalized;
- what species of wild fauna or flora to include within its scope. This could include species protected under any international and, most importantly, any national law; and
- to make it a criminal offence to import any wildlife, or wildlife product into a country, if it has been acquired in contravention of the national laws of the source country.

Other issues that could be considered by States, include:

- the role and responsibilities of the carriers of contraband;

- verification of the legitimacy and validity of documents, including any documents suspected of being misused;
- the return of seized and confiscated contraband to the source country;
- cooperating on training and technical assistance;
- raising public awareness, and to take measures to discourage demand;
- sharing information, such as on known groups active in illicit trafficking, on their concealment methods, and known transport routes, and legislative experiences and practices;
- sharing forensic samples; and
- considering measures that will permit the denial of entry or revocation of visas of persons implicated in the commission of offences.

Such a Protocol would also automatically trigger UNTOC's general tools for cross border cooperation, without the need to make offences punishable by four years imprisonment or more. This would serve to enhance the use of the UNTOC's provisions on international cooperation, mutual legal assistance, joint investigations, special investigative techniques such as controlled deliveries, and law enforcement cooperation provisions in preventing and combating the illicit trafficking of wildlife.

This automatic triggering of the UNTOC is desirable when dealing with wildlife trafficking offences. They are better suited to a broader range of penalty options, including community service orders, restitution, paying damages and fines, as well as imprisonment, based on the value of the contraband and the level of harm caused.

16. Germany:

In the past, Germany has supported an additional protocol with the purpose of better combating criminal networks in sectors like illicit trafficking in wildlife, amongst others. We plan to continue our efforts in the future. However, we believe further assessment is necessary, especially regarding the question on having a separate additional protocol or a broader approach on environmental crimes in general, which then would include illicit trafficking in wildlife. We believe that a protocol – or regulation within the framework of a broader approach – could be beneficial for a variety of reasons. Benefits could include i.a. a clear definition for the term illegal wildlife trade/illicit trafficking in wildlife (including whether only fauna or also flora is included), more efficient cross-border joint criminal investigation and prosecution, and creation of tailor-made national norms to combat wildlife crime (e.g. on the question of how to deal with confiscated specimens, border controls, the exchange of information, preventive measures). The 2020 UNODC World Wildlife Crime Report emphasizes that illegal wildlife trade is particularly dependent on accompanying crimes, such as corruption of customs officials.

17. Guatemala:

Los beneficios de la adopción de un protocolo adicional radicarían en el contenido del mismo y si este un cierto modo permite la conciliación entre el ámbito industrial o comercial con el ambiental referente al uso racional de especies de fauna y flora con la finalidad de aplicar el ilícito desde la perspectiva de la ultima ratio propia de la doctrina penal.

18. Hungary:

Not required, the current protocol is adequate.

19. Italy:

Illicit trafficking in wildlife is only one form of crimes that affect the environment. Therefore, in case a thorough assessment of the existing

international legal instruments would result in substantive gaps, it would be useful to consider a broader scope for an additional protocol. It could include all crimes that affect the environment or all forms of illicit trafficking that affect the environment (including, for example, waste trafficking, precious metals trafficking, illegal timber trade, etc.)

20. Japan:

If an additional protocol were to be developed, it would be necessary to pay attention to its consistency with existing international agreements or obligations in international organizations as well as national legislations, and to ensure compatibility between conservation and sustainable use of wild fauna and flora. We believe that the priority of Member States in preventing and combatting illicit trafficking in wildlife is to identify challenges in implementing existing international agreements effectively, such as the United Nations Convention against Transnational Organized Crime (UNTOC) and the United Nations Convention against Corruption (UNCAC). Necessity for an additional protocol should be considered based on the result of discussion on such challenges.

21. Kenya:

Positive

There is need for the streamlining and harmonization of the member states national laws to be in line with the UNTOC for incorporation of strict measures/penalties in ensuring that trafficking of wildlife is criminalized.

22. Latvia:

We express no objections regarding the addition of a protocol on illicit trafficking in wildlife.

23. Madagascar:

Nous sommes pour à l'élaboration d'un protocole additionnel. Pour les raisons suivantes :

- Mise en place d'une plateforme de communication en vue d'une rapidité et efficacité d'intervention,
- Une meilleure standardisation et coordination des opérations,
- Mise en place des sanctions uniformes.

24. Malawi:

Malawi supports the adoption of an additional Protocol to the UNTOC prevent and combat illicit wildlife trafficking.

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- cooperating on training and technical assistance;
- raising public awareness, and to take measures to discourage demand;
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Such a Protocol would also automatically trigger UNTOC's general tools for cross border cooperation, without the need to make offences punishable by four years imprisonment or more. This would serve to enhance the use of the UNTOC's provisions on international cooperation, mutual legal assistance, joint investigations, special investigative techniques such as controlled deliveries, and law enforcement cooperation provisions in preventing and combating the illicit trafficking of wildlife.

This automatic triggering of the UNTOC is desirable when dealing with wildlife trafficking offences. They are better suited to a broader range of penalty options, including community service orders, restitution, paying damages and fines, as well as imprisonment, based on the value of the contraband and the level of harm caused.

25. Malaysia:

Malaysia is of the view that further study could be considered as follows:

- a. on the scope and application of illicit trafficking in wildlife to be covered under the additional Protocol so as not to overlap with the current international standard as provided in the CITES;
- b. the gap in the CITES that requires the Protocol to be developed; and
- c. if there is a gap, to fill the gap in the CITES, the possible action to amend the CITES instead of by creating an additional Protocol.

26. Mexico:

Tendría un gran beneficio, ya que generaría obligaciones para los Estados que están suscritos a la Convención para que comiencen con el proceso de iniciativas de ley más eficaces para el combate a los delitos en materia de fauna y flora silvestre, y en especial a la tala ilegal de árboles, procurándose así un mejor bagaje jurídico. Además, sería un punto de partida para buscar el fortalecimiento de las instituciones competentes en la materia, al constituir una base para solicitar un mayor presupuesto para las acciones de prevención y combate de tales delitos, que con el paso de los años van incrementando.

Adicionalmente, se considera que el eventual Protocolo permitiría acciones de contención más ágiles y trazar mapas delincuenciales efectivos con redes de vínculos internacionales, las cuales, la mayoría de las veces, se ven impedidas de trascender en países que argumentan la falta de un régimen jurídico del tema.

Finalmente, el Protocolo permitiría una armonización paulatina de la legislación de delitos contra la vida silvestre de los Estados Parte, promoviendo con ello una mejor y mayor cooperación internacional para un combate más eficaz de dichos ilícitos.

27. Morocco:

L'élaboration d'un nouveau protocole qui couvre toutes les espèces sauvages menacées ne peut que renforcer les mesures juridiques de protection de ces espèces.

28. Myanmar:

We welcome any inputs and enforcement for the sake of conserving biodiversity.

29. Netherlands:

No opinion.

30. New Zealand:

New Zealand recognises the value that international legal frameworks have in supporting efforts to combat illegal wildlife trafficking. This includes the Convention on International Trade in Endangered Species (CITES).

The New Zealand Government is considering its position on this question, but remains open to considering options to strengthen international measures and we are interested in the views of other countries in this regard.

31. Nicaragua:

Sería positivo contar con un protocolo de actuación sobre el tráfico ilícito de fauna y flora silvestre, facilitaría y orientaría a los países Partes, de como proceder para la prevención y el control del tráfico ilícito de flora y fauna silvestre a nivel internacional.

32. Niger:

Nous pensons que c'est une bonne démarche car cela contribuera à rendre plus opérationnel les actions de lutte contre le trafic des espèces sauvages.

33. Norway:

We welcome a protocol on illicit trafficking in wildlife as it could help in strengthening the focus on wildlife crime, but it should also be considered to include other environmental crimes (pollution, IUU fishing, mining, forest, an illegal land conversion).

34. Panama:

Contar con un protocolo adicional sobre el tráfico ilícito de fauna y flora silvestre, puede traer beneficios, en la medida que el mismo sea adoptado como un instrumento universal y aprobado/ratificado/adherido los por la mayor cantidad de Estados Miembros, incluyendo dicho instrumento connotaciones ambientales, sociales y económicas.

Resulta puntual resaltar que, el delito de tráfico ilícito de especies de vida silvestre, tiene una connotación internacional, en la mayoría de los casos, ya sea porque el destino de las especies de vida silvestre (fauna o flora) son otros Estados o por la existencia de grupos criminales de distintas nacionalidades que se establecen para manejar determinados mercados, así como parte de la organización está situada en otro país y no opera únicamente en el Estado origen.

En consecuencia, la adopción de un protocolo adicional a la Convención de Palermo, que tome en cuenta todos los escenarios (ambiental, social y económico), reforzara las legislaciones internas existentes sobre la materia o servirá para que los Estados, adopten leyes y medidas más concretas y eficaces para prevenir y combatir el tráfico ilícito de especies de vida silvestre, mediante

un enfoque amplio que abarque factores como el incremento de los mercados o comercios internacionales, la disminución de los controles en los puertos y fronteras, y el aumento de otras conductas delictivas como el tráfico de drogas, armas, trata de personas, entre otros.

35. Peru:

Esta resolución supone una oportunidad para articular y elevar las acciones impulsadas por el país (por ejemplo, mediante la Estrategia Nacional para Reducir el Tráfico Ilegal de Fauna Silvestre en el Perú y la Declaración de Lima) a una escala global y permitirán brindar una respuesta más factible y eficaz a un problema transnacional con poco avance como es el comercio ilícito de flora y fauna silvestre.

Ha llegado el momento de avanzar con un nuevo acuerdo internacional para combatir estos graves delitos. Un Protocolo sobre los delitos contra la vida silvestre, sería un momento histórico: la primera vez que los “delitos ambientales” de esta naturaleza se integran específicamente en el derecho penal internacional. Significaría el reconocimiento por parte de los Estados de la necesidad de intensificar los esfuerzos de colaboración para prevenir y combatir los delitos contra la vida silvestre, proporcionar un vehículo poderoso para hacerlo y dejar un legado sólido para las generaciones venideras.

36. Philippines:

All member state must enact laws pertaining to anti-money laundering act and to those already have must strictly monitor and implement.

37. Poland:

The proposed solutions for combating crimes affecting the natural environment are fully acceptable.

38. Portugal:

In principle, depending on the draft provisions, an additional Protocol seems appropriate given the level of threat to the conservation of many species of fauna and flora and the fact that international trade is very economically profitable, making it a good criminal option given the small amount of penalties. In the case of European eel (discussed in the 2020 Report), as is known, 1 kg of juvenile eel is equivalent to 4000 (four thousand) specimens and is worth €6,000 to €7,000/kg in the Asian market, and in times of scarcity such as it was the pandemic, it reached €20,000/kg.

Therefore, an additional protocol, will probably help to raise awareness of the problem in those countries where there is still no specific legislation in this area, or where it is inadequate, and to help in the drafting and establishment of a legal framework that is more appropriate to the scale and seriousness of these crimes. This will make it possible, on the one hand, to extend cooperation and, on the other hand, to help strengthen existing collaboration, which will result in greater efficiency in the investigation.

As regards the effectiveness of cooperation in joint investigation, we believe that it depends on the simplification of the procedures for obtaining evidence, otherwise the complexity and length of these procedures will become the greatest obstacle to criminal prosecution and, naturally, to the collection of the necessary evidence for the formulation of sustained accusations that will allow the Courts to acquire enough evidence to judge and convict the offenders.

In this respect, the illicit markets of international scope are a great challenge for national authorities, whose ability to pursue, investigate, prosecute and convict criminals is, unavoidably, dependent on the existence of a cohesive and robust international cooperation.

The position is therefore favourable.

39. Qatar:

نرى ضرورة إضافة بروتوكول خاص بمكافحة الاتجار بالأحياء البرية ، كونه ذا أهمية عالية كباقي البروتوكولات التي نصت عليها الاتفاقية ، فالاتجار غير المشروع بالحيوانات والنباتات البرية يضر الحيوي في جميع انحاء العالم ، كما أنه مليون نوع من الحيوانات والنباتات المهددة بالانقراض ، وفقاً لتقرير للأمم المتحدة لعام 2019 .

40. Romania:

In Romania's view, illicit trafficking in wildlife is part of a larger phenomenon, namely environmental crime. Therefore, including environmental crime, in the broad sense, in a potential protocol to UNTOC is a solution worth exploring.

Therefore, keeping in mind the evolution of wildlife trafficking with all its aspects involved, it would be appropriate to update the existing protocols, because such an approach will ensure a proper correspondence to the current needs.

41. Russian Federation:

Российская Федерация полагает необходимым разработать под эгидой ООН новый международно-правовой инструмент по борьбе с незаконным оборотом объектов дикой природы с закреплением за Управлением ООН по наркотикам и преступности лидирующей роли в данной сфере. Таким инструментом могла бы стать как и отдельная всесторонняя конвенция, так и четвертый дополнительный протокол к КТОП. По нашему мнению, новый инструмент на основе имеющегося опыта должен создавать возможности для активизации сотрудничества правоохранительных органов в условиях интенсивного роста масштабов преступности против объектов дикой флоры и фауны

42. Senegal:

Un protocole additionnel sur le trafic d'espèces protégées pourrait être intéressant. Cela peut permettre de légiférer sur tous les contours de ce trafic et répondre aux exigences de précision de du droit pénal. Il s'y ajoute que les Etats auront la même législation en matière de trafic d'espèces protégées ; ce qui évite aux trafiquants d'opérer dans un pays où la législation est plus clémente.

43. Serbia:

Additional protocol on illicit trafficking in wildlife which would enhance cooperation of all relevant institutions would be significant.

44. Slovakia:

Ministry of Interior: Given the abovementioned issues, we deem the additional protocol aimed at illicit trade in endangered species to be essential. The protocol should notify the states of the current negative state in the area of control of trade in endangered species as well as the fact, the perpetrators of the criminal offence in question deliberately transfer their activities into the countries with lower standards of law enforcement where it is not possible to effectively intervene. We deem it important for the protocol to incorporate the recommendations presented in the response to Question 2.

45. Slovenia:

We do not have opinion about additional protocol, because we think that mentioned convention is appropriate, all the member states just need to start to execute it.

46. South Africa:

It is our view that no additional protocol is needed for now. The current protocol needs to be ventilated with focused approach for execution. An additional protocol in our view, will not add value to the current protocol as it assumed to basically address the

same issues and that any new challenges or gaps can be addressed through the amendment of the current protocol.

47. Spain:

Como continuación al punto anterior, sería beneficioso si dicho protocolo fuese de aplicación directa a la legislación interna de los países, u obligase a estos a adoptar medidas legislativas que garanticen su aplicación. Este extremo sería especialmente beneficioso en casos de especies protegidas en los países de origen de las mismas, pero que no se encuentran incluidas en el Convenio CITES.

48. Switzerland:

To be of use, it would need to be complementary with existing protocols and take them into account, add value and support these existing frameworks, legislations and protocols and not complicate processes or duplicate procedures. In order for it to be a valid and applicable tool, it would need to address real life scenarios and situations. It would need to be binding and also embedded within national legislation. It would need to be a tool that has relevance to practical, real-life issues.

49. Thailand:

Office of the Attorney General: We support additional protocol on illicit trafficking in wildlife to UNTOC because specific protocol will help State Parties to put priority to prevent and suppress wildlife trafficking.

Department of National Parks, Wildlife and Plant Conservation: The new protocol on illicit trafficking in wildlife should include the establishment of a central information exchange platform. The platform should enable the collection, exchange and distribution of information on illegal wildlife trade for Member States to use as best practices in the enforcement of the protocol and provide feedback to improve the efficiency of wildlife trafficking investigation.

50. Tunisia:

L'élaboration d'un protocole additionnel sur le trafic d'espèce sauvages à la Convention des Nations Unies contre la criminalité transnationale organisée permet de préserver le patrimoine mondial biologique et de favoriser son équilibre à condition de bien assurer l'harmonisation entre ce protocole et le reste des mécanismes déjà existant pour éviter la dispersion des textes.

51. United Kingdom:

We remain interested in understanding the role and effectiveness that a future additional Protocol could play in tackling IWT, alongside other options that could deliver similar outcomes. Our final view will be based on the availability of a clear and evidenced analysis of the problem and potential solutions, with interventions being prioritised by evidence of impact and evidence of deliverability.

52. United States of America:

The United States recognizes that protocols to the UNTOC can be an effective mechanism to facilitate international cooperation to address specific issues. Nonetheless, we are not convinced additional protocols are needed to address illicit wildlife trafficking and related crimes. It is the U.S. view that the several existing legal instruments available to Member States to address illicit wildlife trafficking and related crimes provide a sufficient legal basis for international cooperation. States Parties need to advance more effective implementation of those instruments. The connections between illicit trafficking in wildlife and other aspects of transnational organized crime will only become more apparent in the future. Illegal commercialization of wildlife and timber resources continues to be actively developed as a source of income used to finance criminal organizations, all the while threatening the security and stability of nations whose natural resources are being exploited. We must ensure that international legal

frameworks like UNTOC continue to effectively address the connectivity among a range of criminal activities.

The United States believes there are ways to strengthen international cooperation to combat wildlife trafficking globally, including through use of the UNTOC, prior to engaging in a lengthy and administratively burdensome process to consider an additional UNTOC protocol. The growing international ambition and energy to address wildlife crime should not be prematurely focused on the concept of an additional protocol, which could prove to be procedurally difficult, costly, and excessively time-intensive for member states and would likely disproportionately burden some member states. The international community should focus identify opportunities within the existing legal framework to advance international cooperation on wildlife trafficking.

53. European Union:

In case the wildlife trafficking is not sufficiently addressed in other international illegal instruments, it can be explored whether an additional protocol on illicit trafficking in wildlife is needed and potential venues to criminalize illegal wildlife trade in breach of international relevant conventions and to strengthen transnational cooperation to tackle transnational crime more effectively. An Additional Protocol on Wildlife Trafficking could give the crime greater prominence in the priority setting of law enforcement authorities and thus eventually increase enforcement levels. The Protocol could automatically trigger all of the UNTOC's provisions on international cooperation, mutual legal assistance, joint investigations, special investigative techniques such as controlled deliveries, and law enforcement cooperation provisions.

Question 4:

Please describe your experiences, good practices and challenges in terms of preventing and combating illicit trafficking in wildlife.

1. Angola:

Angola, from 2016 to 2022, developed the activities described below, with a view to combating the smuggling of species and products of animal origin:

- Commit to building the capacity of all actors to combat organized wildlife trafficking more effectively. Thus, together with national and international partners, a training program has been carried out from 2017 to the present date for: 12 researchers; 84 attorneys; 67 Judges and 10 Court staff. This training should consider the entire wildlife crime chain, including all contributing activities.
- 65 inventory of fauna products seized at the international airport and customs posts, involving individuals of Asian nationality, with fauna products such as ivory, rhinoceros horn skin, nails and others;
- Resulting in 6,315.58 kg of illegally obtained products (ivory, rhinoceros horn skins, nails and others);
- Analyzes indicate that 55 elephants and several species of pangolin were killed in this period, in addition to cats;
- In the same period, 30 individuals were detained, 12 nationals and 18 foreigners traveling to Asia.

These are some of the good practices that Angola promotes in the training and training of technicians from defense and security bodies that intervene in the fight against crimes against wildlife, such as the Attorney General's Office, Criminal Investigation Services, Judicial Magistrates and the Ministry Public and General Tax Administration.

Therefore, one of the main challenges is the dissemination of information about the practices that constitute illicit wildlife trafficking among rural communities involved in such acts.

2. Armenia:

For the purposes of preventing and combating illicit trafficking the Ministry of Environment of the Republic of Armenia issues permits, certificates and licenses for the use, import and export of wild animal and plant species.

3. Austria:

Fortunately, there have been only a few cases -of petty crime – in Austria.

4. Belarus:

В Республике Беларусь криминализованы незаконная добыча рыбы или других водных животных (ст. 281 УК), незаконная охота (ст. 282 УК), незаконные перемещение (транспортировка) или разделка диких животных (ст. 282-1 УК). Указанные преступления относятся к преступлениям против экологической безопасности, окружающей среды и порядка природопользования.

По данным судебной статистики в 2022 году по ст. 281 УК осуждено 141 лицо, по ст. 282 УК - 65, по ст. 282-1 УК - 28.

Проблемных вопросов в области пресечения и уголовного преследования незаконного оборота объектов дикой природы (в контексте запроса) в Республике Беларусь не имеется.

5. Bolivia (Plurinational State of):

Si bien se cuenta con bastante normativa legal vigente al interior del país, se debe tomar en cuenta que el tráfico ilícito de fauna y flora silvestres es un delito que trasciende fronteras, por lo que se debe contar con normativa internacional acorde a la actual vivencia de los países.

6. Brazil:

Receita Federal (Customs): Brazilian customs is very attentive to the environmental issue, especially in relation to the trafficking of flora and fauna. Through our own initiatives and partnerships with other public and private institutions, we are developing and training our employees to increase and improve the inspection of this offense. We have already had several good results so far, such as seizures of illegal wood and seizures of insects and snakes at post offices.

Federal Prosecution Service (MPF), International Cooperation Unit (SCI): After a seminar on wildlife trafficking, an informal network was established between members, and the Brazilian Federal Prosecution Service had been contacted to inform that an egg's bird dealer was in Guarulhos Airport (São Paulo) for a connection to Europe, coming from Chile. Once determined that the criminal was already arrested by the Brazilian Federal Police, bearing in fact the eggs with him, it has been noticed that he was probably going to be set free, after being primarily heard by the judge, due to no previews' convictions. As a result of the information shared among authorities, it was possible to enlighten the federal magistrate about several arrestments and convictions for wildlife trafficking in foreign jurisdictions as means to halt the dealer. Therefore, the judicial imprisonment has been sustained. And the defendant convicted for the environmental crimes perpetrated.

7. Burkina Faso:

Existence d'une législation pertinente pour la lutte contre le trafic d'espèces sauvages; Faible collaboration entre les agences de lutte contre le trafic d'espèces sauvages; Absence d'une loi CITES

8. Burundi:

Le Burundi fait régulièrement face aux trafiquants des produits de la faune et de la flore et ce, au niveau national et transnational.

Les cas les plus récessés sur le plan national sont en rapport avec les coupes illicites de bois dans les aires protégées comme les réserves naturelles (Rukoko et Kibira), le braconnage commis sur les éléphants qui peuplent les bords du lac Tanganyika, ...

Au niveau transnational, les trafiquants des produits sauvages transitent souvent sur le territoire national via l'Aéroport International de Bujumbura et d'autres points d'entrée officiels et officieuses de la frontière nationale. Une fois arrêtés sur le territoire national, ces trafiquants sont immédiatement déférés devant les instances de poursuite et de répression et les produits du crime sont saisis.

A ce sujet, il convient de signaler qu'en tant qu'organe national des poursuites publiques, le Parquet Général de la République se joint aux organes des poursuites publiques des autres pays dans le cadre de l'Association des Procureurs de l'Afrique de l'Est (Eastern Africa Association of Prosecutors/EAAP). C'est un cadre propice de coopération entre les pays de la région dans la lutte contre la criminalité transnationale organisée y compris la criminalité contre les espèces sauvages.

Ce qui constitue une bonne pratique en matière de lutte contre la criminalité commise contre les espèces sauvages.

Les difficultés ne manquent pas dans cette lutte. Il s'agit en premier lieu de pouvoir sécuriser toutes les aires protégées de toute la république. Il en est de même des frontières terrestres qui sont très poreuses à plusieurs endroits du territoire national.

En deuxième lieu, la coopération transnationale se heurte aux aspects liés à la diversité des systèmes juridiques des pays de la région (Common Law et Romano-germanique) et aux barrières linguistiques (Français, Portugais et Anglais).

9. Canada:

Canada specifically tackles this problem more holistically through the prevention and combatting of illegal wildlife trade, given this is more reflective of the scope of trade seen in Canada. In this sense, from a Canadian perspective, the use of the term illegal wildlife trade is more reflective of domestic legislation and includes instances of trafficking.

A significant development related to preventing and combating the illegal wildlife trade is the science-based approach of using risk-assessment models. Environment and Climate Change Canada (ECCC), the department mandated to enforce federal laws relating to wildlife and pollution, is currently collecting enviro-related permit and declaration data from Canadian customs authorities and placing the data in a searchable and useable database. This data is combined with data from other sources both domestically and internationally. This allows the tracking of international trade, the identification of violation indicators within the data, and the detection of irregular activities that may require further enquiry.

Collecting, harnessing, and disseminating data should be a central effort to the law enforcement, customs, and environmental agencies in combatting the illegal wildlife trade. The partitioning and isolation of data between interested agencies constitutes a significant hindrance in efforts to combat the illegal wildlife trade. While this partitioning may be a result of privacy and other legal restrictions, agency non-interface, or simply lack of knowledge on the part of the data-holders, the drive should be to unify the data and ensure it can be analyzed on the largest, most effective scale. Notwithstanding that data analysis is progressing at unprecedented rates, the ability to use solutions such as AI, analytic algorithms,

and other similar approaches holds the greatest potential for combatting IWT on a global scale.

In addition to data analysis, Environment and Climate Change Canada is exploring a number of new technologies, including forms of remote sensing, to combat the illegal wildlife trade. Similarly to the positive impacts (both in detecting the guilty and clearing the innocent) of DNA testing on traditional law enforcement, scientific developments likely hold the greatest and most tangible promise in the fight against the illegal wildlife trade.

Such experiences and best practices suggest that greater focus and coordination among Member States could be put on the promotion and guidance of the sharing and analysis of data globally, and in advancing and adopting the effective and ethical use of technology in combatting the illegal wildlife trade. Greater information sharing and coordination on such issues could constitute one of the alternative responses to address gaps in the international legal framework on the illegal wildlife trade.

10. China:

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11. Colombia:

- Desde el Consejo Superior de Política Criminal, máxima instancia el Estado colombiano en materia de lucha contra la criminalidad se construyó un marco de política con acciones concretas para la lucha contra los delitos que afectan el medio ambiente. En ese sentido, desde el año 2022 se viene construyendo una estrategia contra la criminalidad medio ambiental que busca articular las instituciones colombianas para ampliar la cobertura y para ampliar la presencia de la justicia en territorio para la prevención, detección, judicialización, juzgamiento y sanción de actividades delictivas contra la naturaleza.
- 14 de marzo de 2022: En una investigación liderada por la Dirección de Carabineros de la Policía Nacional, en articulación con las autoridades de Brasil y la Fiscalía General de la Nación, se realizó una operación simultánea en Bogotá, Vichada y Amazonas, donde se capturaron seis personas de un grupo delincuenciales dedicado al tráfico y comercialización de peces. A partir de labores de vigilancia y seguimiento, coordinadas con autoridades brasileras, además de las nuevas capacidades desplegadas desde del Centro Cibernético de la Policía Nacional, se lograron identificar las rutas y develar por completo el modus operandi de esta organización, lo que permitió que se ejecutaran 6 órdenes de captura y 3 órdenes de allanamiento de forma simultánea en Bogotá, Puerto Carreño y Leticia. Esta red traficaba con peces provenientes de Brasil, Venezuela y afluentes hídricos en la Amazonia colombiana a través de una empresa legalmente constituida, los cuales almacenaba en estanques improvisados en los municipios de Puerto Carreño y Leticia, desde donde se enviaban hacia la ciudad de Bogotá utilizando dos rutas, en la primera llevaban los peces desde Puerto Carreño hacia Puerto Gaitán Meta, vía fluvial, luego embarcaban las bolsas que contenían los peces en compartimientos ocultos de vehículos de transporte público, las cuales eran recibidas en Bogotá; en la otra ruta, enviaban las bolsas vía área desde Leticia hacia Bogotá, las cuales eran camufladas como mercancía en la bodega de carga de los aviones comerciales. Cerca del 40% de los peces mueren antes de llegar a la ciudad de Bogotá, es decir 8 mil de estos animales perecieron a manos de los traficantes.
- **8 de julio de 2022.** La empresaria y representante legal de DISEÑO Y MODA, dedicada a la fabricación de productos de cuero, N.G., fue señalada de enviar y comercializar de contrabando hacia los Estados Unidos, productos de marroquinería, como carteras, bolsos y diversos productos

elaborados con pieles de babilla (*Caiman crocodilus*), entre otras especies silvestres. **Fue requerida en extradición por una Corte del Distrito Sur de la Florida (Estados Unidos) y fue capturada con dos personas más en Cali, Valle del Cauca_Colombia, por la Fiscalía General de la Nación.**

- **2 de diciembre de 2021:** La Policía Aeroportuaria en el Aeropuerto Internacional El Dorado de Bogotá, identificó 210 recipientes de plásticos (recipientes y rollos fotográficos), dentro de los cuales llevaban 232 arañas, un escorpión con 7 crías, nueve huevos de araña y 67 cucarachas. En maletas estaban ocultos los animales, que según los dos extranjeros eran trasladados con fines académicos. Las autoridades pudieron determinar que los arácnidos e insectos fueron extraídos del municipio de San Luis de Gaceno, en Boyacá.
- **2 de diciembre de 2021:** En el Aeropuerto Internacional El Dorado de Bogotá, la Policía Nacional de Colombia conjuntamente con la Secretaría Distrital de Ambiente, incautaron en 10 cajas de cartón que llegaron a una empresa de transporte en el aeropuerto, fueron encontradas 3.493 aletas de tiburón y 117 kilos de vejigas de pez que iban a ser exportadas, de manera ilegal, a la ciudad de Hong Kong, en China. Los elementos llegaron vía terrestre desde Roldanillo, Valle del Cauca, a la capital para ser enviadas bajo la modalidad de encomienda desde el muelle de carga del aeropuerto internacional.
- **Operación “Leopardo”:** la ofensiva más grande contra el tráfico de animales en el país. Dos estructuras criminales desmanteladas y más de 1.000 especies de fauna silvestre y exótica incautadas. La Policía Nacional, en trabajo coordinado con la Fiscalía General de Nación, a través del Grupo Especial para la Lucha contra el Maltrato Animal (GELMA) y las autoridades ambientales de Bogotá, Medellín, Cali, Popayán y Magangué (Bolívar), y con el apoyo de la agencia Fish & Wildlife Service de los Estados Unidos, realizó la Operación ‘Leopardo’.
- El trabajo de los policías de la línea investigativa de delitos contra el ambiente y los recursos naturales de la Dirección de Protección y Servicios Especiales (DIPRO), en el marco del Plan Semana Santa ‘Apasíonate por la vida’, permitió desmantelar las estructuras delincuenciales ‘Naturales’ de Bogotá y ‘Libertad’ de Medellín, gracias a la captura de 21 personas en desarrollo de 15 diligencias de allanamiento en distintas regiones del país, resultado que se suma a la importante incautación de 1.004 especies de fauna silvestre y exótica, que en el mercado criminal se traficarían por más de un millón de dólares.
- Tras la investigación adelantada por un año, que contó con la participación de policías como agentes encubiertos virtuales, se identificó la forma en la que actuaban las estructuras criminales, principalmente a través de las redes sociales como plataforma para comercializar los especímenes.
- Así mismo, actividades policiales permitieron evitar el tráfico de 510 ejemplares a través de 18 eventos adicionales. Los investigadores determinaron los actores de las estructuras delincuenciales, sus roles y las modalidades de envío y el ocultamiento de las especies.
- Los ejemplares de fauna, silvestre, exótica y acuática eran negociados y enviados mediante encomiendas aéreas o terrestres, bajo la complicidad de algunos transportadores locales que permitían que se camuflaran los animales en cajas y morrales, sometiendo a los especímenes a prolongados recorridos de maltrato.
- Dentro de la investigación se pudo establecer que se introdujeron al país las especies como los geckos, lagartos y serpientes para su reproducción y comercialización en Colombia, mientras que para las especies como lagartos y tortugas tenían zocriaderos en Medellín y Bogotá.

- Los capturados deben responder ante las autoridades por su presunta responsabilidad en los delitos de aprovechamiento ilícito de los recursos naturales renovables, concierto para delinquir, delitos contra la vida, integridad física y emocional de los animales, manejo ilícito de especies exóticas.
- **Operativo realizado por la Policía Nacional en conjunto con la Fiscalía General de la Nación y la Corporación Autónoma Regional de los Valles del Sinú y San Jorge en el municipio de Buenavista, Córdoba** que permitió la recuperación de 166 especies de fauna Silvestre y fueron capturados 10 personas por el delito de concierto para delinquir, maltrato animal y aprovechamiento ilícito de los recursos naturales.
- En 2022, el trabajo de la Policía Nacional ha permitió el decomiso de 1.630 aves, 3.284 reptiles y 1.080 mamíferos para un total de 5.994 especímenes, así como la captura de 1.469 personas por delitos ambientales que afectaron la biodiversidad como activo estratégico de la Nación.
- En muchas zonas del país desconocen que esta clase de comportamiento son tipificadas como delitos, por esta razón demandan especies exóticas para el consumo solo para el disfrute personal y no son conscientes de que están incentivando una cadena criminal que termina en una afectación a los ecosistemas.

12. Côte d'Ivoire:

La Côte d'Ivoire a acquis de nombreuses expériences dans la lutte contre le trafic des espèces sauvages à travers de nombreuses saisies et des poursuites judiciaires.

Les bonnes pratiques portent surtout sur la formation et la sensibilisation du personnel ainsi que le renforcement de la collaboration nationale entre toutes les agences d'application de la loi en matière de lutte contre le trafic des espèces sauvages et également sur la poursuite devant les juridictions d'affaires sur les espèces sauvages.

Les formations et la collaboration ont renforcé les connaissances de chaque force sur sa contribution potentielle dans la lutte contre le trafic des espèces sauvages. La création d'un comité national CITES et la désignation de points focaux CITES dans toutes les agences d'application de la loi a également largement contribué à renforcer les capacités et les résultats du pays.

Les principales difficultés du pays en la matière résident dans les moyens pour renforcer la sensibilisation du public et dans la gestion des spécimens saisis ou confisqués. Les programmes de sensibilisation n'obtiennent pas de financement pour éditer les outils de sensibilisation ou faire passer des spots publicitaires. Quant aux spécimens confisqués, ils reviennent chers aux agences d'application de la loi, qui ne disposent pas toujours de magasins adéquats et de budget, pour les protéger, les stocker en sécurité ou les déplacer vers des sites d'accueil appropriés.

13. Czechia:

From the point of view of prosecution, it is appropriate to choose procedures that have been proven in practice, especially the use of already established criminalistic methods and procedures (e.g. methods of DNA analysis, interception and recording of telecommunication traffic, detection of data from telecommunication traffic, etc.).

From the point of view of the Police, international police cooperation is important for international criminal investigations. This is where the diversity of criminal laws and procedures in criminal proceedings comes into play. This also applies to the administrative procedures of the authorised institutions. As far as evidence is concerned, forensic scientific methods of determining species and their origin are very useful. The affordability of some laboratory testing may be limiting for some

state law enforcement agencies, given the budgetary situation of individual institutions. This is particularly the case for laboratories operating in the private sector.

From the point of view of the Czech Environmental Inspection, as the enforcement CITES authority of the Czech Republic, it is the international coordination and cooperation that have been proven in practice as essential in the field of combating international illegal trade in wildlife. Also, the extensive use of forensic techniques can help to reduce both national and international crime and we would like to point out collaboration with proven forensic services as very useful for our work.

14. Denmark:

No Danish position on this.

15. Finland:

There may be challenges in the recognition of the CITES goods at the operative level. It is important to have specialised, trained authorities (police, customs officials, prosecutors etc.) who recognise the acts of illicit trafficking in wildlife and co-operate in this area. The clarity of national legislation is also important as well as the risk of getting caught for these offences.

16. France:

La France a élaboré de longue date un arsenal législatif puissant pour combattre le trafic d'espèces sauvages.

S'agissant des avancées législatives les plus récentes, il convient de noter l'entrée en vigueur de la loi n°2021-1539 du 30 novembre 2021 visant à lutter contre la maltraitance animale et conforter le lien entre les animaux et les hommes, et comportant certaines dispositions relatives aux animaux non domestiques.

Cette loi prévoit notamment la fin des spectacles d'orques et de dauphins d'ici 2026. Il sera mis fin à leur détention et reproduction en captivité, sauf dans le cadre de programmes de recherches scientifiques ou dans des « refuges ou sanctuaires pour animaux sauvages captifs » dont le statut est précisé.

Le même texte interdit l'acquisition et la reproduction d'animaux sauvages par les cirques itinérants dès 2023, et la détention et le spectacle de tels animaux dans les cirques itinérants d'ici 2028. Une commission nationale consultative pour la faune sauvage captive est créée auprès du ministre chargé de la protection de la nature, qui pourra être consultée sur les moyens permettant d'améliorer les conditions d'entretien et de présentation au public des animaux sauvages captifs. Les cirques fixes, quant à eux, seront soumis aux règles générales de fonctionnement des zoos. La loi interdit également les spectacles d'animaux dans les discothèques ou les fêtes privées, et la diffusion d'images d'animaux sauvages dans des émissions de variété ou de jeux télévisés. L'activité de montreur d'ours et de loup est également interdite.

Enfin, il est mis fin aux élevages de visons d'Amérique et d'autres espèces sauvages pour leur fourrure, à l'expédition d'animaux vertébrés par voie postale et à la vente en ligne d'animaux domestiques par des non-professionnels.

La loi n°2021-1104 du 22 août 2021 portant lutte contre le dérèglement climatique et renforcement de la résilience face à ses effets contient également des dispositions pouvant contribuer de façon indirecte à la protection des espèces protégées. En effet, ce texte crée un délit général de pollution des milieux, qui réprime le fait d'émettre dans l'air ou de déverser dans les eaux des substances de nature à entraîner des effets nuisibles graves et durables sur la santé, la flore ou la faune. Ce délit revêt la qualification d'écocide lorsque les faits sont commis de manière intentionnelle et qu'ils entraînent des atteintes graves et durables à la santé, à la flore, à la faune ou à la qualité de l'air, du sol ou de l'eau.

S'agissant plus précisément de la lutte contre le commerce illégal d'espèces sauvages en ligne, la France est bien consciente qu'il s'agit d'un réel vecteur de mise en vente de spécimens d'espèces protégées, comme en témoigne la « Coalition pour Mettre Fin au Trafic d'Espèces Sauvages en Ligne » regroupant des entreprises technologiques, de commerce en ligne et de réseaux sociaux et affirmant avoir retiré ou bloqué plusieurs millions d'annonces proposant des espèces menacées.

La France a ainsi renforcé son arsenal législatif dès le 8 août 2016 avec la loi n° 2016-1087 pour la reconquête de la biodiversité, de la nature et des paysages, laquelle précise que les réglementations qui encadrent actuellement le commerce des spécimens d'espèces menacées, tant sur le plan national qu'eupéen, s'appliquent au commerce en ligne. En outre, pour mieux lutter contre les trafics sur internet, cette loi permet aux agents chargés de rechercher les infractions au code de l'environnement de procéder à des enquêtes sous pseudonyme internet (article L. 172-111 du code de l'environnement).

La France est également engagée dans plusieurs instances de dialogue et de coopération au niveau tant international qu'eupéen, ciblant la cybercriminalité environnementale.

Enfin, l'interdiction prévue par la loi du 30 novembre 2021 de vente d'animaux domestiques en ligne par des non-professionnels peut aussi contribuer à sécuriser le commerce en ligne et à limiter le risque de vente d'un animal sauvage sous couvert d'une vente d'animal domestique.

Sur le plan de la formation, l'École Nationale de la Magistrature (ENM) fait de nombreuses formations concernant les atteintes à l'environnement (dont notamment l'« Animal et le Droit »), et accueille régulièrement dans le cadre de ces formations des magistrats et intervenants étrangers. Le département international propose de façon spécifique une formation « Justice et Protection de l'environnement » de cinq jours dédiés aux magistrats étrangers. Par ailleurs, ce même département a organisé en avril 2022 le projet « Just Green », qui a rassemblé des participants internationaux, interprofessionnels et intergénérationnels pour les former à la lutte contre le trafic d'espèces protégées. Répartis au sein d'équipes, ils ont pu échanger sur leurs contraintes et leurs missions respectives, afin de développer la coopération au sein de la chaîne pénale et de l'Union européenne. Le défi a constitué un espace de mise en pratique des connaissances, qui ont porté à la fois sur le fond du droit protégeant les espèces et sur les mécanismes de coopération internationale au sein de l'Union européenne. Les participants ont également effectué un déplacement hors les murs, en visitant la station des saisies animalières de l'aéroport Roissy Charles de Gaulle.

Le ministère de la Justice participe à de nombreux séminaires et congrès internationaux relatifs à la criminalité environnementale (cette année, notamment : le séminaire à Madrid le 23 mars 2022 sur la lutte contre la criminalité environnementale ou encore le séminaire franco-brésilien à Brasilia des 8 et 9 juin 2022 sur le droit de l'environnement et la santé publique), et a été à l'initiative d'une conférence sur la protection pénale de l'environnement à Marseille les 17 et 18 mai 2022 dans le cadre de la Présidence française du Conseil de l'Union européenne qui a réuni des représentants et des experts de plusieurs pays européens.

Sur le plan de la coopération policière et judiciaire : La France, en particulier le GRI (Groupe Relation Internationale) de l'OCLAESP et les Douanes participent régulièrement à des opérations internationales conjointement avec Interpol, Europol, l'OMD (Organisation mondiale des douanes) ou encore l'OLAF (Office européen de lutte antifraude) qui visent à lutter contre le trafic mondial d'espèces non domestiques protégées. Ces opérations coordonnées peuvent être permanentes ou limitées dans le temps (quelques jours à quelques semaines). Pour ces dernières, elles peuvent se renouveler chaque année ou non, et concerner

l'ensemble des espèces (ex : Thunder 2020) ou des espèces en particulier (ex : Scale et Blizzard pour les reptiles, Lake pour les civelles). Le GRI représente également la France au sein de l'Enforcement Work Group CITES qui coordonne l'action des Etats membres en matière de lutte contre le trafic d'espèces protégées.

La direction des affaires criminelles et des grâces (DACG) recense par ailleurs deux demandes en matière de trafic d'espèces protégées datant de mai 2021, adressées par les autorités judiciaires françaises aux autorités judiciaires compétentes de l'Ile Maurice, en l'espèce concernant un trafic de serins jaunes du Mozambique, transportés sur un vol entre l'île Maurice et l'île de la Réunion. Il peut être également relevé la mise en place très récente d'une équipe commune d'enquête (instrument de coopération judiciaire en matière pénale existant en particulier au sein de l'UE) avec une autorité judiciaire espagnole, concernant des faits de trafic d'espèces protégées (civelles et anguilles).

Sur le plan local, on peut également souligner l'initiative du parquet de Bayonne, qui a été désigné pôle régional environnemental (PRE) pour le ressort de la cour d'appel de Pau, et qui vient d'installer le Groupe Opérationnel Transfrontalier de Lutte contre les Atteintes à l'Environnement (GOLTAE). Ce groupe réunit notamment les parquets de San Sébastien et de Bilbao et les services d'enquête spécialisés français et espagnols. Il a pour objectif de permettre un échange d'informations avec les autorités espagnoles sur les problématiques environnementales communes, et de faciliter les demandes d'entraide européenne en cette matière, étant précisé que la question de la pêche illicite et le trafic de civelles et d'algue rouge sont centrales dans la région et requièrent une coopération importante avec l'Espagne.

Sur le plan de la collection des données : Le ministère de la Justice anime la politique pénale sur le territoire, et suit avec attention les affaires relevant du contentieux des atteintes à l'environnement. A ce titre, la circulaire du 21 avril 2015 relative aux orientations de politique pénale en matière d'atteintes à l'environnement rappelait aux parquets généraux l'importance de communiquer à la Direction des affaires criminelles et des grâces des informations précises sur les procédures significatives en la matière. Une dépêche publiée le 16 janvier 2020 a de nouveau souligné cet objectif, et a invité à procéder au recensement de ces procédures, parmi lesquelles celles relatives au trafic d'espèces protégées. Plus généralement, ces procédures sont enregistrées dans la base de données nationale Cassiopée qui permet au ministère de la Justice de disposer de statistiques précises concernant l'orientation donnée aux poursuites pénales ou les motifs de classement, selon les qualifications utilisées.

Perspectives : bien que disposant d'un arsenal législatif parmi les plus sévères en Europe s'agissant de la lutte contre le trafic d'espèces protégées, les efforts de la France doivent se poursuivre sur cette thématique. La France est en effet un pays source du trafic d'espèces sauvages, abritées en grand nombre dans les territoires ultra-marins ; mais aussi un pays de destination ou de transit d'espèces protégées provenant d'Asie ou d'Afrique. Du point de vue du ministère de la Justice, l'accent continuera d'être mis sur la nécessaire spécialisation et formation des magistrats à ces questions, notamment à l'occasion de la publication d'une circulaire de politique pénale environnementale qui sera diffusée au premier trimestre 2023 et du séminaire réunissant les magistrats référents environnement en mars 2023.

Par ailleurs, une difficulté résulte dans le fait de rechercher et surtout de trouver des structures d'accueil capable de recevoir les animaux vivants une fois qu'ils ont été saisis auprès de leurs détenteurs.

Ce déficit de stations d'accueil possédant une zone de quarantaine engendre des complications pour le placement des animaux saisis. En effet, lorsque, ensuite, ces animaux sont confisqués, il est nécessaire de leur trouver une solution

adéquate pour une destination à long terme dans des conditions qui respectent autant les normes sanitaires que le bien-être animale.

Au niveau européen, l'ensemble des Etats membres de l'Union européenne, dont la France, ont adopté en décembre 2021 une version révisée des Lignes directrices sur le commerce de l'ivoire. Ces nouvelles lignes directrices imposent une restriction quasi-totale du commerce d'ivoire d'éléphants. La France avait déjà adopté un régime général d'interdiction de vente d'ivoire d'éléphant et des objets qui en sont composés en 2016 avec quelques exceptions très limitées.

De même, le commerce de cornes de rhinocéros est lui aussi l'objet au sein de l'Union européenne, depuis 2011, de lignes directrices afin de cesser d'alimenter la demande en cornes de rhinocéros et donc de mettre fin au trafic de ces cornes.

En outre, l'Union européenne devrait prochainement adopter des lignes directrices sur l'exportation, la réexportation et le commerce intra-Union de tigres vivants nés et élevés en captivité et de leurs parties et produits dérivés. Ces lignes directrices ont vocation à empêcher que des parties et produits dérivés de tigres ne pénètrent le commerce illégal par l'intermédiaire d'établissements détenant des tigres en captivité.

17. Germany:

Measures to prevent and combat illicit trafficking in wildlife remains a major task. The number of seizures of protected specimens remains at a high level. In particular, the online trade poses an increasingly large challenge. Online trade is closely connected to expedite parcel and courier services. Consequently, the control of such "high-speed" shipments is very important. Also, the trade in live reptiles, amphibians and birds of rare and valuable species causes challenges. These challenges need to be addressed in a comprehensive way on national and international levels and along the entire illegal trade chain.

A good practice example in this regard is the "Partnership against Wildlife Crime in Africa and Asia", jointly financed by the Federal Ministry for Economic Cooperation and Development and the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection. The project focuses on the following areas of action:

- Strengthening key anti-poaching actors in transboundary protected areas and taking account of the crucial role of local communities.
- Improving cross-border cooperation in the investigation of transnationally organised wildlife crime.
- Reducing demand by analysing typical consumption patterns and conducting targeted group-specific campaigns.
- Improving national and international dialogue and preparing and disseminating lessons learned.

Existing inter-agency cooperation on national level between all the agencies that are responsible for fighting crime related to protected species is vital. This long-standing cooperation in Germany includes the customs administration, the police, other law enforcement and species conservation, both at the national level and between the Federal Government and the Federal States. In addition to cooperation on specific individual cases and continuous communication at the working level, this cooperation serves to coordinate common approaches to fighting crime related to protected species. In Germany, all relevant actors meet twice a year in the context of the above-mentioned "Partnership against Wildlife Crime in Africa and Asia".

The German customs administration is involved in monitoring the movement of animals and plants that are subject to import and export rules pursuant to EU legislation. It therefore plays a key role in detecting and preventing the illegal trade of protected specimens. Protected species of animals and plants that are

imported or exported in violation of bans or without the necessary documents are seized by the customs authorities. This applies irrespective of whether the goods are being transported for private or commercial purposes and whether they are being moved in tourist traffic, as a parcel or letter consignment, or using other means of transport. All customs administration seizures in connection with the provisions on species protection are recorded and the data evaluated on a regular basis with a view to priorities and changes in, for example, routes, concealment methods for smuggling, and means of transport. The information obtained in this way is taken into account in risk assessments, among other things. In addition, Germany's Customs Investigation Service regularly conducts investigations relating to violations of provisions on the protection of species. Intensive international cooperation often takes place in this context. One example of this is investigations by customs investigators in connection with the international smuggling of elvers (young eels), which in Germany have already led to the conviction of four offenders, who have been given custodial sentences of between eight and 12 months.

International cooperation between the Customs Investigation Service and the law enforcement authorities of other countries is a key component for detecting criminal offences committed by criminal groups that operate internationally. This cooperation takes place both in the form of bilateral information-sharing and also through the active participation of the Customs Investigation Service in international working groups such as the operational task forces (coordinated by Europol) in the area of eel and reptile smuggling.

On the international level the exchange of police information concerning wildlife crime takes place on an ad hoc basis through Interpol or Europol channels. Germany has supported partner countries in the development of law enforcement and anti-poaching strategies such as SADC's regional Law Enforcement and Anti-Poaching Strategy (LEAP). The German customs administration e.g. regularly participates in international operations (WCO and Interpol's Operation Thunder 2020) and international measures (at the European level as part of EMPACT, among other things). Information sharing is another key element, which in Germany's case takes place on a regular basis within the scope of administrative and legal assistance in connection with investigations by the Customs Investigation Service. This is of decisive importance for detecting cross-border illegal activities. However, the mutual exchange of information needs to be advanced.

Capacity building is another decisive element, on the domestic as well as on the international level. On the domestic level, Germany has established a trainer group for the structured education/teaching of employees of enforcement and investigation authorities. Furthermore, Germany provides financial and professional support to a project, which aims to create permanent training opportunities in species conservation law for public prosecutors and judges.

Regarding capacity building in other countries, German development cooperation supports the improvement of enforcement capacity of the police, customs and judiciary through cross-sector cooperation and anti-corruption measures. The above-mentioned "Partnership against Wildlife Crime in Africa and Asia" includes various capacity building measures for law enforcement, including rangers, park authorities, police, customs, judiciary, financial intelligence in Sub-Saharan Africa (esp. Malawi, Zambia, Mozambique, Tanzania) and Asia (esp. China, Vietnam); as well as development of various platforms for improved transboundary and inter-agency information exchange. Furthermore, capacity building for local communities, comprising human-wildlife conflict prevention and mitigation measures, conservation education, legal awareness, participative land use-planning and protected area management, alternative livelihood options. Technical cooperation projects such as "Forests for Future" have also been supporting partner countries in the area of illegal logging and illegal timber trade focusing on implementing the FLEGT Action Plan e.g. in Cameroon, Côte

d'Ivoire, Laos, Vietnam. Technical support includes but is not limited to inter-agency cooperation, supply chain controls, legal reforms as well as due diligence and risk assessments mechanisms. Many projects of the International Climate Initiative also contribute to various aspects of capacity building.

Finally, awareness raising is a crucial task in preventing and combating illicit trafficking in wildlife. Germany e.g. has commissioned a study on 'Strategies for reducing demand for reptiles, amphibians and small mammals kept as pets' (available in German: www.bfn.de/sites/default/files/BfN/service/Dokumente/skripten/skript_545.pdf). Additionally, several demand reduction programmes were initiated to raise awareness and change consumer behaviour (mainly in China and Vietnam, targeting consumers of ivory, rhino horn and other illegal wildlife products; see here for more information: www.changewildlifeconsumers.org). Since 2007, awareness raising material can be ordered for free at the German CITES Management Authorities (MA). Brochures and rollups for display are available to inform tourists about CITES and the most important species groups (available on the website of the Federal Agency for Nature Conservation www.bfn.de). In addition, the German customs and the German CITES MA are managing www.artenschutz-online.de. The aim of the website (in German only) is to inform tourists about the relevant protected species offered in their holiday countries. The information is based on seizure data since 1996 and will be updated regularly. Other best practices include campaigns in order to raise awareness that smuggling wildlife (products) is illegal (e.g. advertisements at African and Asian airports), and workshops organised in Vietnam, Laos and Cameroon to raise awareness among private and public entities about FLEGT requirements and timber import controls.

18. Guatemala:

Dentro del ejercicio de la competencia administrativa referente al derecho penal administrativo forestal, se ha podido detectar que el criterio judicial carece de la preparación para encuadrar y conciliar el aprovechamiento sostenible con la protección internacional de especies amenazadas de flora, ya que la Ley Foresta (Decreto del Congreso de la Republica de Guatemala numero 101-96) regula instituciones como las Licencias de Aprovechamiento Forestal y los exentos de Licencia Forestal.

19. Hungary:

The enhanced cooperation between Police and Customs are proved to be a good practice in detecting wildlife trafficking.

20. Italy:

Recently, militaries of the "Carabinieri Command for the Protection of the Environment and Biodiversity - CITES Carabinieri Departments Units", have carried out an important series of checks, on antique dealers, auction houses, jewellers, websites and telemarketing, in order to combat the illegal trade in ivory items.

Ivory, besides being a constitutive element of works of art, that can be valued up to tens of thousands of euros, is subject to the protection of CITES, the Washington Convention about the international trade in endangered species of wild flora and fauna, whose trade without the prescribed CITES documentation constitutes a crime.

The operational activity took place throughout the national territory, almost n. 200 checks (which involved the main auction houses and antique dealers) were carried out, n. 460 pieces were seized (including tusks, statues, crucifixes, cutlery and jewellery), with an estimated value of approximately 400,000.00 Euros. The European Union is paying great attention to the issue of ivory trade, currently

evaluating the opportunity of adopting policies that go in the direction of strongly limiting currently authorized commercial transactions.

The CITES Carabinieri Units have carried out an important series of controls on turtle breeders, individuals, fairs, exhibitions and events in order to counter the illegal trade in trafficking of reptiles protected by the CITES Convention as well as to monitor the presence of those species which are included in the list of "invasive alien species". The operational activity took place throughout the national territory, 500 checks on breeders and traders were carried out: 18 administrative sanctions for a total amount of 60.000 euros were imposed. During the activities, more than 100 reptile specimens belonging to the *Trachemys scripta* species were seized, for which the current regulations require "control, early detection and rapid eradication". This species, due to its high adaptability and diffusion capacity, represents a danger to autonomous species, occupying habitat and ecological niches resulting in the consequent threat to the biodiversity conservation.

The CITES Carabinieri monitored the migratory routes along the Lombard-Veneto pre-Alps to safeguard the avifauna of the pass: 139 poachers reported - illegal capture devices, rifles and 3336 specimens of avifauna seized illegally captured and killed, but saved tens of thousands of specimens. The Lombard-Venetian pre-Alps, due to their geographical position, are a fundamental junction along the migratory routes of small passerines, which move from the nesting areas of northern Europe to the "wintering" areas of the Mediterranean basin and the African continent, constituting an invaluable wealth in terms of biodiversity. In defence of the migratory flows, patrols of the forestry Carabinieri carried out a capillary control of the Brescia, Bergamo and Mantua areas. The operational activity carried out led to the complaint of 139 people for crimes committed against wild birds, n. 1 arrest for possession of a clandestine weapon and the seizure of 3336 birds, of which 884 live specimens and 2452 dead specimens, all captured or killed illegally. In addition, 673 illegal capture devices, 99 rifles and 5,294 ammunition were seized. Most of the seizures were carried out in the province of Brescia following the numerous hunting checks carried out by the stations of the local Carabinieri Forestry Group.

21. Japan:

The Japanese police authorities are investigating the case concerning environmental crimes including illegal wildlife trade while sharing information with relevant administrative authorities and a wide variety of stakeholders.

In May 2016, the "Public-Private Council for the Promotion of Appropriate Ivory Trade Measures" (The Council) was established with the aim of further ensuring thorough and appropriate implementation of the ivory trade system and promoting other additional efforts from various viewpoints, including information dissemination to inside and outside Japan, under the recognition that it is essential to share the present state and issues regarding trade (domestic trade and import/export) in ivory and to consider efforts to promote appropriate operation of the relevant systems under the collaboration of wider stakeholders of both public and private sectors such as relevant Ministries and Agencies, private companies, industry groups and academic experts, etc.

The Council has been accumulating joint efforts from both the Government and the private sector, towards an achievement of the objectives of CITES which aims to conserve species of wild fauna/flora in danger of extinction due to excessive international trade, through the regulation of international trade based on international cooperation, with the slogan of thorough and appropriate control of domestic ivory trade and import and export.

The Council published the latest report in November 2022, under the themes of (1) Promoting Understanding of and Thorough Compliance with Relevant Laws and Regulations, (2) Import and Export Control, (3) Measures for Preventing

Taking Ivory Out of Japan, (4) Control over E-Commerce, (5) Ensuring Traceability and (6) Others.

22. Kenya:

Good Practices:

Parallel investigations:- The Directorate of Criminal Investigations Kenya conducts parallel investigations on vices associated with illicit trafficking of Wildlife and this has enhanced our preventive capacities resulting to reduced illicit wildlife trafficking.

Challenges:

There is need for increased training to cope up with emerging trends/the underworld of wildlife trafficking which has been revolutionized as criminals deploy new techniques to traffic and poach wildlife

23. Kyrgyzstan:

Активная работа с общественностью, неправительственными организациями, эоактивистами и мониторинг информации в СМИ дают положительные результаты в пресечении и предупреждении незаконного оборота объектов дикой флоры и фауны.

24. Latvia:

We have good experience with using EU-TWIX to find laboratories and experts that could do expertise and species identification for possibly illegal specimens. We have good experience with communicating with other EU member state competent authorities, when we require additional information about documents, permits issued by the member state's authority or persons living in the member state. We have good experience when other EU member state CITES management authorities inform us about some possible illegal activities regarding wildlife trafficking that have resulted in inspections and administrative cases. Overall, the inter-EU communication is very good and helpful when dealing with international crime.

25. Madagascar:

Experience acquise:

- Prise de conscience de tous les acteurs

Bonnes pratiques :

- Echanges d'informations,
- Mise en place d'un comité de coordination,
- Demande de conseils et aides en cas d'intervention.

Problèmes rencontrés :

- Méconnaissance des espèces protégées,
- Problèmes d'identification,
- Problèmes de déplacement e de transports
- Surveillance maritime défaillante

26. Malaysia:

1. Capacity-building certainly helps in strenghtening the skills, attitude and integrity of each enforcement personnel to curb abuse of power among Enforcement Officers from various agencies.

2. However, enforcement agencies face challenges when local people who have local knowledge of the terrain and wildlife may conspire with criminals and smugglers, which in turn negatively affects the agencies' enforcement activities.

3. In order to eradicate wildlife crimes, more funding is needed for intelligence and enforcement activities to obtain accurate and effective information leading up to arrests of criminals and seizures of illegal wildlife.

27. Mexico:

- En lo que respecta a la procuración de justicia en México y, específicamente, al combate al crimen organizado, se considera que es necesario generar mayor consciencia en las autoridades de los tres ámbitos de gobierno (Ejecutivo, Legislativo y Judicial) sobre el impacto que la explotación de recursos maderables tiene en el medio ambiente.
- Se requiere equipo e infraestructura adecuados para que trasladar recursos maderables bajo aseguramiento, así como para albergarlos, debido a que, ante la falta de dicho equipo, se han presentado ocasiones en las que los recursos maderables se dejan en depositaría de la persona que es dueña del lugar donde el objeto del delito fue asegurado, corriendo el riesgo de que sufra daños por estar a la intemperie.
- Cuando el asunto se judicializa (imputación del delito ante un órgano jurisdiccional) por la pena y el bien jurídico que tutela el tipo penal de tala, el imputado puede llevar el proceso en libertad, persistiendo el riesgo de que a través de él o de otras personas, puedan seguir cometiéndose esas conductas.
- Las limitantes con las que cuentan los operadores del Sistema Penal en México (ministerios públicos) para imputar un delito a una o más personas que se dedican a la tala ilegal de árboles, ya que actualmente no se cuenta con un tipo penal en materia de delincuencia organizada que establezca supuestos relacionados con esta recurrente actividad. Además, las penas aplicables a una persona dedicada a la tala inmoderada son muy bajas y el proceso puede llevarlo en libertad, corriéndose el riesgo de que siga cometiendo este tipo de actividades.
- Una dificultad adicional es que los jueces, al momento de dictar sentencia, dictan la pena mínima, que para el caso del delito básico de tala es de un año, lo que implica que la persona sentenciada pueda acceder a un beneficio preliberacional y cumplir su pena en libertad.
- Se considera que los órganos judiciales deben contar con jueces especializados en materia de medio ambiente además se debe incrementar la suficiencia presupuestaria para la protección del medio ambiente.
- La necesidad de fortalecer las capacidades de identificación precisa de las especies afectadas por el tráfico ilegal, especialmente en los casos en que los productos comercializados han sido transformados o están en un estado diferente al natural.

Adicionalmente, se señala que desde el ámbito de competencia de la Unidad de Inteligencia Financiera (UIF), una buena práctica ha sido el diseminar reportes emitidos por organismos internacionales y que contienen información útil en materia de prevención y combate al lavado de dinero / financiamiento al terrorismo relacionados con delitos ambientales.

1. Financial Investigations into Wildlife Crime:

https://egmontgroup.org/wp-content/uploads/2021/09/2021_ECOFEL_-_Financial_Investigations_into_Wildlife_Crime.pdf

Money Laundering from Environmental Crime: <https://www.fatf-gafi.org/en/publications/Environmentalcrime/Money-laundering-from-environmental-crime.html>

28. Morocco:

Les mesures entreprises sont:

- Le renforcement de la réglementation nationale en matière de lutte contre le commerce illicite des espèces de flore et de faune sauvages, à travers l'adoption de la loi 29.05, relative à la protection des espèces de flore et de faune sauvages et au contrôle de leur commerce ;
- La mise en place de 24 unités de surveillance et de contrôle de la faune sauvages (USCFS) opérant sur tout le territoire national et la mise à leur disposition de moyens nécessaires pour le déplacement, la confiscation et la saisie d'animaux ;
- L'amélioration de la coordination en matière de contrôle et de lutte contre le commerce illicite de la faune sauvage entre les acteurs concernés, Douanes, Eaux et Forêts, Gendarmerie Royale, Autorités locales, Police...etc

A ce sujet, une circulaire visant une meilleure application des dispositions de la loi 29.05 a été signée entre le Ministère de la Justice, le Ministère de l'Intérieure et les Eaux et Forêts et une convention a été signée, à ce titre, entre les eaux et Forêts et la Douane ;

- L'organisation, en collaboration avec des partenaires internationaux DOI des USA, l'IFAW. De plusieurs sessions formation sur l'application de dispositions de la CITES, de la loi 29.05 espèces sauvages, au profit des agents de la douanier, de la Gendarmerie Royale, des juges et du personnel forestier chargé de la surveillance de faune sauvages ;
- L'organisation de plusieurs ateliers d'information et de sensibilisation au profit des détenteurs professionnels d'animaux sauvages ;
- La production d'outils de sensibilisation pour la lutte contre le trafic des espèces de flore et de faune sauvages (spots télévisés, flyers..) ;

Par rapport aux difficultés rencontrées, l'identification des espèces semble être un des problèmes auxquels sont confrontés les agents de contrôle, que ce soit au niveau des frontières ou au niveau national. Des manuels d'identification ont été produits et diffusés pour les concernés et des formations en ce sens ont été également organisées.

29. Myanmar:

In line with the Conservation of Biodiversity and Protected Areas Law, we are implementing to protect and conserve our biodiversity. Staff from fields and frontlines are patrolling regularly in and around the protected areas to check and prevent wildlife crimes. Furthermore, in cooperation with line ministries and departments, also with the involvement of citizens, we are committing our efforts to check, inspect and protect illegal wildlife trade and crimes across the country.

30. Netherlands:

[EU Action Plan against wildlife trafficking \(europa.eu\)](https://european-council.europa.eu/media/eu-action-plan-against-wildlife-trafficking)

Please see attached EU action Plan in which most actions are applicable on the Netherlands.

31. New Zealand:

Good/ effective practices:

Communication – not a need to know, but a need to share: Creating an environment where people feel comfortable raising concerns and sharing information is crucial. It's important for individuals to have a broad understanding of relevant agencies and what they need to know. We have seen good examples of people questioning anomalies and raising concerns to the appropriate person/agency for further investigation, persevering even if they face constraints along the way. This has required these people to have a broad understanding of what relevant agencies might want to know, which is contingent on good public awareness of issues; and strong connections between agencies to ensure that

reported issues are appropriately triaged and passed onto the responsible authority.

Clarity of roles and responsibilities: With the links between illegal wildlife trafficking and other crime types, it is essential to establish clear practices and processes around the roles and responsibilities of key agencies. This helps to avoid confusion and ensure that there is a coordinated response to the issue. Clear guidance, strategies and memoranda of understanding can support this, by clearly identifying the key agencies with responsibilities and resourcing to prevent, investigate or prosecute illegal wildlife trafficking cases.

Use of cultural impact statements: The Department of Conservation has started to use 'Cultural Impact Statements', much like Victim Impact Statements, to demonstrate the impact wildlife crime has upon a local iwi, due to the taonga status of many wildlife species. The statements have also covered the biodiversity impacts which also impacts iwi, as culturally, they have close ancestral ties to the flora and fauna.

Challenges:

One of the primary challenges in combatting wildlife trafficking involving native species, such as lizards and flora, is the lack of education and awareness about the issue. This problem extends to both government departments and the wider general public, where seemingly innocent queries from foreign nationals to members of various societies here, are often overlooked, unreported and dismissed as strange behaviour. To address this, it is crucial to adopt proactive measures, such as building strong relationships with relevant societies, to raise awareness about the issue and encourage people to report any concerns.

Maintaining a strong social licence for wildlife conservation can be difficult, as it competes with a wide range of other societal issues. Therefore, effective reporting requires education and outreach programmes that promote awareness and encourage community involvement.

Maintaining a full information picture: Maintaining strong data management systems and access to a full information picture can be a challenge. This is an important part of ensuring effective identification, investigation and prosecution of wildlife trafficking cases.

32. Nicaragua:

Tenemos buena experiencia en la coordinación interinstitucional de instancias de aplicación de la ley ambiental como la División de Investigaciones Económicas (DIE) de la Policía Nacional, Ministerio del Ambiente y de los Recursos Naturales (MARENA), Instituto Nacional Forestal (INAFOR), Ejército de Nicaragua, Procuraduría General de la República (PGR) y Alcaldías Municipales.

33. Norway:

The main challenge remains the inspection of all shipments to and from Norway, as this is challenge facing all customs authorities around the world, due to the large amounts of shipments. However, the illicit trafficking in wildlife does not appear to be as prevalent in Norway, relevant to other larger markets/countries. Norway believes that good communication between national authorities is vital in combating illicit trafficking of wildlife. In addition, information to the general public is a useful tool to prevent the illicit activities as much as possible.

34. Panama:

Experiencias

Las experiencias en la prevención y lucha contra el tráfico ilícito de fauna y flora, nos ha llevado a determinar que, en Panamá, el tráfico ilícito de flora y fauna silvestre, no es una conducta aislada, sino que involucra el comercio, negocio, importación, exportación y reexportación de especies silvestres, sin autorización

o permiso legal para ello; es decir cualquier intercambio, acción o movilización que implique animales, plantas, productos o subproductos y derivados de fauna o flora, que envuelve otras modalidades delictivas, como el lavado de dinero y la corrupción de servidores públicos.

Panamá, resulta una zona muy atractiva por su variada biodiversidad y recursos naturales, adicional la posición estratégica que permite que nuestro país sea incluido dentro de la cadena delictiva participando como zona de tránsito. La naturaleza transnacional del delito de tráfico ilícito de fauna y flora silvestre, representa conflictos ambientales, sociales y económicos, y pese a que existen una diversa y variada legislación ambiental, como también instrumentos jurídicos internacionales, acuerdos bilaterales, que invocan medidas y prácticas para combatir este flagelo, la experiencia nos ha llevado a enfocar en que es necesario realizar fuertes ajustes institucionales, no solo en la parte investigativa-penal, sino en aquellas instituciones públicas, encargadas de proteger el ambiente, conservar y fiscalizar toda actuación que involucre especies de vida silvestre.

Buenas prácticas.

Dentro de las buenas prácticas, podemos mencionar el trabajo estratégico y coordinado entre las entidades administrativas, de seguridad, policía y fiscales, así como la creación de unidades de inteligencia e investigativas en delitos ambientales, dentro del marco de un Equipo Multidisciplinario Especial, a través del cual se ha recopilado información, cuyo análisis ha permitido establecer un escenario sobre la situación actual del tráfico, comercio, exportación y reexportación ilícito de especies de vida silvestre, tanto de fauna y flora.

La elaboración de protocolos y guías para la investigación de delitos ambientales, cuya finalidad es armonizar los métodos de investigación financiera o patrimonial, identificación de los autores, partícipes, redes criminales y la utilización de técnicas especiales de investigación y de los instrumentos jurídicos internacionales en materia de cooperación internacional.

Se ha consolidado el intercambio de información tanto de las redes internas como regionales, que participan en la observancia y cumplimiento de la normativa en protección de las especies de vida silvestre, detectando los modus operandi y rutas utilizadas por las redes criminales.

Con la ayuda de la cooperación internacional e institucional, se ha reforzado la capacitación en el derecho ambiental, en las técnicas de investigación en delitos ambientales y patrimoniales como producto de ello, a los operadores de justicia. De igual forma, existe una mayor participación de la sociedad civil y ciudadana, en temas ambientales, abonando que Panamá es parte del Acuerdo de Escazú, Acuerdo Regional sobre el Acceso a la Información, la Participación Pública y el Acceso a la Justicia, primer tratado ambiental de América Latina y el Caribe.

Resaltamos que, la constitución de un Equipo Multidisciplinario Especial, en materia ambiental (EME AMBIENTAL), conformado por la Procuraduría General de la Nación, el Ministerio de Seguridad Pública y Ministerio de Ambiente, ha fortalecido a nivel nacional e internacional, la prevención, persecución, investigación de hechos delictivos que atenten contra el ambiente, mediante la realización de actividades de coordinación, cooperación, investigación, procesamiento e intercambio de información a nivel nacional, regional e internacional, como parte de las estrategias para combatir la criminalidad en contra el ambiente.

El referido EME, ha permitido la realización de múltiples operaciones a nivel nacional tendientes a la desarticulación de grupos criminales en total el EME hasta el año 2022 ejecutó 14 operaciones contra los delitos ambientales que a grandes rasgos pueden resumirse en:

Se han rescatado más de 828 especímenes de reptiles, mamíferos, anfibios y aves autóctonas. En este sentido, es importante remarcar la Operación Anfibios Bocas

I donde se lograron incautar y rescatar 404 ranas, cuyo precio en el mercado ilegal oscila entre los 600 y los 6.000 USD cada uno; boas, bejuquillas y loros, entre otros. Algunas de las especies están consideradas en peligro de extinción.

Se consiguieron decomisar y recuperar 342 bloques de madera, así como detener a más de 10 individuos acusados de tala de madera y comercio ilícito de la misma. En algunas de las operaciones llevadas a cabo se observa la importancia para los grupos criminales de la madera de “cocobolo” debido a su valor de mercado; y la tala de mangle de zonas protegidas cuya finalidad última es producir carbón.

Se procedió a la desarticulación de distintos grupos de delincuencia organizada transnacional encargados de realzar minería ilegal de oro y narcotráfico, decomisando cantidades importantes de oro.

Operación Chame: contra la tala y la quema ilegal del árbol *Rhizophora mangle* que se encuentra dentro de zonas protegidas. La finalidad última es producir carbón.

Operación Aruza: contra la deforestación y la caza ilegal en la provincia del Darién.

Desafíos

Debido a la premura en acciones a realizar en los delitos contra el ambiente, en especial el delito de tráfico ilícito de especies de vida silvestre, debemos tomar en cuenta que el tiempo es un factor de alteración y acreditar el delito ambiental, exige un importante trabajo de campo, que comprende seguimientos, peritajes, inspecciones oculares, entre otras diligencias que conllevan una serie de experticias técnicas-científicas, que no siempre están a nuestro alcance.

La prueba ambiental, tiene características complejas y lo más general, es irreproducible. Dependemos de la correcta recolección y de personal idóneo; y uno de los principales problemas es la falta de peritos en diversas ciencias, artes y materias.

Es evidente que gran parte de la información que se requiere en investigaciones por delitos ambientales, es científica, compleja o controvertida entre las partes, donde se hace imperante la elaboración de peritajes a cargo de un profesional en alguna ciencia, arte o técnica, dependiendo de la naturaleza del hecho. Sin embargo, el desafío en temas probatorios es tener a los peritos o personal idóneo al momento que se suscita alguna situación donde esté en riesgo o haya resultado víctima la fauna, flora, además de determinar el impacto o daño causado.

En Panamá como en el resto de los países latinoamericanos, a excepción de Chile y Brasil, los agentes de la policía y componentes de seguridad, no están facultados para recolectar muestras o levantar informes periciales, perdiéndose con ello el recurso existente, más cuando estos son los primeros intervinientes en la gran mayoría de los casos.

Otro de los desafíos en la lucha contra el tráfico ilícito de especies de vida silvestre, consiste en determinar el papel o rol de las personas naturales o jurídicas que conforman estructuras complejas y diseñadas para evitar la eficaz persecución por parte los estamentos investigativos y es la naturaleza transnacional de este tipo de delito, lo que representa un problema durante la etapa de investigación, ya que puede generar situaciones de índole procesal por temas de jurisdicción, probatorio y el sustento jurídico de carácter internacional. Esto acompañado, a la disminución de los controles fronterizos, tanto terrestres, marítimos y aéreos.

En el plano legislativo, nuestro ordenamiento jurídico interno, en lo que respecta a delitos ambientales, a pesar que los mismos se encuentran dentro del catálogo de delitos graves, bajo el marco de la Convención de las Naciones Unidas Contra la Delincuencia Organizada Transnacional y la Ley 121 de 2013 sobre Delincuencia Organizada, no permite la aprehensión provisional como medida

cautelar real de los bienes muebles e inmuebles, instrumentos, valores como producto derivados o relacionados con la comisión de los delitos contra el ambiente, por lo que se hace imperante actualizar la normativa, de forma que sea cónsona con el carácter grave de estas conductas y su impacto negativo en el ambiente, así como en los aspectos económicos y sociales.

35. Perú:

- La problemática ambiental no está entre los principales problemas del país. Se encuentra en el quinto lugar, luego de otras problemáticas prioritarias como corrupción, empleo, reactivación económica y educación. El tema ambiental es más prioritario para los jóvenes entre 18 y 24 años y para la población de nivel socioeconómico bajo los cuales percibirían una afectación directa por poseer menos recursos (recojo deficiente de basura contaminación de las empresas, escasez de agua y falta de saneamiento).
- El tráfico ilegal de especies es un delito poco visible e incluso “normalizado”, sobre todo cuando se vincula al consumo doméstico de especies. Sin embargo, a raíz de la pandemia, se ha generado preocupación en el consumo de carne de monte porque podría transmitir agentes patógenos a los seres humanos.
- El tráfico ilícito de vida silvestre es originado por las costumbres y preferencias de los pobladores amazónicos y el turismo. Estos actores consideran que esta es una actividad tradicional y desconocen las normativas que las regulan.
- La comercialización de animales vivos, principalmente para el mercado internacional, tiende a ser considerada como una actividad ilícita porque se percibe que hay organizaciones criminales detrás, y por la crueldad que implica el traslado de los animales.
- Al hablar de comercialización de animales vivos en el mercado interno, la asociación a un delito ambiental es menor:



- Las mujeres manifestaron tener una mayor disposición en conocer más sobre los problemas ambientales que afectan al país.
- Predomina la percepción de que hay pocos avances en el combate de estos delitos. Incluso, se percibió que las autoridades no tendrían mucho interés

en combatir el tráfico de fauna porque no es vista como una actividad ilícita importante.

36. Philippines:

Through cyber patrolling our office able to arrest and case has been filed against wildlife trafficker.

37. Poland:

The Economic Crime Department of the Economic Crime Bureau of the Police Headquarters within its own tasks:

- Identifies, monitors, analyzes and forecasts areas at risk of crime affecting the natural environment and assesses the threat level of the aforementioned crime in the country;
- Develops and implements directions and methods of effective recognition and prevention and disclosure of economic crimes, including harmful crimes into the natural environment;
- Conducts domestic cooperation with law enforcement and judiciary authorities, public administration authorities, social organizations and representatives of other entities in the field of preventing and combating economic crime, including crimes affecting the natural environment;
- Conducts international cooperation with authorized entities in the implementation of tasks aimed at combating economic crime, including crimes affecting the natural environment;

As part of the above, contacts are established with non-governmental organizations in order to develop channels for exchanging information on crimes and offenses in the field of environmental protection, organizing information campaigns to raise awareness of citizens and training for police officers and other services.

38. Portugal:

Good habits:

1. Networking, within the Public Prosecutor's Office, through contacts between prosecutors who deal with environmental crimes in a concentrated manner and between them and the National Administrative Authority CITES, which is also the National Authority for the Conservation of Nature and Biodiversity (ICNF IP) and with the law enforcement authorities, including the Customs Authority.

2. Dissemination of information in the Public Prosecution.

Challenges:

1. Proof of criminal association regarding groups that practice trafficking is difficult.
2. Need for better treatment of criminal information, to provide knowledge of all actors in the networks.

It is worth noting that good practices in the field of international cooperation are increasingly being consolidated, often within the framework of the instruments indicated in the UNTOC.

The use of international cooperation mechanisms in criminal matters is of the utmost relevance for the investigation of organised crime, for the purpose of gathering evidence, exchanging information, arresting suspects and carrying out joint training activities.

It is also significant the creation of cooperation mechanisms that allow the direct contact between police forces and between Public Prosecutors. These mechanisms have allowed the exchange of spontaneous information, experiences

and good practices, the debate of transversal issues, the elaboration and development of proposals of solutions for the problems detected and the evaluation of the results obtained.

At the same time, it is essential, in the context of strengthening international cooperation, that States conclude regional agreements or treaties.

It is also essential, the professional specialisation of the technicians, the authorities and the sectorial specialisation of the services involved.

Asset recovery is a fundamental instrument and confiscation, particularly the confiscation of assets, is a highly effective mechanism for combating transnational, environmental and other organised crime.

From a legal and criminal perspective, it is essential to insist on the criminal prosecution of illicit profit (follow de money), whether through the recovery of assets or through the fight against money laundering (through criminal prosecution and the elimination of legal or other expedients that allow for the disguising of the origin of such capital).

As regards the trafficking of animals and wild species for a truly effective deterrence it will be necessary that prohibition and punishment cover any and all commercial practices or use of any kind, regardless of the purpose of the same, whether in life or after death of these animals or plants.

The detection of an administrative or criminal offence of this nature in any region of the world, if it were subject to the obligation of immediate communication through access to a digital platform or network of universal coverage, to which States could adhere, would allow the tracking and tracing of these illegal practices in real time and in several places simultaneously, significantly promoting the success of evidence collection and the interception and disruption of the routes of organised crime.

39. Qatar:

قيام بعد المستوردين بالتلاعب بالأنواع ، بالقيام بإدخال عينات ممنوعة بأسماء علمية غير مطابقة

40. Romania:

In this matter, Romania can provide examples from the environment protection perspective, respectively:

- Participation of the Romanian Customs Authority at Joint Customs/Police operations;
- One of the biggest challenges was to increase the cooperation and the level of sharing information between the Intelligence and Law Enforcement Agencies that are involved in the fight against illicit trafficking in wildlife;
- Working with IMPEL Network.

Also, referring to examples from the justice field, we emphasize the following:

In the period 2015-2020 the Public Ministry has prosecuted about 500 cases of game poaching and about 100 cases of fish poaching. Strictly related to the subject of the CITES Convention, during the same period 17 cases were referred to the courts. With regard to game poaching offences the number of cases referred to the court was above the national average of referrals. As an example of good practice, prosecutors were able to use special surveillance or investigation techniques in certain cases of wildlife offences, taking into account the commission of other related offences (e.g. non-compliance with the weapons and ammunition regime or the setting up of an organised crime group). Among the most important challenges in investigating such cases are: low sentence limits which do not allow the de plano use of special surveillance or investigative measures, and certain limitations in launching investigations as such offences are more difficult to ascertain. A detailed evaluation of the whole activity of

preventing and combating environmental offences was carried out at national level during the period mentioned above (2015-2020) in the framework of a SWIPE project - Successful wildlife crime prosecution in Romania. National report Wildlife Crime in Romania. Study on wildlife crime from 2015 to 2020.

In August 2018, Order No 186/03.08.2018 of the Prosecutor's General Office attached to the High Court of Cassation and Justice established a national network of prosecutors in order to specialize a number of Romanian prosecutors for the investigation of crimes against the environment and national forestry and hunting areas, as well as crimes against the cultural and natural patrimony. The network is organized by appointing at least one prosecutor at the level of the prosecutor's offices attached to the local court, one or two prosecutors at the level of the prosecutor's offices attached to tribunals and courts of appeal, being coordinated by prosecutors within the prosecutor's office attached the High Court of Cassation and Justice. Those prosecutors will deal with environmental cases with priority. In addition, a central mailbox has been set up to facilitate communication between members of the network, and there is also an e-mail address which anyone can use to lodge complaints about acts affecting national forestry and hunting areas, the cultural patrimony, and the environment. Furthermore, this e-mail group will facilitate sharing statements and relevant case-law relating to environmental crime, and specifically waste crime. The national network aiming to specialize prosecutors in the investigation of crimes against the environment and national forestry and hunting areas, as well as crimes against the cultural and natural patrimony is, starting with October 2018, fully affiliated to the European Network of Prosecutors on the Environment. The coordinating national network prosecutor is also the point of contact with the European Network of Prosecutors on the Environment. In the Prosecutor's Office attached to the Constanța Court of Appeal, one prosecutor is a member of the ENPE (European Network of Prosecutors for the Environment).

The Cooperation Protocol (No 45/22.10.2013) on preventing and combating illegal tree felling and the poaching of game and fish, preventing and extinguishing fires in the national forestry areas, and ensuring the protection of the environment and the health of the population against the negative action of chemical substances, waste and plant protection products was concluded between the Ministry of Internal Affairs, the Ministry of Environment, the Ministry of Agriculture and Rural Development and the Department for Water, Forestry and Fisheries.

In 2018, the Prosecution Office attached to the High Court of Cassation and Justice has concluded 2 protocols: one with the Ministry of Environment and one with Greenpeace CEE Romania.

From internal affairs expertise and experience in the envisaged matter of the question, Romania can underline the following:

The Forest Fund Protection and Fisheries Service within the Directorate of Public Order/General Inspectorate of the Romanian Police is competent to carry out activities to prevent and combat illegal acts in the field of fisheries.

As an example, on 25.06.2021, police officers delegated from the Forestry and Fisheries Fund Protection Service, under the direct coordination of the case prosecutor from the Prosecutor's Office attached to the Constanța Court of Appeal, completed the criminal investigations carried out in criminal case no. 421/P/2018, by indicting 20 defendants for committing the crimes of:

- the establishment of an organized criminal group, incriminated by art. 367 Criminal Code;
- forgery in documents under private signature, incriminated by art. 322 Criminal Code;
- false use, incriminated by art. 323 Criminal Code;

- sale of altered products, incriminated by art. 358 Criminal Code;
- possession, transport or sale of fish without legal documents, incriminated by art. 64 lit. h) from OUG 23/2008 on fishing and aquaculture.

The group formed by Romanian, French, Italian and Hungarian citizens created a real criminal mechanism for the illegal procurement of fish from outside the country, for its transport and, subsequently, for its sale in Romania. The fish products were obtained from the territorial waters of Italy, Spain and France, where fishing was prohibited, the fish from those areas being unfit for human consumption. In order to strengthen the existing evidence base, on May 14, 2019, 169 home search warrants were implemented in Romania, Italy, Spain, France and Hungary.

Most of the challenges are represented by the more technically advanced poachers, using modern thermo vision equipment, committing the crimes in areas where it is difficult for law enforcement to conduct surveillance or to act immediately, for example secluded forests, lakes and so on, which combined with their technical equipment, makes it difficult to be arrested on time.

The law enforcement representatives have had a fair success in conducting operational activities aiming to combat illicit trafficking in wildlife with our neighboring countries, especially with EU Member States and also a positive cooperation with other law enforcement agencies both in our country and outside Romania and relevant entities which control the legally organized hunting activities.

41. Russian Federation:

ответственность за преступления, связанные с незаконной добычей объектов дикой природы, предусмотрена статьями 258 (Незаконная охота) и 258.1 (Незаконные добыча и оборот особо ценных диких животных и водных биологических ресурсов, принадлежащих к видам, занесённым в Красную книгу Российской Федерации и (или) охраняемым международными договорами Российской Федерации) УК РФ.

Примеры успешной практики применения мер по борьбе с незаконным оборотом объектов дикой природы:

1) 17.01.2022 возбуждено уголовное дело по ч. 1 ст. 226.1 УК РФ в отношении гражданина иностранного государства по факту незаконного ввоза в Россию автотранспортом стратегически важных ресурсов в крупном размере (корни дикорастущего женьшеня - 334 шт., мускусная железа (струя) кабарги -

50 шт.) общей стоимостью 132 442 дол. США. Предмет преступления изъят.

2) 24.03.2022 возбуждено уголовное дело по ч. 1 ст. 226.1 УК РФ в отношении неустановленного лица по факту незаконного ввоза авиатранспортом в Россию стратегически важных товаров - живых животных (детеныш змеи вида Фер-да-ланс - 1 шт., пауки вида Брахипельма Эмилия - 2 шт.; скорпионы рода Диплоцентрус - 4 шт.; детеныши аллигаторов вида Миссисипские аллигаторы - 28 шт.; детеныши крокодилов вида Центральноамериканские крокодилы - 3 шт.; мокрицы подотряда Мокрицы) общей стоимостью 2 516 334 руб. Товар изъят.

3) 19.05.2022 возбуждено уголовное дело по ч. 1 ст. 226.1 УК РФ в отношении гражданина иностранного государства и иных неустановленных лиц по факту незаконного трансграничного перемещения стратегически важных ресурсов (морское животное класса Голотурия, рода Трепанг (дальневосточный), вес 33 кг) стоимостью 2 028 500 руб. Товар изъят.

4) 30.05.2022 возбуждено уголовное дело по ч. 3 ст. 30 и ч. 2 ст. 226.1 УК РФ в отношении гражданина России по факту попытки незаконного вывоза автотранспортом в сопредельное государство особо ценных диких

животных, занесенных в Красную книгу РФ и охраняемых международными договорами РФ (4 особи европейского бурого медведя, примерный возраст 2-3 месяца) стоимостью 160 000 руб. Медведи изъяты и помещены в государственный цирк.

5) 21.09.2022 возбуждено уголовное дело по ч. 1 ст. 226.1 УК РФ в отношении гражданина России по факту незаконного ввоза в страну стратегически важных ресурсов фауны (177 когтей и 6 клыков льва), стоимостью 1 465 680 руб. Товар изъят.

42. Saudi Arabia:

صدر في هذا الشأن عدة تشريعات مثل نظام البيئة الصادر بالمرسوم الملكي رقم (م/ ١٦٥) و تاريخ ١٩/١١/١٤٤١ هـ و لوائحه التنفيذية و التي من ضمنها اللائحة التنفيذية للتجارة بالكائنات الفطرية و منتجاتها و مشتقاتها، و تقوم القوات الخاصة للأمن البيئي بمهامها الأساسية في هذا الجانب من خلال المراقبة الأمنية و التحري الأمني و القبض و الاوتيقاف و الضبط و تحرير المخالفات و المشاركة في التوعية البيئية، و كذلك تم حضير دورات خارجية و المشاركة بورش عمل في شتى العلوم و الثقافات و منها المشاركة في دورة بالمملكة المتحدة متعلقة بمراقبة و حماية البيئة و نشر الوعي باللائحة التي تحظر الاتجار غير المشروع بالحياة الفطرية و المخالفات البيئية، و إصدار محتوى للمعارض التوعوية و الندوات الثقافية و المحاضرات التعليمية في المدارس.

43. Senegal:

En ce qui concerne les bonnes pratiques, nous pouvons noter la collaboration entre les forces de défense et de sécurité pour la lutte contre le trafic. La collaboration avec les ONG travaillant dans ce sens devrait être améliorée pour leur permettre une meilleure participation. Au cours d'enquête, les ONG assistent les officiers de police judiciaire sur les différents textes applicables et donnent des orientations. Ces ONG comme Eagle En ce qui concerne les difficultés, nous pouvons constater que certaines espèces se trouvent dans des annexes de la CITES et sont absentes dans notre droit positif. Ce qui rend difficile la répression en cas de saisie. Il n'existe pas de cordon entre les espèces de la CITES et celles du code de la chasse. Exemple le Rinho, le perroquet timneh et le perroquet gris du Gabon.

44. Serbia:

In current practice, the biggest challenges are raise awareness, capacity building of all relevant bodies, better exchange of data at the national, regional and international level, and as a good practice we have cooperation with other state bodies.

In illegal trade in WLC species cases, in order to get a conviction it is of high importance to coordinate activities with all relevant institution, share available information immediately, conduct search and seizure of objects and collect necessary evidence.

Further specialization is needed especially in Police, Customs, Prosecution and Courts.

45. Slovakia:

Ministry of Interior: The establishment of a specialized department within the Police Force as of 1 February 2022 was essential for the Slovak Republic. The department with 200 policemen conducts detection and investigation of all offences falling under environmental crime in the Slovak Republic territory. Regarding the experience gained from investigating, we want to emphasise, detection and recording of this crime, especially when committed by organized groups, is professionally challenging, and requires the use of interception of telecommunications, making copies of visual and audio-visual recordings. Its detection by the means of standard procedures of custom officers, inspectors, and policemen is time-consuming and based on gaining of random information or more precisely interception of a random shipment. Nevertheless, regularly, in such cases only the courier accompanying the shipment is detained and punished. The person in charge and higher representatives of the organized group remain

unpunished and after a relatively quick replacement of the courier by someone else, they can continue in the crime in question without considerable losses.

46. South Africa:

Informal communication networks between member countries are a key factor to enhance countries responses to the prevention and combating of wildlife trafficking. Parallel financial investigation with the support of the Transport sector and private public partnerships is very important. This needs to be complemented with technology and sciences to support investigations and prosecution to address the total criminal supply chain and not just seizure and arrest along the supply chain that do not have and effective impact on the criminal supply chain.

47. Spain:

Una de las mayores fortalezas detectadas la constituye el permanente canal de comunicación existente entre la Autoridad Administrativa CITES y el SEPRONA de la Guardia Civil como cuerpo policial encargado de la materia. En este sentido, la necesidad de recurrir a informes periciales sobre valoración de los especímenes, valor de conservación y daño ambiental requiere de esta permanente comunicación. Además, existe también un gran nivel de coordinación en lo referente a la gestión de especímenes decomisados, de tal forma que la disponibilidad de la red de centros establecida en España, así como el apoyo logístico brindado por la Autoridad CITES, resulta fluida

En cuanto a las principales dificultades, cabe referir que actualmente los tiempos de respuesta a nivel judicial hacen que los procedimientos penales se alarguen en algunos casos hasta los 10 años, dificultando en gran medida la gestión de especímenes decomisados, especialmente en lo que se refiere a la repatriación de los mismos.

48. Sweden:

A key for success in crime investigations regarding wildlife trafficking is to have interested and offensive prosecutors. An enthusiastic prosecutor with a greater vision in the investigation gives better opportunities and better chances to reach goals set in the investigation.

A second key is to have good cooperation with it-forensics due to that every case, more or less, demand that you have the ability to look through/decrypt one or several IT-related media seizures in many cases contain vital information/evidence.

A third key is to have good cooperation with others, in the field of wildlife trafficking adjacent authorities. For example, customs, CITES administration, national protection agencies etc.

49. Switzerland:

Challenges are for example if a company based in our country commits a crime related to wildlife in a different country. If it does not happen in our jurisdiction then our hands are tied. We also see the process of controlled deliveries as a promising tool but it has many challenges so that it is not often used in practice.

The collaboration within EU on the illegal trade in glass eels is an example of good practice.

In general, disposal of and repatriation of live animals and plants is an issue, which often has to do with willingness of involved countries but also practical and financial implications.

50. Thailand:

Office of the Attorney General: Thailand is origin, transit and destination of wildlife trafficking products. We have had a lot of wildlife trafficking cases from around the world. In the beginning, Wildlife laws in Thailand had the punishment

less than 4 years in most offences but with the push from many sources and our attempt to combating illicit trafficking in wildlife, we revised our laws to be more effective. Now, the Wildlife Conservation and Protection Act 2019 became more effective tool to prevent and suppress wildlife crime. Moreover, the use of special technique is now possible under the new wildlife law.

Department of National Parks, Wildlife and Plant Conservation: Wildlife Inspection Subdivision uses various methods to monitor and identify illegal wildlife activity, including:

- Designating inspection officers to station at all Baggage Inspection Checkpoints located in airports and international warehouses
- Use the inspection method and intelligence to verify any suspicious vehicles
- A considerable number of wildlife were seized using the aforementioned methods, for instance, the seizure of a suspicious car hiding pangolins, an inspection of a truck reported by a spy, etc.

51. Tunisia:

On note l'importance des campagnes de sensibilisation et des renforcements des capacités des agents responsables de lutte contre le trafic illégal au niveau des frontières, et la mise à leurs dispositions de guides pratiques d'identification et de détermination des espèces concernées.

52. United Kingdom:

Preventing and combating IWT is a complex and challenging task that requires a sustained and coordinated effort from various stakeholders, including governments, law enforcement agencies, academics, civil society, and local communities. Good practices and challenges will vary depending on the specific context and circumstances. General good practices and challenges we have in preventing and combating illicit trafficking in wildlife can be found in:

- Supporting effective legislation and enforcement: Policies, capacity, and regulatory frameworks differ vastly between countries and there are still many regions where criminals can operate with low risk of capture and punishment. Addressing these fundamentals as a priority can help combat the IWT. Coherent application of the serious and organised crime toolkit to IWT will lead to more significant penalties – thereby acting as a more effective deterrent. Challenges remain in political will, evidence of what works, capacity and capabilities to ensure adequate infrastructure, legislation, prosecution and enforcement, engagement, inter-agency coordination and data sharing.
- Reducing demand: The loss of high value species continues, driven by growing consumer demand. Addressing the root cause of demand through behaviour change can help prevent IWT. Challenges remain in building evidence of what works and capacity and capabilities to deliver behaviour change activities.
- Sustainable livelihoods: A wealth of experience from across the globe demonstrates that sustainable use of wildlife – through trade and tourism – can be one of the most powerful incentives for conservation, as well as acting as an engine for local economic development. Challenges remain in political will, capacity, capabilities and evidence base of what works to deliver effective livelihoods work.
- Political will: There has been significant progress in building political and public recognition to tackle the IWT but there needs to be increased focus on implementing these commitments.

53. United States of America:

Conventional overt investigative operations are not always the most effective means for investigating criminal organizations engaged in wildlife trafficking. These organizations are often close-knit and untrusting of outsiders. Covert infiltration of these organizations is often necessary to fully realize and identify the extent of a criminal organization's illegal activities. Proactive covert measures, including planned undercover operations, are critical to identify trafficking routes, methods, and purchasers of illegal wildlife; corroborate the nature of illicit funds and wildlife; identify the movement of illegal money; and identify co-conspirators residing and operating in the U.S. and abroad.

In addition, we must ensure we strengthen national capacity across the entire justice sector continuum; any gaps we leave will be exploited by criminal networks. Interagency coordination, bringing all tools our governments have available to tackle organized crime is essential.

Similarly, we must limit gaps in enforcement between our countries. Transnational coordination between governments and law enforcement agencies is paramount to the success of complex wildlife trafficking investigations and the disruption of illegal wildlife trafficking on a global level.

54. European Union:

Good practices and experiences

The EU has adopted legislation to regulate the legal trade of wildlife⁴, which implements the Convention on International Trade in Endangered Species of Wild Fauna and Flora. It adopted also rules requiring its Member States to criminalise illegal wildlife trafficking in breach of the EU legislation and setting penalties on a broad range of environmental offences, including wildlife unlawful trade⁵. These legislative tools have been complemented inter alia, with the 2016⁶ and 2022⁷ Action Plans against Wildlife Trafficking. The European Anti-Fraud Office plays also a significant role through its operational activities in the fight against illicit trade of wildlife.

At EU level, work is ongoing to strengthen the legal framework inter alia on wildlife trafficking which occurs in violation of EU rules. For instance, the European Commission proposed that the Environmental Crime Directive 2008/99/EC be revised to clarify the scope of environmental crime offences, provide more precision with regard to sanctioning, facilitate the use of effective investigative tools and promote cross-border cooperation and information sharing. In addition, the proposal aims to enhance cooperation through the European environmental enforcement networks.

Some good practices, albeit not a comprehensive list, include:

- The European Multidisciplinary Platform Against Criminal Threats (EMPACT): Since 2010, EMPACT enables Member States to identify the EU priority crime threats where collective action is needed and to tackle these criminal threats through a structured cooperation at EU level between law enforcement, customs, tax authorities, magistrates, European institutions and agencies and, where relevant, third countries, international

⁴ Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein

⁵ Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law, OJ L 328, 6.12.2008

⁶ Communication from the Commission to the European Council, the European Economic and Social Committee and the Committee of the Regions, EU Action Plan against Wildlife Trafficking COM/2016/087 final

⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Revision of the EU action plan against wildlife trafficking COM/2022/581 final

organisations and the private sector. Environmental Crime is one of the 10 crime priorities for which joint Operational Actions are designed in 2022-2025. The aim of the priority 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 high level or to set up own companies in order to facilitate their crimes.

- SIENA Platform:

Operated by Europol, the SIENA platform enables the swift, user-friendly and secure exchange of operational and strategic crime-related information, between Europol's liaison officers, analysts and experts, Member State authorities and third parties with which Europol has cooperation or working arrangements. The platform enables the swift and user-friendly exchange of operational and strategic crime-related information among Europol's liaison officers, analysts and experts, Member States and third Parties with which Europol has signed cooperation agreements or working arrangements.

- The European Union Trade in Wildlife Information eXchange (EU-TWIX): which is a platform used to exchange information and share practical experience on enforcing EU legislation on the wildlife trade and data. Similar platforms exist in other regions (e.g. Africa).
- Wildlife Enforcement Networks gathering CITES enforcement authorities, including, at the EU level, the EU Enforcement Group.

Challenges

The Commission Staff Working Document Evaluation of the EU action plan against wildlife trafficking accompanying the Communication from the Commission on the Revision of the EU action plan against wildlife trafficking⁸ identified a need to enhance efforts in the fight to combat wildlife trafficking, including in the areas of:

- awareness and priority given to wildlife trafficking ;
- capacities throughout the enforcement chain; enforcement work can suffer from a lack of specialized staff, resources, and training;
- capacities to fight organised wildlife crime including in terms of knowledge about the activity of organised criminal groups, related illicit financial flows, and related illegal online activities;
- links between efforts aimed at supporting conservation, livelihoods of local populations, enforcement, and good governance ;
- operational challenges in cooperating with other countries and regions on investigations of wildlife trafficking cases;
- corruption.

Question 5:

Please share your national legislation in preventing and combating illicit trafficking in wildlife and send it to the Secretariat, preferably in a word version, for inclusion in the SHERLOC knowledge management portal.

1. Angola:

The Angolan State adopts necessary measures to protect the environment and the species of flora and fauna throughout the national territory, to maintain the ecological balance, the correct location of economic activities and the exploitation and rational use of all natural resources, within the framework sustainable

⁸ SWD(2022) 354 final.

development and respect for the rights of future generations and the preservation of different species, under the terms of the following legislation:

- The Constitution of the Republic of Angola provides in its article 39 the “Right to the Environment”;
- The Angolan Penal Code (approved by Law No. 38/20, of 11 November), provides in Articles 282.º (Aggression to the Environment) and 283.º (Pollution);

Wildlife trafficking is an offense punishable under the terms of article 282 of the Angolan Penal Code, which provides for a criminal sentence of imprisonment from 1 to 5 years, to anyone who, in violation of the precepts of the laws and regulations in force and the prescriptions imposed by the competent authorities, in accordance with those precepts create the danger of extinction of one or more animal or plant species by eliminating specimens of the fauna or flora of the legally protected species of fauna or flora, destroying or deteriorating.

- Law No. 5/98, of 19 June, Basic Environmental Law;
- Law No. 6/17, of January 24, Forest and Wild Fauna Basic Law, which establishes the norms that aim to guarantee the conservation and rational and sustainable use of forests and wild fauna existing in the national territory and, also, the general basis for carrying out related activities;
- Law No. 8/20, of April 16, on Environmental Conservation Areas;
- Presidential Decree No. 194/11, of July 7, which approves the Regulation on Liability for Environmental Damage;
- Presidential Decree No. 311/18, of December 19, which approves the Regulation on the Import and Export of Endangered Species of Wild Fauna and Flora (CITES Angola);
- Presidential Order No. 81/15, of September 29, which creates the Interministerial Commission Against Environmental Crimes and Crimes Related to Wild Fauna and Flora, in charge of ensuring compliance with legislation on environmental crimes, coordinated by the Ministry of the Environment ;
- Executive Decree n.º 137/13, of May 6th, prohibits the Importation of Live Wild Animals for Commercial Purposes, without the Prior Authorization of the Head of the Ministerial Department which oversees Environmental Policy;
- Executive Decree No. 469/15, of July 13, prohibits the Slaughter of Protected Species of Wild Fauna and Flora in the National Territory;
- Executive Decree n.º 252/18 of July 13th, approves the Red List of Protected Species.
- Law No. 21/14, of October 22, which approved the General Tax Code, Article 184 penalizes import and export smuggling.

2. Armenia:

Law of the Republic of Armenia “On Fauna” of April 2000

Article 88.4 of the Code on Administrative Offenses of the Republic of Armenia “Illegal hunting”:

1. The illegal hunting of a wild animal or bird, which was committed:
 - 1) without proper permission,
 - 2) during the time period when their hunting is forbidden,
 - 3) in a forbidden place

causes imposing a fine on citizens in the amount of one hundred fifty to two hundred fiftyfold the minimum salary, and on officials, by one hundred seventy to two hundred fifty-fold by confiscation of rifles and hunting equipment considered to be the personal property of the violator, or other objects and animals considered to be a means of committing these violations, and deprivation of the right to hunt for a period of 2 to 3 years. Furthermore, the following articles have been added to the Code on Administrative Offenses of the Republic of Armenia.

Article 88.2 of the Code on Administrative Offenses of the Republic of Armenia:

Non-compliance by individuals or legal entities with the conditions and requirements for the purchase and wildlife trade, including animals of the Republic of Armenia listed in the Red Book of Animals, their products and parts.

Article 88.3 of the Code on Administrative Offenses on the Republic of Armenia:

Objects of the fauna by individuals or legal entities, agricultural (breeding), industrial (breeding, fishing, collection, including the collection and harvesting of animal products) social, environmental, scientific and research, use or misuse for purposes, other than the purposes of organization of education, health care and reproduction.

Article 90.1 of the Code on Administrative Offenses of the Republic of Armenia:

Export from the territory of the Republic of Armenia or import into the territory of the Republic of Armenia of wild animals, their products, zoological collections and separate 3 samples by individuals or legal entities without a corresponding permit, license. The above articles will come into force after the adoption of the relevant procedures stipulated by the Law on “Fauna”.

3. Austria:

Remark: Actually there is no translation of the Austrian Species Trade Act (Artenhandelsgesetz – ArtHG; Federal Law Gazette 2010/16) available. In general all Austrian Federal Statutes can be found in German on the homepage www.ris.bka.gv.at → Bundesrecht. Some state laws can also be found under www.ris.bka.gv.at → Austrian Laws, unfortunately but at present not the provisions of the Austrian Species Trade Act. Therefore we submit an outline of the Austrian Species Trade Act which may be useful.

Relevant legislative provisions submitted by Austria include: provisions relating to Substantive Law and the Austrian criminal provisions concerning illicit trafficking in wildlife (§ 7ArtHG as well as §§ 181f and g StGB) Species Trade Act 2009. The legislation will be uploaded in SHERLOC in due course.

4. Belarus:

Выдержка из Уголовного кодекса приводится в редакции Закона, действующей на момент подготовки информации по запросу:

«Статья 281. Незаконная добыча рыбы или других водных животных

1. Исключена.

2. Добыча рыбы или других водных животных без надлежащего на то разрешения, либо в запретные время или сроки, либо в запрещенных местах, либо запрещенными орудиями, либо запрещенными способами (незаконная добыча рыбы или других водных животных), повлекшая причинение ущерба в крупном размере, либо добыча рыбы или других водных животных с использованием орудий лова, принципы работы которых основаны на использовании электромагнитного поля, ультразвука, или путем взрыва, либо незаконная добыча рыбы или других водных животных, виды которых заведомо для виновного включены в Красную книгу Республики Беларусь, наказываются штрафом, или арестом, или ограничением свободы на срок до двух лет, или лишением свободы на срок до трех лет.

3. Незаконная добыча рыбы или других водных животных, в том числе с использованием орудий лова, принципы работы которых основаны на использовании электромагнитного поля, ультразвука, или путем взрыва, совершенная лицом, ранее судимым за преступление, предусмотренное настоящей статьей, или должностным лицом с использованием своих служебных полномочий, наказывается лишением права занимать определенные должности или заниматься определенной деятельностью со штрафом, или ограничением свободы на срок до трех лет с лишением права занимать определенные должности или заниматься определенной деятельностью или без лишения, или лишением свободы на срок до четырех лет с лишением права занимать определенные должности или заниматься определенной деятельностью или без лишения.

4. Незаконная добыча рыбы или других водных животных, в том числе с использованием орудий лова, принципы работы которых основаны на использовании электромагнитного поля, ультразвука, или путем взрыва, повлекшая причинение ущерба в особо крупном размере, наказывается ограничением свободы на срок до пяти лет или лишением свободы на срок до шести лет со штрафом.

Статья 282. Незаконная охота

1. Исключена.

2. Охота без надлежащего на то разрешения, либо в запрещенных местах, либо в запретное время, либо запрещенными орудиями, либо запрещенными способами, либо в запретные сроки (незаконная охота) на территории заповедника, национального парка, заказника, на территориях, подвергшихся радиоактивному загрязнению, где установлен контрольно-пропускной режим, либо незаконная добыча диких животных, виды которых заведомо для виновного включены в Красную книгу Республики Беларусь, либо незаконная охота, повлекшая причинение ущерба в крупном размере, наказываются лишением права занимать определенные должности или заниматься определенной деятельностью со штрафом, или арестом с лишением права занимать определенные должности или заниматься определенной деятельностью, или ограничением свободы на срок до двух лет с лишением права занимать определенные должности или заниматься определенной деятельностью, или лишением свободы на срок до трех лет с лишением права занимать определенные должности или заниматься определенной деятельностью.

3. Незаконная охота, совершенная лицом, ранее судимым за преступления, предусмотренные настоящей статьей или статьей 282-1 настоящего Кодекса, или должностным лицом с использованием своих служебных полномочий, наказывается лишением права занимать определенные должности или заниматься определенной деятельностью со штрафом, или ограничением свободы на срок до трех лет с лишением права занимать определенные должности или заниматься определенной деятельностью, или лишением свободы на срок до четырех лет с лишением права занимать определенные должности или заниматься определенной деятельностью.

4. Незаконная охота, совершенная с использованием механического наземного, водного или воздушного транспортного средства либо повлекшая причинение ущерба в особо крупном размере, наказывается ограничением свободы на срок до пяти лет или лишением свободы на срок до шести лет с лишением права занимать определенные должности или заниматься определенной деятельностью со штрафом.

Статья 282-1. Незаконные перемещение (транспортировка) или разделка диких животных

1. Исключена.

2. Незаконные перемещение (транспортировка) или разделка диких животных, относящихся в соответствии с законодательными актами к объектам охоты, в том числе погибших, или их частей в крупном размере, либо на территории заповедника, национального парка, заказника, на территориях, подвергшихся радиоактивному загрязнению, где установлен контрольно-пропускной режим, либо диких животных, виды которых заведомо для виновного включены в Красную книгу Республики Беларусь, наказываются штрафом, или арестом, или ограничением свободы на срок до двух лет, или лишением свободы на срок до трех лет.

3. Действия, предусмотренные частью 2 настоящей статьи, совершенные должностным лицом с использованием своих служебных полномочий либо лицом, ранее судимым за преступления, предусмотренные настоящей статьей или статьей 282 настоящего Кодекса, либо совершенные в особо крупном размере, наказываются штрафом, или лишением права занимать определенные должности или заниматься определенной деятельностью со штрафом, или ограничением свободы на срок до трех лет с лишением права занимать определенные должности или заниматься определенной деятельностью или без лишения, или лишением свободы на срок до четырех лет с лишением права занимать определенные должности или заниматься определенной деятельностью или без лишения.

Примечания:

1. Под незаконными перемещением (транспортировкой) или разделкой диких животных, в том числе погибших, или их частей в настоящей статье понимаются их перемещение (транспортировка) или разделка в случаях, запрещенных законодательными актами об охране и использовании животного мира.

2. Незаконные перемещение (транспортировка) или разделка в настоящей статье признаются совершенными в крупном размере, если стоимость дикого животного в сто и более раз превышает размер базовой величины, установленный на день совершения преступления, в особо крупном размере - в двести пятьдесят и более раз превышает размер такой базовой величины. Стоимость незаконно перемещенных (транспортированных) или разделанных диких животных, в том числе погибших, или их частей определяется в порядке, установленном для определения размера возмещения вреда, причиненного в результате их незаконного изъятия».

5. Bolivia (Plurinational State of):

Entre la normativa del país que se encarga de prevenir y combatir el tráfico ilícito de fauna y flora silvestres, se tiene a:

- La Constitución Política del Estado.
- La Ley N° 1333 de 27 de abril de 1992, del Medio Ambiente
- La Ley N° 1700 de 12 de julio de 1996, Ley Forestal
- Ley N° 700 de 1 de junio de 2015 para la Defensa de los Animales contra actos de crueldad y maltrato.
- Ley N° 71 de 21 de diciembre de 2010, de Derechos de la Madre Tierra.
- Decreto N° 3048 de 11 de enero de 2017, que tiene por objeto, establecer procedimientos administrativos para la protección de la fauna y flora silvestre en el marco de la Convención sobre el Comercio Internacional de Especies Amenazadas de Fauna y Flora Silvestres ratificada mediante Ley N° 1255, de 5 de julio de 1991.
- Decreto Supremo N° 4489 de 21 de abril de 2021, que tiene por objeto, la protección de la fauna silvestre, en el marco de la competencia exclusiva del

nivel central de Estado, referida al régimen general de biodiversidad y medio ambiente, la Ley N° 300, de 15 de octubre de 2012, Marco de la Madre Tierra y Desarrollo Integral para Vivir Bien y la Ley N° 1333, de 27 de abril de 1992.

- Decreto Ley N° 12301 de 14 de marzo de 1975, Ley de Vida Silvestre, Parques Nacionales, Caza y Pesca.

6. **Brazil:**

Receita Federal (Customs): We will gather the legislation and send as requested.

Federal Prosecution Service (MPF), International Cooperation Unit (SCI): Environmental Crimes Law: Law 9.605, from 1998 (<https://www2.camara.leg.br/legin/fed/lei/1998/lei-9605-12-fevereiro-1998-365397-publicacaooriginal-1-pl.html>).

7. **Burkina Faso:**

La loi N°003-2011/AN du 05 avril 2011 portant code Forestier au Burkina Faso et ses textes d'application la Convention CITES.

8. **Burundi:**

- Loi n° 1/010 du 30 juin 2000 portant code de l'environnement de la république du Burundi
- La loi du 25 mai 1983 portant Protection du patrimoine culturel national ;
- Loi N°1/07 du 15 juillet 2016 portant révision du Code Forestier
- La loi n 0 1/13 du 09 août 201 1 portant Code foncier du Burundi
- La loi n 0 1/10 du 30 mai 201 1 portant création et gestion des aires protégées au Burundi
- La loi n o 1/17 du 10 septembre 201 1 portant commerce de faune et de flore sauvages ;
- La loi n 0 1/02 du 26 mars 2012 portant Code de l'eau au Burundi ;
- La loi n°1/ 21 du 15 octobre 2013 portant code minier du Burundi
- Le Décret-Loi n° 1/6 du 3 mars 1980 portant création des Parcs Nationaux et des Réserves Naturelles au Burundi ;
- Le Décret-loi n° 1/6 du 4 avril 1981 portant Réforme du Code pénal,
- Le Décret-loi n° 1/16 du 17 mai 1982 portant Code de la santé publique ;
- Le Décret-loi n° 1/41 du 26 novembre 1992 portant institution et organisation du domaine public hydraulique ;

9. **Canada:**

[Migratory Birds Convention Act, 1994 \(justice.gc.ca\)](#) – Canada's obligation to the protection of migratory bird species. Based on a treaty with the USA and Mexico to protect species that use the natural migratory flight path between all three countries. The Act regulates the number of specimens taken from the wild and restricts commercial transactions related to migratory birds.

[Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act \(justice.gc.ca\)](#) – Canada's obligation to implement the CITES convention through the regulation of international and interprovincial trade in animals and plants.

[Canada Wildlife Act \(justice.gc.ca\)](#) – National legislation for the creation, management and protection of wildlife areas for wildlife research activities, or for conservation or interpretation of wildlife. The purpose of wildlife areas is to

preserve habitats that are critical to migratory birds and other wildlife species, particularly those that are at risk.

[Species at Risk Act \(justice.gc.ca\)](https://www.justice.gc.ca) – National legislation designed to prevent wildlife species in Canada from disappearing, to provide for the recovery of wildlife species that are extirpated (no longer exist in the wild in Canada), endangered, or threatened as a result of human activity, and to manage species of special concern to prevent them from becoming endangered or threatened

10. China:

我国与预防和打击非法贩运野生动植物有关的法律、行政法规主要有《中华人民共和国刑法》、《中华人民共和国野生动物保护法》《全国人民代表大会常务委员会关于全面禁止非法野生动物交易、革除滥食野生动物陋习、切实保障人民群众生命健康安全的决定》《中华人民共和国濒危野生动植物进出口管理条例》《中华人民共和国野生植物保护条例》《中华人民共和国陆生野生动物保护实施条例》《中华人民共和国水生野生动物保护实施条例》等。

11. Colombia:

Se promulgó la Ley 2111 de 2021 (disponible en: <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=167988>), que sustituye el título XI “De los delitos contra los recursos naturales y el medio ambiente” del Código Penal, modifica el Código de Procedimiento Penal y crea nuevas instituciones, acción que permite responder de manera contundente a las afectaciones al medio ambiente y robustecer la acción estatal para contrarrestar el impacto ambiental negativo en la biodiversidad del país por la comisión de delitos relacionado específicamente en los delitos de aprovechamiento ilícito de los recursos naturales renovables, tráfico de fauna, deforestación, promoción y financiación de la deforestación, daños en los recursos naturales y ecocidio, e invasión de áreas de especial importancia ecológica” serán de competencia de los jueces penales de circuito especializado. Adicionalmente, la Ley permite al juez ordenar medidas cautelares como: el decomiso de las especies, la suspensión de la titularidad de bienes, la suspensión inmediata de la actividad, la clausura temporal del establecimiento y todas aquellas que considere pertinentes

12. Côte d’Ivoire:

Les législations en vigueur pour prévenir et combattre le trafic d’espèces sauvages en Côte d’Ivoire sont :

- la Loi n° 65-255 du 4 août 1965 relative à la protection de la faune et à l’exercice de la chasse telle que modifiée par la Loi n° 94-442 du 16 août 1994 portant modification de la loi n° 65-255 du 4 août 1965 relative à la protection de la faune et à l’exercice de la chasse et ses textes d’application (un projet de loi modificatif est en cours d’adoption) ;
- la Loi n° 2019-675 du 23 juillet 2019 portant Code forestier et ses décrets d’application ;
- la Loi n° 2016-554 du 26 juillet 2016 relative à la Pêche et à l’Aquaculture et ses décrets d’application ;
- la Loi n° 2002-102 du 11 février 2002, relative à la création, à la gestion et au financement des parcs nationaux et des réserves naturelles et ses décrets d’application ;
- la loi n° 2016-992 du 14 novembre 2016 relative à la lutte contre le blanchiment des capitaux et le financement du terrorisme.

En plus du projet de loi modificatif en cours d’adoption sur la gestion de la faune, la Côte d’Ivoire a également un projet de loi en cours d’adoption spécialement

sur le commerce international des espèces de faune et de flore sauvages menacées d'extinction.

13. Czechia:

Please see the annex. Relevant legislation submitted Czechia includes: Criminal Code (Act No. 40/2009 Coll.) , Section 299 Unauthorized Disposing with Protected Wild Animals and Herbs; Section 300 Negligent Unauthorized Disposal with Protected Wild Animals and Herbs ; Section 216 Legalization of Proceeds from Criminal Activity; Section 216a Special Provisions on Imposing Punishment; Section 217 Negligent Legalization of Proceeds from Criminal Activity; Section 217a Common Provisions; Act on Criminal Liability of Legal Persons (Act No. 418/2011 Coll.) Section 7 Criminal Acts; Section 8 Criminal Liability of a Legal entity; Section 15 Types of Punishments and Protective Measures; Criminal Procedure Code (Act No. 141/1961 Coll.): Section 7a; Section 8 (2) a 8 (3). The legislation will be uploaded in SHERLOC in due course.

It is in particular the Act No. 40/2009 Coll., the Criminal Code, which defines the offence of unauthorised handling of protected wildlife. Its application cannot be dispensed with without the international CITES Convention and the national regulation (Act on Nature and Landscape Protection No. 114/1992 Coll.).

14. Denmark:

<https://www.retsinformation.dk/eli/lta/2021/1285>

<https://eur-lex.europa.eu/legalcontent/EN/TXT/?qid=1484753427128&uri=CELEX:01997R0338-20170204>

<https://www.retsinformation.dk/eli/lta/2021/521>

<https://eur-lex.europa.eu/legalcontent/DA/TXT/PDF/?uri=CELEX:32010R0995&qid=1418036590523&from=EN>

15. Finland:

Nature Conservation Act (1096/1996), especially Sections 44, 58 and 59

(NOTE: new Nature Conservation Act (9/2023) has been enacted and will enter into force on the 6th of June 2023; especially Chapter 9 and Chapter 14, Sections 131 and 132)

Criminal Code (39/1889), Chapter 48, Sections 5 and 5 a; Chapter 46, Sections 4 and 5

The legislation is cited in Appendix 1 (document containing the legislation submitted by Finland).

The unofficial translation of the Criminal Code may be found on-line:

https://www.finlex.fi/en/laki/kaannokset/1889/en18890039_20210433.pdf

The legislation will be uploaded in SHERLOC in due course.

16. France:

Sur le plan international, la France est notamment partie à la convention CITES (convention de Washington), laquelle est transposée en droit européen par les règlements CE n°338/97 et 865/2006 qui s'appliquent directement dans la législation des Etats membres.

Sur le plan pénal, le code de l'environnement sanctionne les violations à cette convention de la façon suivante.

L'article L. 411-1 du code de l'environnement pose le principe de la protection des « espèces animales non domestiques (...) et de leurs habitats » dès lors qu'un « intérêt scientifique particulier, le rôle essentiel dans l'écosystème ou les

nécessités de la préservation du patrimoine naturel » justifient leur conservation. Il revient au pouvoir réglementaire de déterminer la « liste limitative des espèces animales » concernées (L. 411-2 du code de l'environnement), l'inclusion de certaines d'entre elles étant imposées par le droit européen.

L'article L. 415-3 du code de l'environnement, quant à lui, incrimine divers comportements contraires aux prescriptions de l'article L. 411-1 précité, et susceptibles de porter atteinte aux espèces désignées par les règlements. La loi n°2019-773 du 24 juillet 2019 porte la peine d'emprisonnement encourue aux termes de cet article de deux à trois ans d'emprisonnement, outre une amende de 150.000 euros.

Sont ainsi pénalisés notamment :

- le fait de porter atteinte à la conservation d'espèces animales non domestiques ou de porter atteinte à la conservation d'habitats naturels ;
- le fait d'introduire volontairement dans le milieu naturel, de transporter, colporter, utiliser, mettre en vente, vendre ou acheter un spécimen d'une espèce animale ou végétale en violation des articles L. 411-4 à L. 411-6 du code de l'environnement ou des règlements et des décisions individuelles pris pour leur application ;
- le fait de produire, ramasser, récolter, capturer, détenir, céder, utiliser, transporter, introduire, importer, exporter ou réexporter tout ou partie d'animaux ou de végétaux en violation des articles L. 411-6 et L. 412-1 du code de l'environnement ou des règlements et des décisions individuelles pris pour leur application ;
- le fait d'être responsable, d'ouvrir ou d'exploiter soit un établissement d'élevage, de vente, de location ou de transit d'animaux d'espèces non domestiques, soit un établissement destiné à la présentation au public de spécimens vivants de la faune, sans être titulaire du certificat de capacité prévu à l'article L. 413-2 du code de l'environnement.

Cet arsenal d'infractions délictuelles est complété par des contraventions (R. 415-1, R.415-2, R. 415-3 et suivants du code de l'environnement réprimant notamment la perturbation du patrimoine naturel, la détention en captivité et la cession d'animaux d'espèces non domestiques).

Il convient de relever que la peine encourue pour le trafic d'espèces animales ou végétales protégées est portée à 7 ans d'emprisonnement et 150 000 euros d'amende lorsque les faits sont commis en bande organisée (article L. 415-6 du code de l'environnement, issu de la loi n°20161087 du 8 août 2016).

La circulaire du 16 décembre 2013 relative au trafic d'espèces protégées insiste par ailleurs sur la nécessaire fermeté de la réponse pénale, proscrivant la conclusion d'une transaction douanière en cas de récidive, encourageant à retenir toutes les qualifications annexes lorsqu'elles sont opportunes (notamment en matière économique et financière), rappelant l'importance d'aviser les parquets des juridictions interrégionales spécialisées (JIRS) lorsque les affaires relèvent de leur compétence. La circulaire incite par ailleurs les parquets à poursuivre les trafics organisés à grande échelle devant les tribunaux répressifs et à prendre des réquisitions fermes, en prenant en compte pour le calcul des amendes la valeur des spécimens concernés et en requérant toutes les peines utiles pour lutter contre la récidive telles que la confiscation, l'interdiction professionnelle, la fermeture d'établissement ou l'affiche de la décision.

En outre, l'article L. 173-7 du code de l'environnement prévoit que les personnes physiques coupables des infractions prévues par le même code encourent également, à titre de peine complémentaire :

- 1° affichage et diffusion de la décision prononcée ;

2° confiscation de la chose qui a servi ou était destinée à commettre l'infraction, ou de la chose qui en est le produit direct ou indirect ;

3° immobilisation du véhicule, navire, bateau, embarcation ou aéronef dont le condamné s'est servi pour commettre l'infraction, s'il en est le propriétaire ;

4° interdiction d'exercer l'activité professionnelle dans l'exercice ou à l'occasion de l'exercice de laquelle l'infraction a été commise.

Ces dispositions sont complétées par :

- L'article 16 (sanctions) du règlement européen n° 338/97 du Conseil du 9 décembre 1996 relatif à la protection des espèces de faune et de flore sauvages par le contrôle de leur commerce.
- La directive européenne 2008/99/CE du 19 novembre 2008 relative à la protection de l'environnement par le droit pénal, en cours de révision.
- Les pénalités prévues par le Code des douanes (infractions passibles d'un emprisonnement de 3 ans, de la confiscation de l'objet de fraude, de la confiscation des moyens de transport, de la confiscation des objets servant à masquer la fraude, de la confiscation des biens et avoirs qui sont le produit direct ou indirect de l'infraction d'une amende comprise entre une et deux fois la valeur de l'objet de fraude).

17. Germany:

See below under questions 6, 7 and 8.

18. Guatemala:

Se adjunta el link del listado de especies amenazadas emitido por el Consejo Nacional de Areas Protegidas, <https://conap.gob.gt/wp-content/uploads/2021/09/LEA-2021-Fauna-3-sp.-Flora-No-Maderable.pdf>

19. Hungary:

The relevant text of the Hungarian legislation (Act C of 2012 on the Criminal Code):

“Damaging the Natural Environment

Section 242

(1) Any person who unlawfully obtains, possesses, distributes, imports, exports, transports through the territory of Hungary, engages in the trafficking of or damages or destroys:

- a) any species of a living organism under special protection;
- b) any species of protected living organisms or species of flora and fauna which are deemed important for conservation objectives in the European Union, provided that the aggregate value of these species expressed in monetary terms reaches the threshold amount determined by specific other legislation for the species of a living organism under special protection;
- c) any species listed in Annexes A and B to the European Council Regulation on the protection of species of wild fauna and flora by regulating trade therein; is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if the damage done to the natural environment results in the destruction of the species of living organisms:

- a) to an extent where - in the case provided for in Paragraph a) or b) of Subsection (1) - the aggregate value of such destroyed species of living organisms expressed in monetary terms reaches the highest amount determined by specific other legislation for the species of a living organism under special protection, times two;

b) to an extent where it jeopardizes the survival of the living organisms in the case provided for in Paragraph c) of Subsection (1).

(3) Any person who commits the criminal offense defined in Subsection (2) by way of negligence shall be punishable for misdemeanor by imprisonment not exceeding two years.

(4) For the purposes of this Section ‘species of living organisms’ shall mean:

- a) species of a living organism in any form or stage of development;
- b) hybrids of living organisms propagated artificially or otherwise;
- c) derivatives of a living organism, including dead specimens and any parts and derivatives thereof or of the species of a living organism, and any goods or products made from any of the above, or containing any component that originates from any of the above.”

20. Italy:

See below, under question nr. 6.

21. Japan:

Please find the attached files.

The attached files submitted by Japan include the following legislative provisions: Act on Conservation of Endangered Species of Wild Fauna and Flora (Act No. 75 of June 5, 1992) and Foreign Exchange and Foreign Trade Act (Tentative translation) (Act No. 228 of December 1, 1949). The legislation will be uploaded in SHERLOC in due course.

22. Kenya:

Wildlife and Conservation Management Act No. 47 of 2013

23. Kyrgyzstan:

Незаконная перевозка объектов дикой флоры и фауны считается экономической контрабандой и является уголовным преступлением. Ст. 231 Уголовного Кодекса КР.

Статья 231. Экономическая контрабанда

1. Контрабанда, то есть перемещение через таможенную границу Евразийского экономического союза товаров или иных предметов в значительном размере, совершенное помимо или с сокрытием от таможенного контроля либо с обманным использованием документов или средств таможенной идентификации либо сопряженное с недекларированием или недостоверным декларированием, –

наказывается исправительными работами на срок от двух месяцев до одного года или штрафом от 1000 до 1200 расчетных показателей с лишением права занимать определенные должности либо заниматься определенной деятельностью на срок до одного года.

2. Те же деяния, совершенные в крупном размере, –

наказываются исправительными работами на срок от двух до трех лет или штрафом от 1200 до 1500 расчетных показателей, или лишением свободы на срок до двух лет с лишением права занимать определенные должности либо заниматься определенной деятельностью на срок до двух лет.

3. Те же деяния, совершенные:

- 1) в особо крупном размере;
- 2) должностным лицом с использованием своего служебного положения;

3) с применением насилия, не опасного для жизни и здоровья, к лицу, осуществляющему таможенный контроль;

4) группой лиц;

5) группой лиц по предварительному сговору, –

наказываются штрафом от 1500 до 2000 расчетных показателей или лишением свободы на срок от двух до пяти лет с лишением права занимать определенные должности либо заниматься определенной деятельностью на срок до трех лет.

4. Деяния, предусмотренные частями 1, 2 или 3 настоящей статьи, совершенные организованной (трансграничной) группой или в составе преступного сообщества, наказываются лишением свободы на срок от пяти до десяти лет с конфискацией имущества.

24. Latvia:

We would like to point out that the prevention and combating of illicit trafficking in wildlife in Latvia is regulated by

- Animal Protection Law;
- the Criminal Law;
- the Law " On the Procedures for the Coming into Force and Application of the Criminal Law";
- the Law "On Washington Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973";
- the Law on the Conservation of Species and Biotopes;
- the Cabinet of Ministers Regulation No. 133 of 6 April 1999 "Procedures for International Trade in Endangered Species of Wild Fauna and Flora";
- Cabinet of Ministers Regulation No 1139 of 6 October 2009 "Procedures for Keeping, Registration, Holding in Captivity, Marking, Trade of Specimens of Species Endangered by the International Trade and Issuance of Certificates";
- Cabinet of Ministers Regulation No 396 of 14 November 2000 "Regulations on the List of Specially Protected Species and Specially Protected Species of Limited Use";
- the Law on Criminal Procedure.

Section 115¹ of the Criminal Law criminalizes for a person who commits violation of the trading provisions of specimens of endangered wild animal or plant species or parts or products thereof, if substantial harm has been caused thereby. According to Section 23 of the Law " On the Procedures for the Coming into Force and Application of the Criminal Law" liability for a criminal offence provided for in the Criminal Law causing substantial harm shall apply if due to the criminal offence any of the following consequences have set in:

1) property loss has been suffered which at the time of committing the criminal offence has not been less than the total of five minimum monthly wages specified in the Republic of Latvia at that time, and also other interests protected by law have been threatened;

2) property loss has been suffered which at the time of committing the criminal offence has not been less than the total of ten minimum monthly wages specified in the Republic of Latvia at that time;

3) other interests protected by law have been significantly threatened.

At the same time, it is necessary to point out that the legal norm contained in Section 115.1 of the Criminal Law is considered a blanket norm, as it does not

specify all the elements of a criminal offence, but they can be found in other legal acts or in generalised, approved case law, in this case – in the aforementioned sectoral laws and regulations of the Cabinet of Ministers.

In addition to the above regulation, the Criminal Procedure Law provides for a procedural procedure for the investigation, prosecution and trial of violations of the rules on trade in endangered specimens of wild fauna and flora, ensuring the effective application of the provisions of the Criminal Law and the fair settlement of criminal law relations without unjustified interference in a person's life.

The Criminal Law

Section 115.¹ Violation of the Trading Provisions of Specimens of Endangered Wild Animal and Plant Species

For a person who commits violation of the trading provisions of specimens of endangered wild animal or plant species or parts or products thereof, if substantial harm has been caused thereby,

the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

The Law " On the Procedures for the Coming into Force and Application of the Criminal Law"

Section 23.

(1) Liability for a criminal offence provided for in the Criminal Law causing substantial harm shall apply if due to the criminal offence any of the following consequences have set in:

1) property loss has been suffered which at the time of committing the criminal offence has not been less than the total of five minimum monthly wages specified in the Republic of Latvia at that time, and also other interests protected by law have been threatened;

2) property loss has been suffered which at the time of committing the criminal offence has not been less than the total of ten minimum monthly wages specified in the Republic of Latvia at that time;

3) other interests protected by law have been significantly threatened.

(2) [29 October 2015]

(3) The criteria for endangering of the interests protected by law resulting from criminal offences may be specified in annexes to this Law.

25. Madagascar:

Loi N° 2055-018 du 17 Octobre 2005 sur le commerce international des espèces de faune et de flore sauvages.

26. Malaysia:

The national legislations in preventing and combating illicit trafficking in wildlife are as follows:

- Wildlife Conservation Act 2010 [Act 716]
- International Trade in Endangered Species Act 2008 [Act 686]
- Fisheries Act 1985 [Act 317]

27. Mexico:

- Código Penal Federal
- Ley Federal Contra la Delincuencia Organizada
- Ley General del Equilibrio Ecológico y Protección al Ambiente.

- Ley de Aguas Nacionales.
- Ley General de Desarrollo Forestal Sustentable.
- Ley General de Vida Silvestre.
- Ley de Desarrollo Rural Sustentable.

28. Morocco:

Plusieurs textes juridiques portent directement ou indirectement sur le trafic des espèces sauvages, dont la plus importante est:

- La loi 29.05, relative à la protection des espèces de flore et de faune sauvages et au contrôle de leur commerce ;

29. Myanmar:

We enacted the Conservation of Biodiversity and Protected Areas Law in 2018.

30. New Zealand:

[Trade in Endangered Species Act 1989](#)

[Wildlife Act 1953](#)

31. Nicaragua:

- Ley No. 217, Ley General del Medio Ambiente y los Recursos Naturales con sus reformas incorporadas.
- Decreto No. 9-96, Reglamento a la Ley 217, Ley General del Medio Ambiente y los Recursos Naturales
- Ley No. 807, Ley de Conservación y Utilización Sostenible de la Diversidad Biológica
- Decreto No. 24-2019, Reglamento a la LEY No. 807, Ley de Conservación y Utilización Sostenible de la Diversidad Biológica
- Decreto No. 20-2017 Sistema de Evaluación Ambiental de permisos y autorizaciones para el uso sostenible de los Recursos Naturales.
- Decreto 01-2007, Reglamento de Áreas Protegidas de Nicaragua.
- Ley No. 462, Ley de Conservación, Fomento y Desarrollo Sostenible del Sector Forestal
- Decreto No. 73-2003, Reglamento de la Ley No. 462.
- Ley No. 489, Ley de Pesca y Acuicultura.
- Decreto Ejecutivo No. 9-2005, Reglamento de Ley No. 489, Ley de Pesca y Acuicultura

32. Niger:

Loi 2019-047 du 24 octobre 2019 portant répression des infractions relatives au commerce international des espèces de faune et de flore sauvages menacées d'extinction au Niger; Loi N° 98-07 du 29 avril 1998 fixant le Régime de la Chasse et de la Protection de la Faune au Niger Décret N° 98-295/PRN/MH/E du 29 octobre 1998 déterminant les modalités d'application de la loi N° 98-07 du 29 Avril 1998 portant régime de la chasse et de la protection de la faune.

33. Norway:

Please find attached an unofficial translation of the Nature Diversity Act Section 26, and an unofficial translation of the CITES Regulation. The unofficial translation of the CITES Regulation is not updated in line with recent amendments to the Regulation. An updated translation will be forwarded when available.

The legislation submitted by Norway includes Regulation on import, export, domestic possession etc. of endangered species of wild fauna and flora (CITES Regulation); Nature Diversity Act - Act of 19 June 2009 No.100 Relating to the Management of Biological, Geological and Landscape Diversity. The legislation will be uploaded in SHERLOC in due course.

34. Panama:

- Ley 14 de 28 de octubre de 1977 “Por la cual se aprueba la Convención Sobre el Comercio de Especies Amenazadas de Fauna y Flora”.
- Ley 24 de 7 de junio de 1995 “Por la cual se establece la legislación de vida silvestre en la República de Panamá y dicta otras disposiciones”. Modificada por la Ley 39 de 24 de noviembre de 2005.
- Texto Único No. S/N de 8 de septiembre de 2016, Ley 41 de 1 de julio de 1998, “Por la cual se dicta la Ley General de Ambiente de la República de Panamá”.
- Ley 13 de 5 de mayo de 2005 “Que establece el Corredor Marino de Panamá”.
- Ley 8 de 4 de enero de 2008 “Que aprueba la Convención Interamericana para la Protección y Conservación de las Tortugas Marinas, suscrita en Caracas, Venezuela el 1 de diciembre de 1996.
- Ley No. 23 de 7 de Julio de 2004, se adopta la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional. (Convención de Palermo)
- Ley 121 de 31 de diciembre de 2013, “Que reforma el Código Penal, Judicial y Procesal Penal y adopta medidas contra las actividades relacionadas con el delito de delincuencia organizada”
- Ley 287 de 25 de febrero de 2022 “Que reconoce los derechos de la naturaleza y las obligaciones Del Estado relacionada con estos derechos”.

35. Peru:

Adjunto en el presente formulario.

Suministre información sobre las leyes de su país dirigidas a prevenir y combatir el tráfico ilícito de fauna y flora silvestres y transmítala a la Secretaría, preferiblemente en formato Word, a fin de que se incluya en el portal de gestión de conocimientos SHERLOC.

- Decreto Supremo que aprueba la política Nacional Forestal y de Fauna Silvestre Decreto Supremo N° 009-2013-MINAGRI, referido a mantener la sostenibilidad en el aprovechamiento del patrimonio forestal y de fauna silvestre, requiriendo una gestión especial las especies de fauna silvestre que se encuentran amenazadas.
- Política Nacional Agraria, aprobada por Decreto Supremo N° 002-2016-MINAGRI, el cual establece como un lineamiento estratégico de su Eje de Política 26 el “Combatir, detener y revertir procesos de degradación deforestación, caza u otras actividades ilegales, de acuerdo a la normativa vigente.
- Estrategia Nacional de Diversidad Biológica al 2021 y su Plan de Acción 2014-20187 (EPANDB), principal instrumento de gestión de la biodiversidad en el Perú, establece como uno de sus objetivo estratégicos (OE1) “Mejorar el estado de la biodiversidad y mantener la integridad de los servicios ecosistémicos que brinda”, contribuyendo así a lo dispuesto en la meta 12 de Aichi, que establece la necesidad de evitar la extinción de especies amenazadas identificadas.

- De acuerdo al artículo 6 de la Ley N° 29763, Ley Forestal y de Fauna Silvestre, son recursos de fauna silvestre las especies animales no domesticadas, nativas o exóticas, incluyendo su diversidad genética, que viven libremente en el territorio nacional, así como los ejemplares de especies domesticadas que, por abandono u otras causas, se asimilen en sus hábitos a la vida silvestre, excepto las especies diferentes a los anfibios que nacen en las aguas marinas y continentales, que se rigen por sus propias leyes. Se incluyen en los alcances de dicha ley, los especímenes de fauna silvestre (ejemplares vivos o muertos, huevos y cualquier parte o derivado), los individuos mantenidos en cautiverio, así como sus productos y servicios.
- La normativa forestal y de fauna silvestre en el Perú permite el aprovechamiento y comercio de fauna silvestre siempre y cuando se efectúe bajo su marco. En este sentido, de acuerdo al Reglamento para la Gestión de Fauna Silvestre, aprobado por Decreto Supremo N° 019-2015-MINAGRI, es pasible de sanción la caza, captura, colecta, posesión, adquisición, ofrecimiento para la venta, transporte, comercio, importación o exportación de especímenes, productos o subproductos de fauna silvestre, sin la autorización correspondiente, constituyendo un agravante la categoría de amenaza de la especie objeto de la infracción.
- Ley N° 26834, Ley de Áreas Naturales Protegidas.
- Ley N° 26496, Régimen de la propiedad, comercialización y sanciones por la caza de las especies de vicuña, guanacoy sus híbridos, promulgada en 1995.
- Ley General de Pesca, aprobada por Decreto Ley N° 25977, y su Reglamento, aprobado por Decreto Supremo N° 012-2012-PE y sus modificaciones.
- La Ley N° 26585 declaró a las especies de mamíferos marinos conocidos como delfín oscuro como especies legalmente protegidas, prohibiendo su extracción, procesamiento y comercialización.
- El Decreto Supremo N° 002-96-PE, que reglamenta la Ley N° 26585 mediante la aprobación del Reglamento para la Protección y Conservación de los Cetáceos Menores
- La Resolución Ministerial N° 147-2001-PE10, que aprueba el Reglamento de Ordenamiento Pesquero de la Amazonía Peruana, en el numeral 4.3 de su artículo 4 ratifica la protección de las especies bufeo colorado (*Inia geoffrensis*) y bufeo negro (*Sotalia fluviatilis*).
- Reglamento de Ordenamiento Pesquero de la Amazonía Peruana, aprobado por Decreto Supremo N° 015-2009-PRODUCE, señala, de conformidad con la Ley N° 26585, que está prohibida la extracción, procesamiento y comercialización, con fines de consumo humano y/o para mantenimiento de ejemplares vivos en cautiverio y cualquier otro fin de los cetáceos menores.

36. Philippines:

Challenge in terms of preventing the exploitation is the big player cannot be caught due to their long experience in wildlife trafficking. Whereas, pursuant to Executive Order No. 3 dated 7 July 1992, as amended by Executive Order No. 221 dated 23 January 1995, the Presidential Anti-Crime Commission (PACC) was established with the principal task of directing and coordinating the activities of various law enforcement agencies to affect a more vigorous campaign against criminality including the strict implementation of RA 9147.

37. Poland:

Please find the Act of 16 April 2004 on nature conservation attached.

National regulations regulating the prevention of crime from the area in question are included in the Act of 16 April 2004 on nature protection - Article 128 point 2 letter d.

The prosecution of crimes against the environment is regulated in Chapter XXII of the Act of June 6, 1997, the Penal Code.

In addition, issues related to nature protection in Polish legislation are also included in a number of other special acts, including:

- Act of October 13, 1995 Hunting Law;
- Act of April 18, 1985 on inland fishing;
- Act of August 21, 1997 on the protection of animals;
- Act of June 26, 2003 on the legal protection of plant varieties;
- Act of March 11, 2004 on animal health protection and combating animal infectious diseases;
- Act of 16.12.2005 on products of animal origin;
- Act of August 27, 2003 on veterinary border control;
- Act of July 20, 2017 on water law.

38. Portugal:

“Criminal Code

Article 278.º

(Damage against nature)

[...]

2 - Whoever, not observing legal provisions, regulations or obligations imposed by the competent authority in accordance with those provisions, commercializes or holds for commercialization exemplary of protected species of wild fauna or flora, alive or dead, as well as any part or product obtained from thereafter, is punished with imprisonment for up to 2 years or with a fine of up to 360 days.

[...].

4

General Regime of Tax Offences (R.G.I.T.)

Article 92.º

(Smuggling)

1 - Who, by any means:

a) Import or export or, in any way, introduce or remove goods from national territory without presenting them to customs offices or premises directly supervised by the customs authority for compliance with clearance formalities or for payment of the legally due customs tax;

[...].

Article 97.º

(Qualification)

The crimes provided for in the previous articles, regardless of the value requirements provided for therein, are punished with a prison sentence of one to five years for natural persons and with a fine of 240 to 1200 days for legal persons, when any of the following conditions is verified. following circumstances:

[...]

g) When the goods subject to the infringement belong to the Convention on International Trade in Endangered Species of Wild Fauna and Flora and their international trade is temporarily or permanently prohibited.”

39. Qatar:

إلى جانب العديد من المعاهدات الدولية التي انضمت لها دولة قطر لتجريم الاتجار غير المشروع بالأحياء البرية ، فإنه توجد العديد من التشريعات التي تهدف لحماية الحياة الفطرية ومواطنها الطبيعية وتهدف : لمنع الإضرار بالأحياء البرية ومنع الاتجار بها ومنها :
 قانون رقم (19) لسنة 2004 بشأن حماية الحياة الفطرية ومواطنها الطبيعية -
 قانون رقم (5) لسنة 2006 بتنظيم الاتجار في أنواع الكائنات الفطرية المهدة بالانقراض ومنتجاتها -

40. Romania:

In this matter, Romania can provide examples from the environment protection perspective, respectively:

- Law No. 69 of July 15, 1994 for Romania's accession to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, adopted in Washington on March 3, 1973, with subsequent amendments;
- Law no. 86/2006 regarding the Customs Code. with subsequent amendments;
- Emergency Ordinance no. 57 of June 20, 2007 regarding the regime of natural protected areas, conservation of natural habitats, flora and fauna, with subsequent amendments;
- Order no. 255 of March 1, 2007 regarding some measures for the application of European Union regulations on trade in wild species of fauna and flora, with subsequent amendments.

Also, strictly with reference to the subject matter of the CITES Convention:

- Article 52 (1) (h1) of GEO No. 57/2007 on the regime of protected natural areas, conservation of natural habitats, wild flora and fauna;
- Article 44 (a) of Law No. 407/2006 on hunting and wild species protection (with reference also to Article 83 of Law No. 182/2000 on the protection of national movable cultural heritage);
- Article 64 (h) and Article 65 (1) (c) of GEO No. 23/2008 on fishing and aquaculture;
- Article 98 (5) (d) (sentence II) of GEO No. 195/2005 on environmental protection.

Referring to other categories of wildlife protection offences:

- Article 52 (1) (e)–(h) of GEO No. 57/2007 on the regime of protected natural areas, conservation of natural habitats, wild flora and fauna;
- Articles 42, 43, 44 (b)-(h) of Law No. 407/2006 on hunting and wild species protection;
- Article 64 (a)-(g), (i)-(m) and Article 65 (1) (a)-(b) of GEO No. 23/2008 on fishing and aquaculture.

Regarding offences commonly associated with the offences specified in the above categories:

- Article 342 of the Criminal Code, concerning non-compliance with the weapons and ammunition regime;
- Article 367 of the Criminal Code, concerning the setting-up of an organised crime group;

- Articles 320 to 323 of the Criminal Code, on forgery of documents;
- Article 270 of Law No. 86/2006 on the Customs Code;
- Articles 272 - Article 273 of Law No. 86/2006 on the Customs Code;
- Article 49 (1) of Law No. 129/2019 on preventing and combating money laundering and terrorist financing.

Moreover, the activity of police officers in the field of fisheries is carried out in accordance with the provisions of the following normative acts:

- Criminal Code – Law 286/2009;
- Criminal Procedure Code - Law 135/2010;
- Government Emergency Ordinance no. 23 of March 5, 2008 on fishing and aquaculture;
- Government Ordinance no. 24 of August 24, 2016 regarding the organization and implementation of the activity of neutralizing animal waste;
- Government Decision no. 984 of August 25, 2005 regarding the establishment and sanctioning of contraventions of veterinary sanitary and food safety regulations;
- Order of the Minister of Agriculture and Rural Development no. 60 of March 8, 2017 regarding access to living aquatic resources in the public domain of the state in order to practice recreational fishing in natural fish habitats, with the exception of the Danube Delta Biosphere Reserve;
- Order of the Minister of Agriculture and Rural Development no. 310/2019 regarding the nomination of landing points and first sale centres in order to practice commercial fishing in natural fish habitats;
- Joint order of the Ministry of Agriculture and Rural Development and the Ministry of Environment, Water and Forests no. 126/807/2017 regarding access to living aquatic resources in the public domain of the state in order to practice commercial fishing in natural fish habitats in protected natural areas;
- Order of the Minister of Agriculture and Rural Development no. 342 of May 28, 2008 regarding the minimum individual sizes of living aquatic resources in the public domain of the state, by species, that can be captured from the aquatic environment;
- Order of the Minister of Agriculture and Rural Development no. 807 of May 13, 2016 regarding the conditions for the practice of commercial fishing;
- Order of the President of the National Veterinary and Food Safety Authority no. 57 of June 24, 2010 regarding the veterinary sanitary authorization procedure of units that produce, process, store, transport and/or distribute products of animal origin;
- Order of the President of the National Veterinary and Food Safety Authority no. 111/2008 on the approval of the Veterinary Sanitary and Food Safety Norm regarding the veterinary sanitary and food safety registration procedure of the activities of obtaining and direct and/or retail sale of food products of animal or non-animal origin, as well as the activities of production, processing, storage, transport, and marketing of food products of non-animal origin;
- Order of the President of the National Veterinary and Food Safety Authority no. 35/2016 for the approval of the methodological norms for the application of the supervision and control program in the field of food safety;

- Order of the President of the National Veterinary and Food Safety Authority no. 10/2008 regarding the approval of the Veterinary Sanitary Norm that establishes the procedure for the veterinary sanitary marking and certification of fresh meat and the marking of products of animal origin intended for human consumption;
- Order of the president of the National Agency for Fiscal Administration no. 1,517 of May 11, 2017 for the approval of the Procedure for the evaluation and valorisation, in an emergency regime, of perishable goods or subject to degradation, as well as for the approval of the models of some forms;
- Order of the Minister of Agriculture and Rural Development no. 10 of 13.01.2023, regarding the establishment of periods and areas of prohibition as well as areas of biological protection and restoration of living aquatic resources in 2023;
- Law no. 407 of November 9, 2006 hunting and the protection of hunting stock;
- Order of the Minister of Agriculture and Rural Development no. 353 of June 4, 2008 for the approval of the Regulation regarding the authorization, organization and practice of hunting;
- Government Emergency Ordinance no. 57 of June 20, 2007 regarding the regime of natural protected areas, conservation of natural habitats, flora and fauna.

All the national legislation listed as answers to this part of the question can be provided in Romanian language.

41. Russian Federation:

За нарушения в области пользования объектами дикой природы в Российской Федерации установлена административная и уголовная ответственность.

Так, статья 7.11 Кодекса Российской Федерации об административных правонарушениях (далее – КоАП РФ) устанавливает ответственность за пользование объектами животного мира и водными биологическими ресурсами без разрешения, а статья 8.37 КоАП РФ за нарушение правил охоты, правил, регламентирующих рыболовство и другие виды пользования объектами животного мира.

Статьями 256 и 258 Уголовного кодекса Российской Федерации (далее - УК РФ) соответственно установлена ответственность за незаконные добычу водных биологических ресурсов и охоту.

Незаконные добыча и оборот особо ценных диких животных и водных биологических ресурсов, принадлежащих к видам, занесенным в Красную книгу Российской Федерации и (или) охраняемым международными договорами Российской Федерации, являются уголовно наказуемыми деяниями в соответствии со статьей 258.1 УК РФ (текст статьи прилагается).

За оборот незаконно заготовленной древесины наступает ответственность по статье 191 УК РФ.

Кроме того, статьей 226 УК РФ предусмотрена ответственность за контрабанду сильнодействующих, ядовитых, отравляющих, взрывчатых, радиоактивных веществ, радиационных источников, культурных ценностей либо особо ценных диких животных и водных биологических ресурсов, а также стратегически важных товаров и ресурсов, к которым отнесены драгоценные металлы и изделия из них, драгоценные и полудрагоценные камни, лесоматериалы.

Регулирование данной области общественных отношений осуществляется совокупностью нормативных правовых актов материального (как указанные

КоАП РФ и УК РФ) и процессуального характера (Уголовнопроцессуальный кодекс Российской Федерации и Федеральный закон от 12.08.1995 № 144-ФЗ (ред. от 28.12.2022) «Об оперативно-разыскной деятельности»).

42. Senegal:

Le texte applicable est le code de la chasse et de la protection de la faune issu de la loi 86-04 du 24 janvier 1986 et son décret d'application 86-844 du 14 juillet 1986. La loi est disponible sur Internet.

43. Serbia:

Legal framework of the Republic of Serbia in preventing and combating illicit trafficking in wildlife consists of:

Criminal Code -

https://www.mpravde.gov.rs/files/Criminal%20%20%20Code_2019.pdf

Law on Ratification of the Convention on International Trade in Endangered Species of Wild Fauna and Flora -

http://demo.paragraf.rs/demo/combined/Old/t/t2003_01/t01_0022.htm

Law on environmental protection -

<https://www.zzps.rs/wp/pdf/zakoni/LAW%20ON%20ENVIRONMENTAL%20PROTECTION.pdf>

Law of protection and sustainable use of fish stock

<https://faolex.fao.org/docs/pdf/srb104623.pdf>

Customs Tariff Law -

https://www.carina.rs/upload/media/2021/6/30/50829/the_Customs_Tariff_Law_CONSOLIDATED.pdf

Rulebook on the declaration and protection of strictly protected and protected wild species of plants, animals and mushrooms -

https://srda.rs/wp-content/uploads/eko-pravo/BILJE_SUME_I_ZIVOTINJE/ZAKON_O_ZASTITI_PRIRODE/PRAVILNIK_O_PROGLASENJU_I_ZASTITI_STROGO_ZASTICENIH_DIVLJIH_VRSTA_BILJAKA_ZIVOTINJA_I_GLJIVA.pdf

Order on measures for preservation and protection of fish stock -

<http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/ministarstva/naredba/2015/56/1/reg>

Pravilnik o prekograničnom prometu i trgovini zaštićenim vrstama

<https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/ministarstva/pravilnik/2009/99/1/reg>

44. Slovakia:

Ministry of Interior: Illicit trade in endangered species is, from the perspective of the criminal law, covered particularly by provisions of Section 305 (1), (3), (4), (5) of the Criminal Code providing for criminal offences of breach of plant and animal species protection regulations:

(1) Any person who, in breach of generally binding legal regulations on nature and landscape protection, or generally binding legal regulations on specimen protection through the regulation of trade in them on a larger scale,

a) damages, destroys, uproots, digs up or picks a protected plant, or damages or destroys its biotope,

b) kills, injures, catches or replaces a protected animal, or damages or destroys its biotope and habitat,

c) damages or destroys a tree or shrub, or cuts them down, or

d) endangers protected animal or plant species, shall be liable to a term of imprisonment of up to two years.

(3) Any person who, in breach of generally binding legal regulations on nature and landscape protection, or generally binding legal regulations on specimen protection through the regulation of trade in them on a larger scale,

a) acquires for himself or procures for another a protected animal or a protected plant, or to a large extent procures for another their specimen,

b) cultivates, breeds, processes, imports or exports protected plants or protected animals, or specimens, or trafficks in them, or otherwise misappropriates them, or

c) deliberately removes, falsifies, alters or otherwise unlawfully uses a unique identification mark of protected animal species or specimens,

shall be liable to a term of imprisonment of between six months and three years.

(4) The offender shall be liable to a term of imprisonment of one to five years if he commits the offence referred to in paragraphs 1, 2 or 3

a) acting in a more serious manner,

b) by reason of specific motivation,

c) on a considerable scale,

d) with the intention to obtain substantial benefit for himself or another, or

e) in spite of having been convicted for the same offence during the past twenty-four months, or sanctioned for a similar offence during the past twenty-four months.

(5) The offender shall be liable to a term of imprisonment of three to eight years if he commits the offence referred to in paragraphs 1, 2 or 3

a) as a member of a dangerous grouping,

b) on an extensive scale, or

c) with the intention to obtain large-scale benefit for himself or another.

Assessing the scope of this criminal offence is based, in accordance with Section 126 (2) of the Criminal Code, from the social value of the protected species (regulated in Regulation of the Ministry of Environment No. 170/2021 Coll. Implementing Act No. 543/2002 Coll. On Protection of Nature and Landscape as Amended) or more precisely specimens (by a professional statement of CITES a scientific body acting within the State Protection of Nature of the Slovak Republic).

45. Slovenia:

We have one article in Criminal Code.

Illegal handling of protected wild animal and plant species

Article 344

(1) Whoever illegally possesses, takes away, damages, kills, exports, imports, exports, imports or trades in protected wild animal and plant species or their parts or products made from them, shall be punished by imprisonment for up to three years.

(2) If the thing referred to in the preceding paragraph is of great or exceptional nature conservation importance, or if the act referred to in the preceding paragraph is committed in a criminal organization to carry out such acts, the perpetrator shall be punished with imprisonment from six months to five years.

46. Spain:

El marco normativo principal que regula la tenencia y comercio de especies silvestres en España, es el siguiente:

- Reglamento (CE) n° 338/97 del Consejo, de 9 de diciembre de 1996, relativo a la protección de especies de la fauna y flora silvestres mediante el control de su comercio.
- Reglamento 865/2006, de la Comisión, de 4 de mayo de 2006, por el que se establecen disposiciones de aplicación del Reglamento (CE) n° 338/97 del Consejo relativo a la protección de especies de la fauna y flora silvestres mediante el control de su comercio.
- Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal.
- Ley Orgánica 12/95, de 12 de diciembre, de Represión del Contrabando.
- Ley 42/2007, de 13 de diciembre, del Patrimonio Natural y Biodiversidad.

47. Switzerland:

The Federal Law CITES can be found here:

[RS 453 - Loi fédérale du 16 mars 2012 sur la circulation des espèces de faune et de flore protégées \(Loi sur les espèces protégées, LCITES\) \(admin.ch\)](#)

48. Thailand:

Office of the Attorney General: We will submit to the secretariat.

Thailand (Office of the Attorney General) has submitted to the secretariat: Anti-money laundering Act B.E. 2542 (1999); Anti-Participation in Transnational Organized Crime Act B.E. 2556; Wild Animal Conservation and Protection Act, B.E. 2562 (2019); Animal Epidemics Act B.E. 2558 (2015); Customs Act B.E. 2560 (2017); Prevention and Suppression of Involvement in Transnational Criminal Organisation Act, B.E. 2556 (2013); The Criminal Procedure Code; Plant Variety Protection Act B.E. 2542 (1999); Royal Ordinance on Fisheries B.E. 2558 (2015); Plant Varieties Act B.E. 2535; Department of National Parks, Wildlife and Plant Conservation. The legislation will be uploaded in SHERLOC in due course.

1. Wild Animal Reservation and Protection Act B.E. 2562 (2019) (sometimes referred as Wildlife Conservation and Protection Act, B.E. 2562)
2. Animal Epidemic Act B.E. 2558 (2015)
3. Customs Act B.E. 2560 (2017)
4. Prevention and Suppression of Involvement in Transnational Crime Organisation Act, B.E. 2556 (2013)
5. Anti-Money Laundering Prevention and Suppression Act B.E. 2542 (1999)
6. Code of Criminal Procedure
7. Plant Protection Act, B.E. 2535 (1992) - amended to include flora species in accordance with CITES Appendix
 - a. CITES-listed plants are defined as conserved plants
 - b. Control import and export of conserved plants by using CITES permits
 - c. Conserved plants must be traceable and legally acquired from a verifiable registered nursery
 - d. Thailand does not allow any exportation of wild CITES-listed plants or products, except for scientific research purposes
8. Royal Ordinance on Fisheries, B.E. 2558 (2015) and its amendments

49. Tunisia:

En Tunisie, la législation appliquée pour prévenir et combattre le trafic d'espèces sauvages est la loi n°88-20 du 13 avril 1988, portant refonte du code forestier (le Titre III : de la protection de la nature, de la flore et de la faune sauvage).

La loi de la ratification de la convention CITES

Le code de douane

50. Türkiye:

A) According to the subparagraph (k) of the Article 20 titled "Penalties in Administrative Nature" of the Environmental Law numbered 2872;

"20.000 Turkish Liras (244.315 TL) shall be imposed on those who;

- devastate biological diversity contrary to the matters prescribed in the subparagraph (a) of the article 9 of the Law,

- act contrary to the protection and usage principles determined for Special Environmental Protection Regions which have been announced pursuant to the subparagraph (d),

- act contrary to the protection and usage procedures and principles determined in the legislation for the wetlands pursuant to the second paragraph of the subparagraph (e),

- act contrary to the principles and prohibitions determined in the subparagraph (f).

100.000 Turkish Liras (1.221.763 TL) shall be imposed on those who act contrary to the first paragraph of the subparagraph (e)".

B) The following provisions are stipulated in the Land Hunting Law No. 4915;

1- In Article 18 entitled "Principles of trade":

"Domestic or introduced species of game and wild animals whose trade is prohibited by international conventions to which our country is a party and wild animals which are hunted in violation of the hunting principles and procedures laid down under Article 6 of this Law cannot be sold, purchased, transferred and imported and exported, either alive or dead, as well as their meat, egg, skin, fur, horn and similar parts and derivatives.

The Ministry shall have the authority to audit and partially or fully prohibit the trade of species whose trade is regulated by international conventions to which our country is a party and game which are legally hunted within the scope of this Law and the trade of parts obtained from these animals, and the authority to regulate the principles and procedure concerning obtaining of revenue by Circulating Capital Enterprises obtained from the trade thereof.

Wild animals whose import is permitted by the Ministry within the scope of the international conventions for the purpose of display within the country or for show purposes cannot be sold. These matters shall be audited by the Ministry."

2- In Article 19 entitled "Principles of production":

"Public institutions and organisations and real and legal persons may produce game and wild animals that naturally live in Türkiye provided that a permit is received from the Ministry. Obtaining a separate permit from the Ministry is mandatory for the release of these animals to the nature. The Ministry may give permission, by receiving opinions of relevant institutions and organisations, to the importation and production of introduced species which do not pose a harm to our natural species and are in line with the international obligations of Türkiye."

3- In Article 26 entitled "Violating the prohibition of trade of game and wild life":

"(Amended on 23/01/2008 with Article 512 of Law No. 5728)

Those who violate the principles that are laid down by the Ministry in accordance with paragraphs 1 and 2 of Article 18, and Article 19 shall be punished with an administrative fine from five hundred Turkish Liras to two thousand and five hundred Turkish Liras.

Those who violate the prohibition set forth in paragraph 3 of Article 18 shall be punished with an administrative fine in the amount of three thousand Turkish Liras.

Also, according to Violation of Anti-smuggling Law No.5607, export and import of the CITES related matters is prohibited by law. Because of this regulation, it is stated in our anti smuggling law that, if a person exports the CITES related matters shall be punished from one year up to three years imprisonment and five thousand days of judicial fine. Moreover, if a person imports the CITES related matters shall be punished from two years up to six years imprisonment and twenty thousand days of judicial fine. A person who buys, exposes for sale, sells, carries or stores the property on purpose, shall be punished with the same penalty.”

Anti-Smuggling Law No. 5607, Environmental Law No. 2872, Land Hunting Law No. 4915 and Fisheries Law No. 1380 are used to prevent and combat illegal trade in wildlife in our country.

51. United Kingdom:

Penalties to address CITES non-compliance in the UK are primarily set out in the Control of Trade in Endangered Species (COTES) Regulations 2018. COTES regulations were consolidated and updated in 2018. COTES 2018 provides for offences resulting from non-compliance with CITES implementing regime set out in the Wildlife Trade Regulations (WTR) as retained in UK law for Great Britain. COTES also provides for some limited civil sanctions to be complementary to the predominately criminal enforcement of CITES requirements in the UK.

Alongside COTES, elements of the Wildlife and Countryside Act 1981 control the taking and sale of wildlife and prescribe certain hunting methodologies.

The Customs and Excise Management Act (CEMA) 1979 may also be used to seize, hold and destroy illicitly trafficked wildlife or wildlife products at the UK border and prosecute the perpetrators.

IWT crime can be a predicate offence for money laundering in the UK which is prosecuted through legislation largely contained in the Proceeds of Crime Act 2010 and the Criminal Finances Act 2017.

Criminal assets including finances resulting from IWT can be seized in the UK under the Proceeds of Crime Act 2010 when it can be shown that criminals are making money from their criminal conduct.

The Ivory Act 2018 received Royal Assent in 2018. It came fully into force on 6th June 2022. It is illegal to deal in items made of or containing elephant ivory unless they meet the criteria for one of five narrow exemptions and have been registered or certified as exempt.

The UK ivory ban is one of the toughest bans on elephant ivory sales in the world, with some of the strongest enforcement provisions. Failure to comply can result in fines of up to £250,000 or 5 years' imprisonment.

The ban is on the dealing of items made of, or containing elephant ivory, regardless of their age, with five narrow and carefully defined exemptions (for: items with low ivory content, musical instruments, portrait miniatures, sales to qualifying museums and rare / important items). The ban also applies to importing to, or exporting from, the UK for the purposes of dealing.

52. United States of America:

[The END Wildlife Trafficking Act \(2016\)](#)) – Note, subsequent reauthorizations and amendments have been made to this act over the years, including the 2023 reauthorization

[Executive Order on Combatting Wildlife Trafficking](#)

53. European Union:

At EU level, the text of Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law can be accessed in word format here: [EUR-Lex – 32008L0099 – EN – EUR-Lex \(europa.eu\)](#).

The text of Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein can be accessed here: [EUR-Lex – 31997R0338 – EN – EUR-Lex \(europa.eu\)](#).

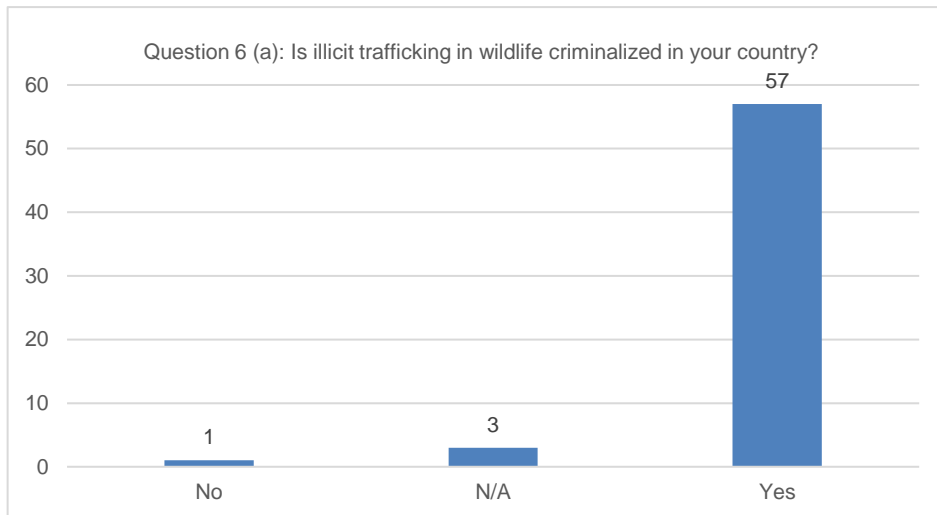
Furthermore, several legislative initiatives are pending at EU level, aiming to strengthen the legal framework on preventing and combating illicit trafficking in wildlife. Some of these initiatives are mentioned above in this document.

Part II of the Information Gathering Tool

The following questions are for Member States that are parties to the Organized Crime Convention, pursuant to operative paragraph 2 of resolution 31/1 of the Commission on Crime Prevention and Criminal Justice which also refers to resolution 10/6 of the Conference of the Parties:

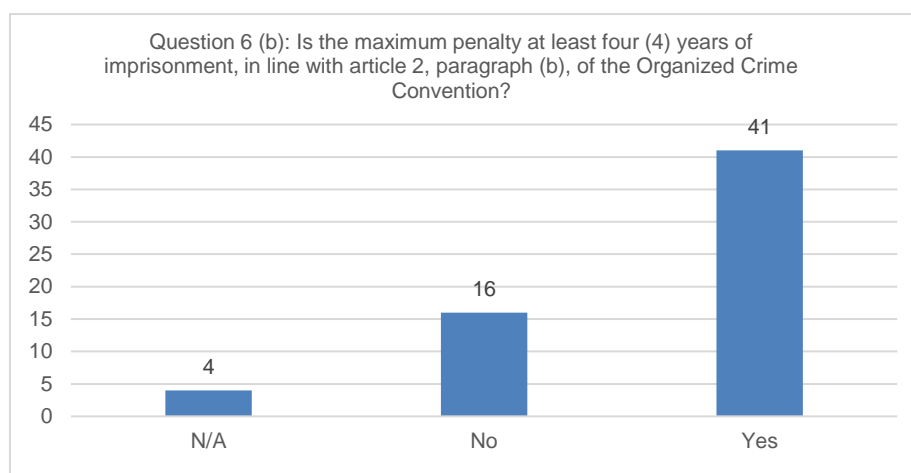
Question 6:

- a) Is illicit trafficking in wildlife criminalized in your country?



All Member States and the European Union except for Morocco have indicated that illicit trafficking in wildlife is criminalized in their country. No answer/N/A was received from Gabon, Malawi and Switzerland.

b) If yes, is the maximum penalty at least four (4) years of imprisonment, in line with article 2, paragraph (b), of the Organized Crime Convention?



The following Member States that are parties to the Organized Crime Convention and the European Union have indicated that the maximum penalty is not at least four (4) years of imprisonment, in line with article 2, paragraph (b), of the Organized Crime Convention: Brazil, Burundi, Hungary, Italy, Madagascar, Myanmar, Philippines, Qatar, Romania, Senegal, Serbia, Slovenia, Spain, Tunisia, Türkiye. No answer/N/A was received from: Gabon, Malawi, Morocco, and Switzerland. The following Member States indicated that the maximum penalty is at least four (4) years of imprisonment, in line with the Organized Crime Convention: Angola, Armenia, Austria, Belarus, Bolivia (Plurinational State of), Burkina Faso, Canada, China, Colombia, Côte d'Ivoire, Croatia, Czechia, Denmark, Finland, France, Germany, Guatemala, Japan, Kenya, Kyrgyzstan, Latvia, Malaysia, Mexico, Netherlands, New Zealand, Nicaragua, Niger, Norway, Panama, Peru, Poland, Portugal, Republic of Moldova, Russian Federation, Saudi Arabia, Slovakia, South Africa, Sweden, Thailand, United Kingdom, United States of America.

Please attach the relevant legislative provision(s) that define the penalties and sanctions for violations of the laws preventing and combating illicit trafficking in wildlife.

1. Angola:

In accordance with the provisions of article n.º 282.º of the Angolan Penal Code, which provides for the penal framework of being punished with imprisonment from 1 to 5 years and in conjunction with Law n.º 21/14, 22 of October that approves that approves the General Tax Code in its article 184.º provides for the crimes of import and export smuggling with a penalty of 3 to 2 years or a fine of up to 3 times the customs value of the goods.

The Angolan Criminal Code (approved by Law n.º 39/20, of 11 November), as an under constitutional law, regulates in its articles 282 "Aggression to the environment" and article 283 "Pollution", in the following terms:

Article 282.º

(Aggression to the environment)

Whoever, in violation of the precepts of the laws and regulations in force and the prescriptions imposed by the competent authorities, in accordance with those precepts, creates the danger of extinction of:

- a) One or more animal or plant species, eliminating specimens of fauna or flora;
- b) Species of fauna or flora legally protected, destroying or deteriorating their natural habitat.

1. With the same penalty is punished who, in violation of the precepts of laws and regulations or prescriptions imposed by the competent authorities, in accordance with those precepts:

a) Acquire, dispose of, transport or simply hold legally protected species of fauna or flora;

b) Prevent the renewal of one or more subsoil resources or create the danger of their depletion.

2. Whoever throws any radioactive sources, devices, substances or materials into the environment or deposits them in the ground or subsoil, in the sea, in rivers, lakes or other bodies of water, without being authorized, under the terms of the law and regulations applicable or, being authorised, does not observe the specific protection and security measures legally required or imposed by the competent authorities, in accordance with the law or regulations in force, is punished with imprisonment from 2 to 12 years.

3. If the facts described in the previous numbers are due to the negligence of the agent, the penalty is imprisonment of up to 2 years or a fine of up to 240 days, in the case of paragraphs 1 and 2, and imprisonment of up to 5 years, in the case of paragraph 3.

Article 283.º

(Pollution)

1. Anyone who, in violation of the laws and regulations in force or the impositions, limits and conditions determined by the competent authorities, contaminates or pollutes water, soil or air or, in any way, deteriorates the properties of these environmental components, is punished with imprisonment for up to 3 years or a fine of up to 360 days.

2. If, with the conduct described in the previous number, the agent has endangered the life or physical integrity of any person, someone else's property of considerably high value, under the terms of paragraph a) of article 391.º, or goods of a cultural or artistic nature, the prison sentence is from 2 to 7 years.

3. The penalty in the previous number is applicable if the conduct described in number 1 causes substantial damage to the properties of the air, water and soil, to the fauna or flora.

4. If, in the case of paragraphs 2 and 3, the danger or damage, respectively, are caused by the agent's willful misconduct, the penalty is imprisonment of up to 2 years or a fine of up to 240 days; if the conduct is negligent, the penalty is imprisonment of up to 1 year or a fine of up to 120 days.

5. Damages are substantial whenever:

a) Prevent, with lasting effect, the use of an environmental component;

b) do not cause widespread destruction of the flora and fauna in the area where the pollution occurred or have a lasting harmful impact on the conservation of the species or its habitat.

6. The effect and impact referred to in paragraphs a) and b) of the previous number are lasting whenever they can last for at least 2 years.

Alternatively, Law n.º 21/14, of October 22, which approves the General Tax Code, in its article 184.º penalizes import and export smuggling with a penalty of 3 to 2 years or a fine of up to 3 times the customs value of the goods, as well as Presidential Decree n.º 311/18, of 19th of December, which approves the Regulation on the Import and Export of Endangered Species of Wild Fauna and Flora (CITES Angola), in its articles 35, from the sea from wild, terrestrial, endangered or non-endangered terrestrial fauna and flora.

2. Armenia:

Article 386 of the Criminal Code of the Republic of Armenia, "Illegal hunting"

1. Illegal hunting of a wild animal or a bird, committed:

1) during the time period when their hunting is forbidden by causing a large-scale property damage;

2) in a forbidden place, by causing a large-scale property damage;

3) by use of explosives, gas, electric power, or other method of mass destruction of wild animals, or other forbidden form of hunting, forbidden instrument or tool, or

4) towards such wild animal or bird, hunting of which is completely forbidden— shall be punished by a fine in the amount of ten-fold to thirty-fold, or public works for a term of one hundred to two hundred hours, or deprivation of the right to hold certain positions or exercise certain activities for a term of two to five years, or restriction of liberty for a term of maximum three years, or short-term imprisonment for a term of maximum two months, or imprisonment for a term of maximum three years.

2. The act prescribed for in Part 1 of this Article, committed:

1) by use of official or service powers or influence conditioned thereof;

2) by a group of persons with a prior agreement;

3) towards a wild animal or bird registered in the Red Book of Animals of the Republic of Armenia, or led to elimination of a certain animal or bird population, or

4) in a specially protected natural area or in an ecological emergency zone— shall be punished by a fine in the amount of twenty-fold to forty-fold, or public works for a term of one hundred and fifty to two hundred and fifty hours, or deprivation of the right to hold certain positions or exercise certain activities for a term of three to seven years, or short term imprisonment for a term of one to two months, or imprisonment for a term of one to four years.

3. Belarus:

b) Преступления, предусмотренные чч.3, 4 ст. 281, чч.3, 4 ст. 282, ч. 3 ст.282-1 УК подпадают под определение «серьезных преступлений» в соответствии с пунктом (5) статьи 2 Конвенции ООН против транснациональной организованной преступности.

Выдержка из уголовного закона приведена выше.

4. Bolivia (Plurinational State of):

El Código Penal Boliviano contempla los delitos de tratos crueles y biocidio, que indican lo siguiente:

“Artículo 350 Bis. (Tratos Crueles).

I. Se sancionará con privación de libertad de seis (6) meses a un (1) año, y multa de treinta (30) a sesenta (60) días o prestación de trabajo de tres (3) a seis (6) meses, a quien:

1. Ocasione, con ensañamiento o con motivos fútiles, sufrimiento grave y daño que provoque la pérdida total o parcial de un sentido, de parte de su fisonomía o de un órgano, a un animal.

2. Utilizare a un animal para cualquier práctica sexual.

II. En caso de que un animal ocasionare las consecuencias establecidas en el numeral 1 del Parágrafo anterior, el dueño o tenedor cubrirá los costos de la asistencia médica y el resarcimiento económico cuando corresponda, bajo alternativa de aplicarse la pena dispuesta para tratos crueles.

III. La pena será agravada en un tercio de la pena máxima, si producto del trato cruel se ocasione la muerte del animal.”

“Artículo 350 ter. (Biocidio).

I. Se sancionará con privación de libertad de dos (2) años a cinco (5) años y multa de treinta (30) a ciento ochenta (180) días, a quien matare con ensañamiento o con motivos fútiles a un animal. II. La sanción será agravada en un tercio de la pena máxima, si se matare a más de un animal.”

5. Brazil:

Receita Federal (Customs): https://www.planalto.gov.br/ccivil_03/leis/19605.htm
Lei nº 9.605, de 12 de fevereiro de 1998. Art. 29. The legislation will be uploaded in SHERLOC in due course.

6. Burkina Faso:

Article 268 du Code Forestier : sont punis d'un emprisonnement de un an à cinq ans et d'une amende de cent mille (100 000) francs CFA à cinq millions (5 000 000) de francs CFA ou de l'une de ces deux peines seulement :

- ceux qui ont accompli des actes de chasse ou de capture à l'intérieur des parcs nationaux ou des réserves totales de faune ;
- ceux qui ont accompli des actes de chasse sur des espèces intégralement protégées ;
- ceux qui détiennent illicitement l'ivoire d'éléphant et ses produits ou qui les commercialisent ;
- ceux qui, sans autorisation, introduisent sur le territoire national des espèces exotiques animales ;
- ceux qui, sans autorisation, se retrouvent avec des armes de chasse dans une aire de protection faunique ;
- ceux qui sont retrouvés avec en leur possession un spécimen d'un animal intégralement protégé.

7. Burundi:

Loi No 1/17 Du 10 Septembre 2011 Portant Commerce de Faune et de Flore Sauvages.

Extrait :

- Article 35 : Les dispositions du code de procédure pénale sont applicables en cas de poursuite des Infractions prévues par la présente loi.
- Article 36: Est punie d'une servitude pénale de deux mois à six mois et d'une amende de deux cent mille à cinq cent mille francs burundais ou de l'une de ces peines seulement, toute personne ayant contrevenu aux infractions visées à l'article 12, ou ayant méconnu les autorisations édictées aux articles 14 et 15. La peine est doublée en cas de récidive.
- Article 37 : Est punie d'une amende de cent mille à deux cent mille francs burundais toute personne ayant refusé de fournir des renseignements rendus obligatoires par la présente loi ou ayant fourni des renseignements inexacts à l'organe de gestion.
- Article 38 : Indépendamment des autres peines prévues par la présente loi, la confiscation s'impose dans les cas suivants :
 - les spécimens qui font objet de l'infraction ;
 - tout moyen de transport, cage, récipient ou autre article et matériel qui a servi à la commission de l'infraction.
- Article 39 : Les spécimens confisqués en vertu de la présente loi deviennent propriété de l'organe de gestion qui, en consultation avec l'autorité scientifique et conformément aux résolutions de la conférence des Parties, décide sur leur disposition finale.
- Article 40 : Lorsqu'un spécimen vivant d'une espèce inscrite à l'annexe I ou II arrive à un lieu d'introduction dans le pays sans être muni d'un permis ou d'un certificat valable, il doit être saisi et mis à la disposition des autorités compétentes. Si le destinataire refuse de reconnaître le spécimen, les autorités compétentes exigent du transporteur le renvoi du spécimen à son lieu de départ.

8. Canada:

Migratory Birds Convention Act Prohibition

5 Except as authorized by the regulations, no person shall, without lawful excuse, (a) be in possession of a migratory bird or nest; or (b) buy, sell, exchange or give a migratory bird or nest or make it the subject of a commercial transaction.

Offence — persons

- 13 (1) Every person commits an offence who
- (a) contravenes section 5, subsection 5.1(1) or (2), paragraph 5.2(a), (c) or (d), subsection 5.3(1), 8.1(6), or 11.24(1);
 - (b) knowingly contravenes paragraph 5.2(b);
 - (c) contravenes any provision of the regulations designated by regulations made under paragraph 12(1)(l);
 - (d) contravenes an order made under subsection 8.1(1) or (2); or
 - (e) contravenes an order made by a court under this Act.

Marginal note: Penalty — individuals

- (2) Every individual who commits an offence under subsection (1) is liable,
- (a) on conviction on indictment,
 - (i) for a first offence, to a fine of not less than \$15,000 and not more than \$1,000,000 or to imprisonment for a term of not more than three years, or to both, and
 - (ii) for a second or subsequent offence, to a fine of not less than \$30,000 and not more than \$2,000,000 or to imprisonment for a term of not more than three years, or to both; or
 - (b) on summary conviction,
 - (i) for a first offence, to a fine of not less than \$5,000 and not more than \$300,000 or to imprisonment for a term of not more than six months, or to both, and
 - (ii) for a second or subsequent offence, to a fine of not less than \$10,000 and not more than \$600,000 or to imprisonment for a term of not more than six months, or to both.

Marginal note: Penalty — other persons

- (3) Every person, other than an individual or a corporation referred to in subsection (4), that commits an offence under subsection (1) is liable,
- (a) on conviction on indictment,
 - (i) for a first offence, to a fine of not less than \$500,000 and not more than \$6,000,000, and
 - (ii) for a second or subsequent offence, to a fine of not less than \$1,000,000 and not more than \$12,000,000; or
 - (b) on summary conviction,
 - (i) for a first offence, to a fine of not less than \$100,000 and not more than \$4,000,000, and
 - (ii) for a second or subsequent offence, to a fine of not less than \$200,000 and not more than \$8,000,000.

Marginal note: Penalty — small revenue corporations

- (4) Every corporation that commits an offence under subsection (1) and that the court determines under section 13.02 to be a small revenue corporation is liable,
- (a) on conviction on indictment,
 - (i) for a first offence, to a fine of not less than \$75,000 and not more than \$4,000,000, and
 - (ii) for a second or subsequent offence, to a fine of not less than \$150,000 and not more than \$8,000,000; or
 - (b) on summary conviction,
 - (i) for a first offence, to a fine of not less than \$25,000 and not more than \$2,000,000, and
 - (ii) for a second or subsequent offence, to a fine of not less than \$50,000 and not more than \$4,000,000.

Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act

Importation

6 (1) No person shall import into Canada any animal or plant that was taken, or any animal or plant, or any part or derivative of an animal or plant, that was possessed, distributed or transported in contravention of any law of any foreign state.

Marginal note: Importation and exportation

(2) Subject to the regulations, no person shall, except under and in accordance with a permit issued pursuant to subsection 10(1), import into Canada or export from Canada any animal or plant, or any part or derivative of an animal or plant.

Marginal note: Interprovincial transport

(3) Subject to the regulations, no person shall, except under and in accordance with a permit issued pursuant to subsection 10(1), transport from one province to another province any animal or plant, or any part or derivative of an animal or plant.

Transport requiring provincial authorization

7 (1) Where the transportation out of a province of an animal or plant, or any part or derivative of an animal or plant, is permitted by the province only if the person who transports it holds a permit issued by a competent authority in that province, no person shall, except under and in accordance with such a permit, transport any animal, plant or part or derivative of an animal or plant from that province to another province.

Marginal note: Provincial prohibitions

(2) No person shall transport from a province to another province any animal or plant, or any part or derivative of an animal or plant, where the animal or plant was taken, or the animal, plant, part or derivative was possessed, distributed or transported, in contravention of any provincial Act or regulation.

Possession

8 Subject to the regulations, no person shall knowingly possess an animal or plant, or any part or derivative of an animal or plant,

- (a) that has been imported or transported in contravention of this Act;
- (b) for the purpose of transporting it from one province to another province in contravention of this Act or exporting it from Canada in contravention of this Act;
- or
- (c) for the purpose of distributing or offering to distribute it if the animal or plant, or the animal or plant from which the part or derivative comes, is listed in Appendix I to the Convention.

Offence and Punishment

Marginal note: Offence — persons

- 22 (1) Every person commits an offence who contravenes
- (a) any provision of this Act;
 - (b) any provision of the regulations designated by regulations made under paragraph 21(1)(g.1); or
 - (c) any order made under this Act by a court.

Marginal note: Penalty — individuals

- (2) Every individual who commits an offence under subsection (1) is liable,
- (a) on conviction on indictment,
 - (i) for a first offence, to a fine of not less than \$15,000 and not more than \$1,000,000 or to imprisonment for a term of not more than five years, or to both, and

(ii) for a second or subsequent offence, to a fine of not less than \$30,000 and not more than \$2,000,000 or to imprisonment for a term of not more than five years, or to both; or

(b) on summary conviction,

(i) for a first offence, to a fine of not less than \$5,000 and not more than \$300,000 or to imprisonment for a term of not more than six months, or to both, and

(ii) for a second or subsequent offence, to a fine of not less than \$10,000 and not more than \$600,000 or to imprisonment for a term of not more than six months, or to both.

Marginal note: Penalty — other persons

(3) Every person, other than an individual or a corporation referred to in subsection (4), that commits an offence under subsection (1) is liable,

(a) on conviction on indictment,

(i) for a first offence, to a fine of not less than \$500,000 and not more than \$6,000,000, and

(ii) for a second or subsequent offence, to a fine of not less than \$1,000,000 and not more than \$12,000,000; or

(b) on summary conviction,

(i) for a first offence, to a fine of not less than \$100,000 and not more than \$4,000,000, and

(ii) for a second or subsequent offence, to a fine of not less than \$200,000 and not more than \$8,000,000.

Marginal note: Penalty — small revenue corporations

(4) Every corporation that commits an offence under subsection (1) and that the court determines under section 22.02 to be a small revenue corporation is liable,

(a) on conviction on indictment,

(i) for a first offence, to a fine of not less than \$75,000 and not more than \$4,000,000, and

(ii) for a second or subsequent offence, to a fine of not less than \$150,000 and not more than \$8,000,000; or

(b) on summary conviction,

(i) for a first offence, to a fine of not less than \$25,000 and not more than \$2,000,000, and

(ii) for a second or subsequent offence, to a fine of not less than \$50,000 and not more than \$4,000,000.

Marginal note: Relief from minimum fine

(5) The court may impose a fine that is less than the minimum amount provided for in this section if it is satisfied, on the basis of evidence submitted to the court, that the minimum fine would cause undue financial hardship. The court shall provide reasons if it imposes a fine that is less than the minimum amount provided for in this section.

Canada Wildlife Act
Offences and Punishment
Marginal note: Offence

13 (1) Every person commits an offence who contravenes

(a) subsection 11(6) or 11.91(1);

(b) any provision of the regulations designated by regulations made under paragraph 12(k); or

(c) an order made by a court under this Act.

Penalty — individuals

(2) Every individual who commits an offence under subsection (1) is liable,

- (a) on conviction on indictment,
- (i) for a first offence, to a fine of not less than \$15,000 and not more than \$1,000,000 or to imprisonment for a term of not more than five years, or to both, and
- (ii) for a second or subsequent offence, to a fine of not less than \$30,000 and not more than \$2,000,000 or to imprisonment for a term of not more than five years, or to both; or
- (b) on summary conviction,
- (i) for a first offence, to a fine of not less than \$5,000 and not more than \$300,000 or to imprisonment for a term of not more than six months, or to both, and
- (ii) for a second or subsequent offence, to a fine of not less than \$10,000 and not more than \$600,000 or to imprisonment for a term of not more than six months, or to both.

Marginal note: Penalty — other persons

- (3) Every person, other than an individual or a corporation referred to in subsection (4), who commits an offence under subsection (1) is liable,
- (a) on conviction on indictment,
- (i) for a first offence, to a fine of not less than \$500,000 and not more than \$6,000,000, and
- (ii) for a second or subsequent offence, to a fine of not less than \$1,000,000 and not more than \$12,000,000; or
- (b) on summary conviction,
- (i) for a first offence, to a fine of not less than \$100,000 and not more than \$4,000,000, and
- (ii) for a second or subsequent offence, to a fine of not less than \$200,000 and not more than \$8,000,000.

Marginal note: Penalty — small revenue corporations

- (4) Every corporation that commits an offence under subsection (1) and that the court determines under section 13.02 to be a small revenue corporation is liable,
- (a) on conviction on indictment,
- (i) for a first offence, to a fine of not less than \$75,000 and not more than \$4,000,000, and
- (ii) for a second or subsequent offence, to a fine of not less than \$150,000 and not more than \$8,000,000; or
- (b) on summary conviction,
- (i) for a first offence, to a fine of not less than \$25,000 and not more than \$2,000,000, and
- (ii) for a second or subsequent offence, to a fine of not less than \$50,000 and not more than \$4,000,000.

Marginal note: Relief from minimum fine

- (5) The court may impose a fine that is less than the minimum amount provided for in this section if it is satisfied, on the basis of evidence submitted to the court, that the minimum fine would cause undue financial hardship. The court shall provide reasons if it imposes a fine that is less than the minimum amount provided for in this section.

Canada Wildlife Regulations

General Prohibitions

- 3 (1) Subject to subsections 3.1(1) to (3) and sections 3.6 and 3.7, no person shall do any of the following in any wildlife area except in accordance with a permit issued under section 4 or section 8.1:

....

- (u) carry out any other activity that is likely to disturb, damage, destroy or remove from the wildlife area any wildlife — whether alive or dead — wildlife residence or wildlife habitat.

Species at Risk Act
Measures to Protect Listed Wildlife Species

General Prohibitions

Marginal note: Killing, harming, etc., listed wildlife species

32 (1) No person shall kill, harm, harass, capture or take an individual of a wildlife species that is listed as an extirpated species, an endangered species or a threatened species.

Marginal note: Possession, collection, etc.

(2) No person shall possess, collect, buy, sell or trade an individual of a wildlife species that is listed as an extirpated species, an endangered species or a threatened species, or any part or derivative of such an individual.

36 (1) If a wildlife species that is not listed has been classified as an endangered species or a threatened species by a provincial or territorial minister, no person shall

(a) kill, harm, harass, capture or take an individual of that species that is on federal lands in the province or territory;

(b) possess, collect, buy, sell or trade an individual of that species that is on federal lands in the province or territory, or any part or derivative of such an individual; or

(c) damage or destroy the residence of one or more individuals of that species that is on federal lands in the province or territory.

Offences

97 (1) Every person commits an offence who

(a) contravenes subsection 32(1) or (2), section 33, subsection 36(1), 58(1), 60(1) or 61(1) or section 91 or 92;

(b) contravenes a prescribed provision of a regulation or an emergency order;

(c) fails to comply with a term or condition of a permit issued under subsection 73(1); or

(d) fails to comply with an alternative measures agreement that the person has entered into under this Act.

Penalty

(1.1) Every person who commits an offence under subsection (1) is liable

(a) on conviction on indictment,

(i) in the case of a corporation, other than a non-profit corporation, to a fine of not more than \$1,000,000,

(ii) in the case of a non-profit corporation, to a fine of not more than \$250,000, and

(iii) in the case of any other person, to a fine of not more than \$250,000 or to imprisonment for a term of not more than five years, or to both; or

(b) on summary conviction,

(i) in the case of a corporation, other than a non-profit corporation, to a fine of not more than \$300,000,

(ii) in the case of a non-profit corporation, to a fine of not more than \$50,000, and

(iii) in the case of any other person, to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both.

Exception

(1.2) Paragraph (1)(c) does not apply in respect of the failure to comply with any term or condition of any agreement, permit, licence, order or other similar document referred to in section 74 or subsection 78(1).

Marginal note: Prescription of provisions

(2) A regulation or emergency order may prescribe which of its provisions may give rise to an offence.

Marginal note: Subsequent offence

(3) For a second or subsequent conviction, the amount of the fine may, despite subsection (1.1), be double the amount set out in that subsection.

Marginal note: Continuing offence

(4) A person who commits or continues an offence on more than one day is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

Marginal note: Fines cumulative

(5) A fine imposed for an offence involving more than one animal, plant or other organism may be calculated in respect of each one as though it had been the subject of a separate information and the fine then imposed is the total of that calculation.

Marginal note: Additional fine

(6) If a person is convicted of an offence and the court is satisfied that monetary benefits accrued to the person as a result of the commission of the offence, the court may order the person to pay an additional fine in an amount equal to the court's estimation of the amount of the monetary benefits, which additional fine may exceed the maximum amount of any fine that may otherwise be imposed under this Act.

9. China:

《中华人民共和国刑法》第一百五十一条第二款走私珍贵动物、珍贵动物制品罪，第三百四十一条第一款危害珍贵、濒危野生动物罪，第三百四十一条第三款非法猎捕、收购、运输、出售陆生野生动物罪，第三百四十四条危害国家重点保护植物罪，第三百四十五条第三款非法收购、运输盗伐、滥伐的林木罪等。

《中华人民共和国刑法》

第一百五十一条 【走私珍贵动物、珍贵动物制品罪】走私国家禁止进出口的珍贵动物及其制品的，处五年以上十年以下有期徒刑，并处罚金；情节特别严重的，处十年以上有期徒刑或者无期徒刑，并处没收财产；情节较轻的，处五年以下有期徒刑，并处罚金。

【走私国家禁止进出口的货物、物品罪】走私珍稀植物及其制品等国家禁止进出口的其他货物、物品的，处五年以下有期徒刑或者拘役，并处或者单处罚金；情节严重的，处五年以上有期徒刑，并处罚金。

单位犯本条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照本条各款的规定处罚。

第三百四十条 【非法捕捞水产品罪】违反保护水产资源法规，在禁渔区、禁渔期或者使用禁用的工具、方法捕捞水产品，情节严重的，处三年以下有期徒刑、拘役、管制或者罚金。

第三百四十一条【危害珍贵、濒危野生动物罪】非法猎捕、杀害国家重点保护的珍贵、濒危野生动物的，或者非法收购、运输、出售国家重点保护的珍贵、濒危野生动物及其制品的，处五年以下有期徒刑或者拘役，并处罚金；情节严重的，处五年以上十年以下有期徒刑，并处罚金；情节特别严重的，处十年以上有期徒刑，并处罚金或者没收财产。

【非法猎捕、收购、运输、出售陆生野生动物罪】违反野生动物保护管理条例，以食用为目的非法猎捕、收购、运输、出售第一款规定以外的在野外环境自然生长繁殖的陆生野生动物，情节严重的，依照前款的规定处罚。

第三百四十四条 【危害国家重点保护植物罪】违反国家规定，非法采伐、毁坏珍贵树木或者国家重点保护的其他植物的，或者非法收购、运输、加工、出售珍贵树木或者国家重点保护的其他植物及其制品的，处三年以下有期徒刑、拘役或者管制，并处罚金；情节严重的，处三年以上七年以下有期徒刑，并处罚金。

【非法收购、运输盗伐、滥伐的林木罪】非法收购、运输明知是盗伐、滥伐的林木，情节严重的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；情节特别严重的，处三年以上七年以下有期徒刑，并处罚金。

盗伐、滥伐国家级自然保护区内的森林或者其他林木的，从重处罚。

《野生动物保护法》

第五十条 违反本法第三十一条第二款规定，以食用为目的猎捕、交易、运输在野外环境自然生长繁殖的国家重点保护野生动物或者有重要生态、科学、社会价值的陆生野生动物的，依照本法第四十八条、第四十九条、第五十二条的规定从重处罚。

违反本法第三十一条第二款规定，以食用为目的交易、运输在野外环境自然生长繁殖的其他陆生野生动物的，由县级以上地方人民政府野生动物保护主管部门和市场监督管理部门按照职责分工没收野生动物；情节严重的，并处野生动物价值一倍以上五倍以下罚款；构成犯罪的，依法追究刑事责任。

第五十二条 违反本法第二十八条第一款和第二款、第二十九条第一款、第三十四条第一款规定，未经批准、未取得或者未按照规定使用专用标识，或者未持有、未附有人工繁育许可证、批准文件的副本或者专用标识出售、购买、利用、运输、携带、寄递国家重点保护野生动物及其制品或者依照本法第二十九条第二款规定调出国家重点保护野生动物名录的野生动物及其制品的，由县级以上人民政府野生动物保护主管部门和市场监督管理部门按照职责分工没收野生动物及其制品和违法所得，责令关闭违法经营场所，并处野生动物及其制品价值二倍以上二十倍以下罚款；情节严重的，吊销人工繁育许可证、撤销批准文件、收回专用标识；构成犯罪的，依法追究刑事责任。

违反本法第二十八条第三款、第二十九条第一款、第三十四条第二款规定，未持有合法来源证明或者专用标识出售、利用、运输、携带、寄递有重要生态、科学、社会价值的陆生野生动物、地方重点保护野生动物或者依照本法第二十九条第二款规定调出有重要生态、科学、社会价值的陆生野生动物名录的野生动物及其制品的，由县级以上地方人民政府野生动物保护主管部门和市场监督管理部门按照职责分工没收野生动物，并处野生动物价值一倍以上十倍以下罚款；构成犯罪的，依法追究刑事责任。

违反本法第三十四条第四款规定，铁路、道路、水运、民航、邮政、快递等企业未按照规定查验或者承运、寄递野生动物及其制品的，由交通运输、铁路监督管理、民用航空、邮政管理等相关主管部门按照职责分工没收违法所得，并处违法所得一倍以上五倍以下罚款；情节严重的，吊销经营许可证。

第五十四条 违反本法第三十二条规定，为出售、购买、利用野生动物及其制品或者禁止使用的猎捕工具发布广告的，依照《中华人民共和国广告法》的规定处罚。

第五十五条 违反本法第三十三条规定，为违法出售、购买、食用及利用野生动物及其制品或者禁止使用的猎捕工具提供展示、交易、消费服务的，由县级以上人民政府市场监督管理部门责令停止违法行为，限期改正，没收违法所得，并处违法所得二倍以上十倍以下罚款；没有违法所得或者违法所得不足五千元的，处一万元以上十万元以下罚款；构成犯罪的，依法追究刑事责任。

第五十六条 违反本法第三十七条规定，进出口野生动物及其制品的，由海关、公安机关、海警机构依照法律、行政法规和国家有关规定处罚；构成犯罪的，依法追究刑事责任。

第五十七条 违反本法第三十八条规定，向境外机构或者人员提供我国特有的野生动物遗传资源的，由县级以上人民政府野生动物保护主管部门没收野生动物及其制品和违法所得，并处野生动物及其制品价值或者违法所得一倍以上五倍以下罚款；构成犯罪的，依法追究刑事责任。

第五十八条 违反本法第四十条第一款规定，从境外引进野生动物物种的，由县级以上人民政府野生动物保护主管部门没收所引进的野生动物，并处五万元以上五十万元以下罚款；未依法实施进境检疫的，依照《中华人民共和国进出境动植物检疫法》的规定处罚；构成犯罪的，依法追究刑事责任。

第五十九条 违反本法第四十条第二款规定，将从境外引进的野生动物放生、丢弃的，由县级以上人民政府野生动物保护主管部门责令限期捕回，处一万元以上十万元以下罚款；逾期不捕回的，由有关野生动物保护主管部门代为捕回或者采取降低影响的措施，所需费用由被责令限期捕回者承担；构成犯罪的，依法追究刑事责任。

第六十条 违反本法第四十二条第一款规定，伪造、变造、买卖、转让、租借有关证件、专用标识或者有关批准文件的，由县级以上人民政府野生动物保护主管部门没收违法证件、专用标识、有关批准文件和违法所得，并处五万元以上五十万元以下罚款；构成违反治安管理行为的，由公安机关依法给予治安管理处罚；构成犯罪的，依法追究刑事责任。

《野生植物保护条例》

第二十四条 违反本条例规定，出售、收购国家重点保护野生植物的，由工商行政管理部门或者野生植物行政主管部门按照职责分工没收野生植物和违法所得，可以并处违法所得 10 倍以下的罚款。

第二十五条 非法进出口野生植物的，由海关依照海关法的规定处罚。

第二十六条 伪造、倒卖、转让采集证、允许进出口证明书或者有关批准文件、标签的，由野生植物行政主管部门或者工商行政管理部门按照职责分工收缴，没收违法所得，可以并处 5 万元以下的罚款。

第二十七条 外国人在中国境内采集、收购国家重点保护野生植物，或者未经批准对农业行政主管部门管理的国家重点保护野生植物进行野外考察的，由野生植物行政主管部门没收所采集、收购的野生植物和考察资料，可以并处 5 万元以下的罚款。

第二十八条 违反本条例规定，构成犯罪的，依法追究刑事责任。

10. Colombia:

Decreto 1608 de 1978: Por el cual se reglamenta el Código Nacional de los Recursos Naturales Renovables y de Protección al Medio Ambiente y la Ley 23 de 1973 en materia de Fauna Silvestre:

Regimen de Sanciones

Artículo 222. Cuando llegue a demostrarse técnicamente que se están produciendo acciones que alteran el ambiente o atentan contra la fauna silvestre, se impondrán las sanciones previstas por el artículo 18 de la Ley 23 de 1973 en la siguiente forma:

1. Amonestación.
2. Multas sucesivas hasta de quinientos mil pesos (\$500.000) en las siguientes cuantías:
 - a) Hasta doscientos mil (\$200.000) cuando el infractor no es reincidente y de su acción u omisión no se deriva perjuicio grave para la fauna silvestre o los demás recursos naturales renovables.
 - b) Hasta quinientos mil pesos (\$500.000) cuando el infractor es reincidente o de la acción u omisión se produce perjuicio grave para la fauna silvestre o los demás recursos naturales renovables, entendiéndose por perjuicio grave aquel que no se puede subsanar por el propio contraventor.
3. Cuando la corrección de la actividad que genera contaminación o deterioro requiera instalar mecanismos o adoptar o modificar los procesos de producción, la multa a que se refiere el numeral anterior se aplicará por una vez y se otorgará un plazo para hacer las instalaciones o adoptar los mecanismos adecuados. Vencido el plazo sin haber tomado tales medidas, se procederá a la clausura temporal del establecimiento o factoría.
4. Cierre definitivo, cuando las sanciones anteriores no hayan surtido efecto.

Artículo 223. A quienes incurran en las conductas relacionadas en los artículos 220 y 221 de este decreto, si ellas no generan contaminación o deterioro de la fauna silvestre o del ambiente, se impondrán las siguientes sanciones que se establecen en desarrollo del artículo 339 del Decreto-ley 2811 de 1974:

1. Multas sucesivas en las siguientes cuantías:
 - a) Hasta cien mil pesos (\$100.000) cuando con motivo de la infracción han obtenido, comercializado o procesado individuos, especímenes o productos de la fauna silvestre.

- b) Hasta doscientos mil pesos (\$200.000) cuando la infracción se comete con motivo de la caza de control o de fomento o científica por personas naturales.
 - c) Hasta trescientos mil pesos (\$300.000) cuando la infracción se comete con motivo de caza deportiva ejercida por personas naturales o en ejercicio de licencia de establecimiento de zoológicos, cotos de caza, zoológicos o circos.
 - d) Hasta quinientos mil pesos (\$500.000) cuando la infracción se comete por personas naturales o jurídicas en ejercicio de caza comercial, en el procesamiento, transformación, comercialización o por introducción, exportación o salida de individuos, especímenes o productos de la fauna silvestre, o en ejercicio de cualquier permiso de caza o licencia cuando el titular es persona jurídica.
2. Suspensión del permiso de licencia de funcionamiento.
 3. Revocatoria del permiso o licencia y cancelación del registro

Ley 1333 de 2009

Medidas Preventivas Y Sanciones

Artículo 32. Carácter de las medidas preventivas. Las medidas preventivas son de ejecución inmediata, tienen carácter preventivo y transitorio, surten efectos inmediatos, contra ellas no procede recurso alguno y se aplicarán sin perjuicio de las sanciones a que hubiere lugar.

Nota: (Expresiones Subrayadas, Declaradas Exequibles por la Corte Constitucional en Sentencia C-703 de 2010)

Artículo 33. Medidas preventivas sobre agentes y bienes extranjeros. Las preventivas podrán ser aplicadas a personas extranjeras y sus bienes, siempre que los bienes o las personas se encuentren dentro del territorio nacional. En caso de que el agente sancionado tenga residencia en un país extranjero, la autoridad ambiental enviará el auto de inicio y terminación del proceso sancionatorio a la Cancillería colombiana para que esta los envíe al país de residencia del presunto infractor y en el caso de que sea sancionado, la Cancillería adelante las gestiones necesarias para hacer efectiva la sanción impuesta.

Nota: (Expresión subrayada, Declarada Exequible por la Corte Constitucional en Sentencia C-742 de 2010)

Artículo 34. Costos de la imposición de las medidas preventivas. Los costos en que incurra la autoridad ambiental con ocasión de las medidas preventivas, tales como: Transporte, almacenamiento, seguros, entre otros, correrán por cuenta del infractor. En caso del levantamiento de la medida, los costos deberán ser cancelados antes de poder devolver el bien o reiniciar o reabrir la obra.

Artículo 35. Levantamiento de las medidas preventivas. Las medidas preventivas se levantarán de oficio o a petición de parte, cuando se compruebe que han desaparecido las causas que las originaron.

Artículo 36. Tipos de medidas preventivas. El Ministerio de Ambiente, Vivienda y Desarrollo Territorial, las Corporaciones Autónomas Regionales, las de Desarrollo Sostenible y las Unidades Ambientales de los grandes centros urbanos, los establecimientos públicos que trata la Ley 768 de 2002 y la Unidad Administrativa Especial del Sistema de Parques Nacionales Naturales, impondrán al infractor de las normas ambientales, mediante acto administrativo motivado y de acuerdo con la gravedad de la infracción alguna o algunas de las siguientes medidas preventivas:

Amonestación escrita.

Decomiso preventivo de productos, elementos, medios o implementos utilizados para cometer la infracción.

Aprehensión preventiva de especímenes, productos y subproductos de fauna y flora silvestres.

Suspensión de obra o actividad cuando pueda derivarse daño o peligro para el medio ambiente, los recursos naturales, el paisaje o la salud humana o cuando el proyecto, obra o actividad se haya iniciado sin permiso, concesión, autorización o licencia ambiental o ejecutado incumpliendo los términos de los mismos.

Nota: (Expresiones subrayadas, Declaradas Exequibles por la Corte Constitucional en Sentencia C-703 de 2010)

Parágrafo. Los costos en que incurra la autoridad ambiental por la imposición de las medidas preventivas como almacenamiento, transporte, vigilancia, parqueadero, destrucción, demolición, entre otros, serán a cargo del infractor.

(Ver Decreto 380 de 2021)

Artículo 37. Amonestación escrita. Consiste en la llamada de atención escrita a quien presuntamente ha infringido las normas ambientales sin poner en peligro grave la integridad o permanencia de los recursos naturales, el paisaje o la salud de las personas. La amonestación puede incluir la asistencia a cursos obligatorios de educación ambiental. El infractor que incumpla la citación al curso será sancionado con multa equivalente a cinco (5) salarios mínimos legales mensuales vigentes. Este trámite deberá cumplir con el debido proceso, según el artículo 3° de esta ley.

Nota: (Expresión subrayada, Declarada EXEQUIBLE por la Corte Constitucional en Sentencia C-742 de 2010)

Artículo 38. Decomiso y aprehensión preventivos. Consiste en la aprehensión material y temporal de los especímenes de fauna, flora, recursos hidrobiológicos y demás especies silvestres exóticas y el de productos, elementos, medios, equipos, vehículos, materias primas o implementos utilizados para cometer la infracción ambiental o producido como resultado de la misma.

Cuando los elementos aprehendidos representen peligro para la salud humana, vegetal o animal, la autoridad ambiental procederá de inmediato a su inutilización, destrucción o incineración a costa del infractor. Los productos perecederos que no puedan ser objeto de almacenamiento y conservación podrán ser entregados para su uso a entidades públicas, de beneficencia o rehabilitación, previo concepto favorable de la entidad sanitaria competente en el sitio en donde se hallen los bienes objeto del decomiso. En caso contrario, se procederá a su destrucción o incineración, previo registro del hecho en el acta correspondiente.

Parágrafo. Se entiende por especie exótica la especie o subespecie taxonómica, raza o variedad cuya área natural de dispersión geográfica no se extiende al territorio nacional ni a aguas jurisdiccionales y si se encuentra en el país, es como resultado voluntario o involuntario de la actividad humana".

Parágrafo 1°. La autoridad ambiental podrá disponer en forma directa o a través de convenios interinstitucionales con terceras entidades, el uso de los elementos, medios, equipos, vehículos o implementos respecto de los cuales pese una medida de decomiso preventivo en los términos del presente artículo, con el exclusivo fin de atender las necesidades relacionadas con los motivos de la declaratoria de emergencia a las que se refiere el Decreto 4580 de 2010 y, en particular, para:

- La construcción y/o rehabilitación de obras de infraestructura y actividades para el control de caudales, rectificación y manejo de cauces, control de escorrentía, control de erosión, obras de geotecnia, regulación de cauces y corrientes de agua y demás obras y actividades biomecánicas para el manejo de suelos, aguas y vegetación de las áreas hidrográficas citadas.
- La restauración, recuperación, conservación y protección de la cobertura vegetal, enriquecimientos vegetales y aislamiento de áreas para facilitar la sucesión natural de las áreas citadas.
- Rehabilitación de la red vial afectada por situaciones de desastre.
- Labores de búsqueda y rescate y primeros auxilios.
- Recuperación de vivienda (Averiada y destruida), y
- Obras de emergencias (reforzamiento de terraplenes, obras de control) y obras de prevención y mitigación en la zona.
- Construcción y/o rehabilitación de obras de acueducto y saneamiento básico ambiental.

(Adicionado por el art. 1°, Decreto Nacional 4673 de 2010.)

Nota: (Declarado Exequible en el entendido de que la autorización allí prevista sólo será aplicable para las actividades relacionadas con la fase I de las contempladas en el marco de la emergencia económica social y ecológica declarada mediante Decreto 4580 de 2010, en las zonas y municipios afectados, según este decreto, por la Corte Constitucional en Sentencia C-222 de 2011.)

Parágrafo 2°. El uso de los elementos decomisados se comunicará previamente a los sujetos involucrados en el trámite sancionatorio, sin que frente a esta decisión proceda recurso alguno en la vía gubernativa. El uso se suspenderá en forma inmediata en caso de que la autoridad ambiental decida levantar la medida preventiva, o por la terminación del procedimiento sancionatorio sin que se declare la responsabilidad administrativa del presunto infractor. Lo anterior, sin perjuicio de que se acuerde con el titular del bien la prolongación del uso a cualquier título en la atención de la obra o necesidad respectiva

(Adicionado por el art. 1°, Decreto Nacional 4673 de 2010.)

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C-222 de 2011.)

Parágrafo 3°. A partir del momento en que se autorice el uso, la entidad pública o privada que utilice los bienes decomisados deberá hacerse cargo de los gastos de transporte, combustible, parqueadero, cuidado, impuestos y mantenimiento preventivo y correctivo que se requieran, los cuales en caso de que el procedimiento administrativo sancionatorio concluya sin la declaratoria de responsabilidad del presunto infractor, no podrán ser cobrados al titular del bien como condición para su devolución.

(Adicionado por el art. 1°, Decreto Nacional 4673 de 2010.)

Nota: (Declarado EXEQUIBLE en el entendido de que en ningún caso el infractor o el presunto infractor será responsable por los gastos en que se incurra en relación con los bienes decomisados a partir del momento en el que se autorice su uso. por la Corte Constitucional en Sentencia C-222 de 2011.

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C- 703 de 2010)

Artículo 39. Suspensión de obra, proyecto o actividad. Consiste en la orden de cesar, por un tiempo determinado que fijará la autoridad ambiental, la ejecución de un proyecto, obra o actividad cuando de su realización pueda derivarse daño o peligro a los recursos naturales, al medio ambiente, al paisaje o la salud humana o cuando se haya iniciado sin contar con la licencia ambiental, permiso, concesión o autorización o cuando se incumplan los términos, condiciones y obligaciones establecidas en las mismas.

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C- 703 de 2010)

Artículo 40. Sanciones. Las sanciones señaladas en este artículo se impondrán como principales o accesorias al responsable de la infracción ambiental. El Ministerio de Ambiente, Vivienda y Desarrollo Territorial, las Corporaciones Autónomas Regionales, las de Desarrollo Sostenible, las Unidades Ambientales de los grandes centros urbanos a los que se refiere el artículo 66 de la Ley 99 de 1993, los establecimientos públicos que trata el artículo 13 de la Ley 768 de 2002 y la Unidad Administrativa Especial del Sistema de Parques Nacionales Naturales, impondrán al infractor de las normas ambientales, de acuerdo con la gravedad de la infracción mediante resolución motivada, alguna o algunas de las siguientes sanciones:

1. Multas diarias hasta por cinco mil (5.000) salarios mínimos mensuales legales vigentes.
2. Cierre temporal o definitivo del establecimiento, edificación o servicio.
3. Revocatoria o caducidad de licencia ambiental, autorización, concesión, permiso o registro.
4. Demolición de obra a costa del infractor.

5. Decomiso definitivo de especímenes, especies silvestres exóticas, productos y subproductos, elementos, medios o implementos utilizados para cometer la infracción.

6. Restitución de especímenes de especies de fauna y flora silvestres.

7. Trabajo comunitario según condiciones establecidas por la autoridad ambiental.

Nota: (Expresión subrayada, Declarada Exequible por la Corte Constitucional en Sentencia C-703 de 2010)

Parágrafo 1°. La imposición de las sanciones aquí señaladas no exime al infractor de ejecutar las obras o acciones ordenadas por la autoridad ambiental competente, ni de restaurar el medio ambiente, los recursos naturales o el paisaje afectados. Estas sanciones se aplicarán sin perjuicio de las acciones civiles, penales y disciplinarias a que hubiere lugar.

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C- 632 de 2011.)

PARÁGRAFO 2°. Reglamentado por el Decreto Nacional 3678 de 2010. El Gobierno Nacional definirá mediante reglamento los criterios para la imposición de las sanciones de que trata el presente artículo, definiendo atenuantes y agravantes. Se tendrá en cuenta la magnitud del daño ambiental y las condiciones socioeconómicas del infractor.

(Ver Decreto 380 de 2021)

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C- 632 de 2011.)

Artículo 41. Prohibición de devolución de especímenes silvestres o recursos procedentes de explotaciones ilegales. Cuando la fauna, flora u otros recursos naturales aprehendidos o decomisados preventivamente sean resultado de explotaciones ilegales, no procederá, en ningún caso, la devolución de los mismos al infractor, salvo el caso considerado en el artículo 52, numeral 6.

Artículo 42. Mérito ejecutivo. Los actos administrativos expedidos por las autoridades ambientales que impongan sanciones pecuniarias prestan mérito ejecutivo y su cobro se hará a través de la jurisdicción coactiva.

Parágrafo. El valor de las sanciones pecuniarias impuestas por el Ministerio de Ambiente, Vivienda y Desarrollo Territorial, ingresará a una subcuenta especial del Fonam.

Artículo 43. Multa. Consiste en el pago de una suma de dinero que la autoridad ambiental impone a quien con su acción u omisión infringe las normas ambientales.

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C- 703 de 2010)

Artículo 44. Cierre temporal o definitivo del establecimiento, edificación o servicio. Consiste en poner fin a las actividades o tareas que en ellos se desarrollan, por la existencia de hechos o conductas contrarias a las disposiciones ambientales. Es temporal si se impone por un determinado período de tiempo y es definitivo cuando así se indique o no se fije un límite en el tiempo

El cierre podrá imponerse para todo el establecimiento, edificación o servicio o solo para una parte o proceso que se desarrolle en él. Una vez en firme el acto administrativo a través del cual se impone una sanción de cierre temporal o definitivo, no podrá adelantarse actividad alguna en la edificación, establecimiento o servicio. Si el cierre recae sobre una parte del establecimiento, edificación o servicio, no podrá adelantarse la actividad específica en la zona, área o sección cerrada. En uno u otro caso el sancionado podrá desarrollar lo necesario para el necesario mantenimiento del inmueble.

La autoridad ambiental competente deberá tomar las medidas pertinentes para la ejecución de la sanción y se hará efectiva mediante la imposición de sellos, bandas u otros medios apropiados para asegurar el cumplimiento de la sanción.

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C- 703 de 2010)

Artículo 45. Revocatoria o caducidad de la licencia, permiso, concesión, autorización o registro. Consiste en dejar sin efectos los actos administrativos a través de los cuales se otorgó la licencia ambiental, permiso, autorización, concesión o registro.

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C- 703 de 2010)

Artículo 46. Demolición de obra. Consiste en la destrucción a costa del infractor de una obra bajo parámetros técnicos establecidos por la autoridad competente en los casos a que hubiere lugar. La sanción de demolición de obra implica que el infractor deberá realizarla directamente y en caso contrario, será efectuada por la autoridad ambiental, quien repetirá contra el infractor por los gastos en que incurra mediante proceso ejecutivo.

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C- 703 de 2010)

Artículo 47. Decomiso definitivo de productos, elementos, medios o implementos utilizados para cometer la infracción. Consiste en la aprehensión material y definitiva de los productos, elementos, medios e implementos utilizados para infringir las normas ambientales.

Una vez decretado el decomiso definitivo, la autoridad ambiental podrá disponer de los bienes para el uso de la entidad o entregarlos a entidades públicas para facilitar el cumplimiento de sus funciones, a través de Convenios Interinstitucionales que permitan verificar la utilización correcta.

Nota: (Declarado Exequible mediante Sentencia de la Corte Constitucional C-364 de 2012)

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C- 703 de 2010)

Artículo 48. Restitución de especímenes de especies silvestres. Consiste en la aprehensión material y el cobro del costo de todo el proceso necesario para la adecuada restitución de los individuos, especímenes y/o muestras de especies silvestres o productos del medio ambiente que pertenecen al Estado que se hayan aprovechado, movilizado, transformado y/o comercializado sin la autorización ambiental respectiva o con violación de las disposiciones ambientales que regulan la materia.

Parágrafo. Los costos en que se incurra con ocasión de la restitución de especies silvestres y su manejo posterior, serán a cargo del infractor y harán parte de la restitución cuando ella sea impuesta como sanción del proceso. En todos los casos en que se haga efectiva la medida especial de restitución, las autoridades ambientales competentes deberán imponer las medidas preventivas y sancionatorias a que haya lugar.

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C- 703 de 2010)

Artículo 49. Trabajo comunitario en materia ambiental. Con el objeto de incidir en el interés del infractor por la preservación del medio ambiente, los recursos naturales y el paisaje, la autoridad ambiental podrá imponer la sanción de trabajo comunitario en materias ambientales a través de su vinculación temporal en alguno de los programas, proyectos y/o actividades que la autoridad ambiental tenga en curso directamente o en convenio con otras autoridades. Esta medida solo podrá reemplazar las multas solo cuando los recursos económicos del infractor lo requieran, pero podrá ser una medida complementaria en todos los casos.

Parágrafo. El Gobierno Nacional reglamentará las actividades y procedimientos que conlleva la sanción de trabajo comunitario en materia ambiental y la medida preventiva de asistencia a cursos obligatorios de educación ambiental como parte de la amonestación.

Nota: (Declarado Exequible por la Corte Constitucional en Sentencia C- 703 de 2010)

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Artículo 328. Aprovechamiento ilícito de los recursos naturales renovables. El que con incumplimiento de la normatividad existente se apropie, acceda, capture, mantenga, introduzca, extraiga, explote, aproveche, exporte, transporte, comercie, explore, trafique o de cualquier otro modo se beneficie de los especímenes, productos o partes de los recursos fáunicos, forestales, florísticos, hidrobiológicos, corales, biológicos o genéticos de la biodiversidad colombiana, incurrirá en prisión de sesenta (60) a ciento treinta y cinco (135) meses y multa de ciento treinta y cuatro (134) a cuarenta y tres mil setecientos cincuenta (43.750) salarios mínimos legales mensuales vigentes.

La pena se aumentará de una tercera parte a la mitad cuando la conducta se cometa a través de la práctica de cercenar aletas de peces cartilagosos (tiburones, rayas o quimeras), y descartar el resto del cuerpo al mar.

Artículo 328a. Tráfico de Fauna. El que trafique, adquiera, exporte o comercialice sin permiso de la autoridad competente o con incumplimiento de la normatividad existente los especímenes, productos o partes de la fauna acuática, silvestre o especies silvestres exóticas, incurrirá en prisión de sesenta (60) a ciento treinta y cinco (135) meses y multa de trescientos (300) hasta cuarenta mil (40.000) salarios mínimos legales mensuales vigentes.

La pena se aumentará de una tercera parte a la mitad cuando la conducta se cometa a través de la exportación o comercialización de aletas de peces cartilagosos (tiburones, rayas o quimeras).

Artículo 328b. Caza Ilegal. El que sin permiso de autoridad competente o con incumplimiento de la normatividad existente, cazare, excediere el número de piezas permitidas o cazare en épocas de vedas, incurrirá en prisión de dieciséis (16) a cincuenta y cuatro (54) meses y multa de treinta y tres (33) a novecientos treinta y siete (937) salarios mínimos legales mensuales vigentes, siempre que la conducta no constituya delito sancionado con pena mayor.

Artículo 328c. Pesca ilegal. El que sin permiso de autoridad competente o con incumplimiento de la normatividad existente, realice actividad de pesca, comercialice, transporte, procese o almacene ejemplares o productos de especies vedadas, protegidas, en cualquier categoría de amenaza, o en áreas de reserva, o en épocas vedadas, o en zona prohibida, incurrirá, sin perjuicio de las sanciones administrativas a las que hubiere lugar, en prisión de cuarenta y ocho (48) a ciento ocho (108) meses y multa de ciento treinta y cuatro (134) a cincuenta mil (50.000) salarios mínimos legales mensuales vigentes.

En la misma pena incurrirá el que:

1. Utilice instrumentos, artes y métodos de pesca no autorizados o de especificaciones técnicas que no correspondan a las permitidas por la autoridad competente, para cualquier especie.
2. Modifique, altere o atente, los refugios o el medio ecológico de especies de recursos hidrobiológicos y pesqueros, como consecuencia de actividades de exploración o explotación de recursos naturales.
3. Construya obras o instale redes, mallas o cualquier otro elemento que impida el libre y permanente tránsito de los peces en los mares, ciénagas, lagunas, caños, ríos y canales.

Parágrafo. La pesca de subsistencia, no será considerada delito, cuando se ajuste a los parámetros establecidos en la normatividad existente.

Artículo 329. Manejo ilícito de especies exóticas. El que sin permiso de autoridad competente o con incumplimiento de la normatividad existente, introduzca, trasplante, manipule, siembre, hibride, comercialice, transporte, mantenga, transforme, experimente, inocule o propague especies silvestres exóticas, invasoras, que pongan en peligro la salud humana, el ambiente o las especies de la biodiversidad colombiana, incurrirá en prisión de cuarenta y ocho (48) a ciento ocho (108) meses y multa de ciento sesenta y siete (167) a dieciocho mil setecientos cincuenta (18.750) salarios mínimos legales mensuales vigentes.

Resolución 2064 de 2010 expedida por el Ministerio de Ambiente y Desarrollo Ambiental Por la cual se reglamentan las medidas posteriores a la aprehensión preventiva, restitución o decomiso de especímenes de especies

silvestres de Fauna y Flora Terrestre y Acuática y se dictan otras disposiciones

Se puede encontrar en: <https://www.minambiente.gov.co/wp-content/uploads/2021/10/Resolucion-2064-de-2010.pdf>

11. Côte d'Ivoire:

Oui pour certaines infractions du code forestier (article 98), de la loi sur la pêche (article 105) et de la loi sur le blanchiment des capitaux (article 113).

12. Croatia:

Criminal Code (Official Gazette No. NN 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21, 114/22) prescribes as follows:

Wildlife Trade (Official Gazette No. 118/18)

Article 202

(1) Whoever, contrary to the regulation on the protection of wild species, trades in, imports, exports or transports a live or dead specimen of wild species, parts of or derivatives thereof,

shall be punished by imprisonment from six months to five years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article by negligence

shall be punished by imprisonment not exceeding two years.

(3) There is no criminal offense from paragraph 1 of this Article if it was committed against a negligible quantity of members of a species and has had a negligible impact on the preservation of this species.

Serious Criminal Offences against the Environment

Article 214

(5) If as a result of the criminal offence referred to in Article 200, paragraph 1 or 2, Article 201, paragraph 1 or 3, or Article 202, paragraph 1, of this Code considerable damage is caused,

the perpetrator shall be punished by imprisonment from one to eight years.

(7) If as a result of the criminal offence referred to in Article 200, paragraph 2, Article 201, paragraph 4, Article 202, paragraph 3, Article 206, paragraph 2, or Article 207, paragraph 2, of this Code considerable damage is caused,

the perpetrator shall be punished by imprisonment not exceeding three years.

13. Czechia:

Please see the annex. Annex provided by Czechia includes the following: Criminal Code (Act No. 40/2009 Coll.) , Section 299 Unauthorized Disposing with Protected Wild Animals and Herbs; Section 300 Negligent Unauthorized Disposal with Protected Wild Animals and Herbs ; Section 216 Legalization of Proceeds from Criminal Activity; Section 216a Special Provisions on Imposing Punishment; Section 217 Negligent Legalization of Proceeds from Criminal Activity; Section 217a Common Provisions; Act on Criminal Liability of Legal Persons (Act No. 418/2011 Coll.) Section 7 Criminal Acts; Section 8 Criminal Liability of a Legal entity; Section 15 Types of Punishments and Protective Measures; Criminal Procedure Code (Act No. 141/1961 Coll.): Section 7a; Section 8 (2) a 8 (3). The legislation will be uploaded in SHERLOC in due course.

The maximum penalty is 3 years of imprisonment for the basic intentional criminal offence. If committed by a member of an organized group, the maximum penalty raises to 5 years of imprisonment.

14. Denmark:

<https://www.retsinformation.dk/eli/retsinfo/2019/9611>

15. Finland:

Nature Conservation Act (1096/1996), especially Sections 44 and 58

Criminal Code (39/1889), Chapter 10 (Confiscation); Chapter 48 (Environmental offences), Sections 5 and 5 a; Chapter 46 (Offences connected to import and export), Sections 4 and 5

The legislation is cited in Appendix 1. Appendix 1 provided by Finland includes provisions of the Nature Conservation Act (1096/1996), Section 44 (30.5.1997/492) International trade in endangered species, Section 58 Penalties; Section 59 (26.10.2001/878) Forfeiture, and the Criminal Code (39/1889) Chapter 9 (743/1995) Corporate criminal liability; Section 1-8, Section 10; Chapter 32 (769/1990), Receiving and money laundering offences (61/2003), Section 6 -14; Chapter 46 (769/1990) Offences connected to import and export (425/2009). Section 4 and 5; Section 13-16; Chapter 48 (578/1995) Environmental offences. Section 5, 5a, 7, 9. The legislation will be uploaded in [SHERLOC](#) in due course.

16. France:

L'article L. 415-3 du code de l'environnement, quant à lui, incrimine divers comportements contraires aux prescriptions de l'article L. 411-1 précité, et susceptibles de porter atteinte aux espèces désignées par les règlements. La loi n°2019-773 du 24 juillet 2019 porte la peine d'emprisonnement encourue aux termes de cet article de deux à trois ans d'emprisonnement, outre une amende de 150.000 euros.

Il convient de relever que la peine encourue pour le trafic d'espèces animales ou végétales protégées est portée à 7 ans d'emprisonnement et 150 000 euros d'amende lorsque les faits sont commis en bande organisée (article L. 415-6 du code de l'environnement, issu de la loi n°20161087 du 8 août 2016).

17. Germany:

Act on Nature Conservation and Landscape Management (Federal Nature Conservation Act – BNatSchG; convenience translation only)

Article 71 Penal provisions

(1) Anyone who intentionally carries out an action, oriented to an animal or plant of a strictly protected species, referred to in

1. Article 69 (2) No 1 Letter a, No 2, No 3 or No 4 Letter a,
2. Article 69 (2) No 1 Letter b or No 4 Letter b or
3. Article 69 (3) No 21, (4) No 1 or (5),

shall be punished with a term of imprisonment of up to five years or with a fine.

(2) Anyone who, in contravention of Article 8 (1) of Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (OJ EC. L 61 of 3 March 1997, p. 1, L 100 of 17 April 1997, p. 72, L 298 of 1 November 1997, p. 70, L 113 of 27 April 2006, p. 26), last amended by Regulation (EC) No 398/2009 (OJ EC L 126 of 21 May 2009, p. 5),

1. sells, purchases, offers for sale or purchase or keeps or transports for sale or
2. for commercial reasons purchases, displays or uses

a specimen of the species listed in Annex A, incurs the same penalty.

(3) Anyone who commercially or habitually commits any of the offences outlined in (1) or (2) shall be liable to a term of imprisonment ranging from three months to five years.

(4) If, in the cases referred to in (1) or (2), the offender negligently fails to recognise that the relevant action is oriented to an animal or plant of a species named there, the penalty shall be a term of imprisonment of up to three years or a fine.

(5) If, in the cases referred to in (1) No 2, the offender acts recklessly, the penalty shall be a term of imprisonment of up to two years or a fine.

(6) The offence is not punishable according to (5), if the action only concerns an insignificant amount of specimen and has insignificant effects on the conservation status of the species.

Article 69 Provisions concerning fines

(2) Anyone who carries out one of the following actions shall be deemed to have committed an administrative offence:

1. in contravention of Article 44 (1) No 1,
 - a) pursues, captures or injures a wild animal, or takes from the wild or damages its developmental stages,
 - b) kills a wild animal or destroys its developmental stages,
2. in contravention of Article 44 (1) No 2, significantly disturbs a wild animal,
3. in contravention of Article 44 (1) No 3, takes from the wild, damages or destroys a breeding or resting site,
4. in contravention of Article 44 (1) No 4,
 - a) takes from the wild a wild plant, or its developmental stages, or damages it or its site or
 - b) destroys a wild plant or its developmental stages,

...

(3) An administrative offence shall be deemed to have been committed by anyone who wilfully or negligently

...

21. in contravention of Article 44 (2) Sentence 1 No 2, also in conjunction with Article 44 (3), sells or purchases, offers to buy or sell, stocks or transports for purposes of sale, exchanges or makes available for use for a fee, for commercial purposes acquires, displays or otherwise uses an animal, a plant or a good,

...

(4) Anyone who violates Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (OJ EC. L 61 of 3 March 1997, p. 1, L 100 of 17 April 1997, p. 72, L 298 of 1 November 1997, p. 70, L 113 of 27 April 2006, p. 26), last amended by Regulation (EC) No 318/2008 (OJ EC L 95 of 8 April 2008, p. 3), by wilfully or negligently doing any of the following shall be deemed to have committed an administrative offence:

1. in contravention of Article 4 (1) Sentence 1 or (2) Sentence 1 or Article 5 (1) or (4) Sentence 1, fails to present an import permit, an export permit or a re-export certificate, or fails to present such a permit or certificate correctly, completely or on time,

...

(5) Anyone who violates Council Regulation (EEC) No 3254/91 of 4 November 1991 prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards (OJ EC L 308 of 9 November 1991, p. 1), by wilfully or negligently doing any of the following shall be deemed to have committed an administrative offence:

1. in contravention of Article 2, uses a leghold trap, or
2. in contravention of Article 3 (1) Sentence 1, introduces a pelt of an animal species mentioned therein, or a good mentioned therein, into the Community

18. Guatemala:

Artículos conducentes de la Ley Forestal: Capítulo II de los delitos forestales
Artículo 92.

Delito en contra de los recursos forestales. Quien, sin la licencia correspondiente, talare, aprovechar o extrajere árboles cuya madera en total en pie exceda diez (10) metros cúbicos, de cualquier especie forestal a excepción de las especies referidas en el artículo 99 de esta ley, o procediera su descortezamiento, ocoteo, anillamiento comete delito contra los recursos forestales. Los responsables de las acciones contenidas en este artículo serán sancionados de la siguiente manera: a) De cinco puntos uno (5.1) metros cúbicos a cien (100) metros cúbicos, con multa equivalente al valor de la madera conforme al avalúo que realice el INAB. b) De cien puntos uno (100.1) metros cúbicos en adelante, con prisión de uno a cinco (1 a 5) años y multa equivalente al valor de la madera, conforme al avalúo que realice el INAB.

Artículo 93.- Incendio forestal.

Quien provocare incendio forestal será sancionado con multa equivalente al valor del avalúo que realice el INAB y prisión de dos a diez años. En caso de reincidencia, la prisión será de cuatro a doce años.

Quien provocare incendio forestal en áreas protegidas legalmente declaradas, será sancionado con multa equivalente al valor del avalúo que realice el CONAP, y prisión de cuatro a doce años. En caso de reincidencia la prisión será de seis a quince años.

Para cada incendio forestal, se deberá abrir un proceso exhaustivo de investigación a efecto de determinar el origen y una vez establecido, se procederá en contra del o los responsables, de acuerdo a lo indicado en los párrafos anteriores.

Artículo 94.- Recolección, utilización y comercialización de productos forestales sin documentación.

Quien recolecte, utilice o comercialice productos forestales sin la documentación correspondiente, reutilizándola o adulterándola, será sancionado de la manera y criterios siguientes:

a) De uno a cinco (1 a 5) metros cúbicos, con multa equivalente al veinticinco por ciento (25%), del valor extraído.

b) De más de cinco (5) metros cúbicos, con prisión de uno a cinco años (1 a 5) y multa equivalente al cincuenta por ciento (50%) del valor extraído.

Artículo 95.- Delitos contra el Patrimonio Nacional Forestal cometidos por autoridades.

Quien siendo responsable de extender licencias forestales, así como de autorizar manejo de los bosques, extienda licencias y autorizaciones sin verificar la información que requiera esta ley y sus reglamentos; o la autoridad que permita la comercialización o exportación de productos forestales, sin verificar que existe fehacientemente la documentación correspondiente, será sancionado con prisión de uno a cinco (1 a 5) años y multa equivalente al valor de la madera, conforme la tarifa establecida por el INAB.

Artículo 96.- El delito de falsificación de documentos para el uso de incentivos forestales.

Quien para beneficiarse de los incentivos forestales otorgados por esta ley, presentare documentos falsos o alterare uno verdadero o insertare o hiciere insertar declaraciones falsas a los documentos relacionados al uso y otorgamiento de los incentivos forestales, comete actos fraudulentos y será sancionado con prisión de dos a seis (2 a 6) años y multa de quince mil a cien mil quetzales (Q.15,000,00 a Q.100,000,00).

Artículo 97.- El incumplimiento del Plan de Manejo Forestal como delito.
Quien por incumplimiento de las normas establecidas en el Plan de Manejo Forestal a probado, dañare los recursos forestales, será sancionado en proporción al daño realizado y con multa no menor de dos mil quetzales (Q.2,000,00), con base en la cuantificación que en el terreno realice el INAB e informe a la autoridad competente. Los productos y subproductos obtenidos, quedarán a disposición del INAB.

Artículo 98.- Cambio del uso de la tierra sin autorización.
Quien cambiare, sin autorización, el uso de la tierra en áreas cubiertas de bosque y registradas como beneficiarias del incentivo forestal, será sancionado con prisión de dos a seis (2 a 6) años y multa equivalente al valor de la madera conforme al avalúo que realice el INAB.

Artículo 99.- Tala de árboles de especies protegidas.
Quien talare, aprovechar, descortezare, ocotare, anillare o cortare la copa de árboles de especies protegidas y en vías de extinción, contenidas en los convenios internacionales de los que Guatemala es parte y que se encuentran en los listados nacionales legalmente aprobados será sancionado de la siguiente manera:

- a) De uno hasta quinientos metros cúbicos de madera en pie, (1 a 500), con multa de cuatrocientos a diez mil quetzales (Q.400,00 a Q.10,000,00).
- b) De quinientos un metros cúbicos (501 y -), de madera en pie en adelante, con prisión de uno a cinco (1 a 5) años incommutables y multa de diez mil a cincuenta mil quetzales (Q.10,000,00 a Q.50,000,00).

Se exceptúan los árboles establecidos por regeneración artificial.

Artículo 100.- Exportación de madera en dimensiones prohibidas.
Quien exportare madera de las especies, formas y dimensiones que contravengan lo preceptuado en el artículo 65, y que no provenga de plantaciones voluntarias, será sancionado con prisión de tres a seis años (3 a 6) y multa equivalente al valor de la madera de exportación, según informe del Instituto, de acuerdo a los precios de mercado.

Se exceptúan los árboles provenientes de las plantaciones voluntarias debidamente registradas.

Artículo 101.- Falsedad del Regente.
En caso de que el Regente incurra en falsedad en la información que debe proporcionar al INAB, además de las responsabilidades penales que se pudieran derivar del hecho, será excluido del listado de profesionales habilitados para ejercer esta función ante el INAB.

Artículo 102.- Negligencia administrativa.
El funcionario o empleado del INAB que incumpliere los plazos establecidos por esta ley y sus reglamentos para el trámite de expedientes, notificaciones, resoluciones, providencias y otros actos de carácter administrativo, será sancionado con multa no menor de dos mil quetzales sin menoscabo de la aplicación de sanciones establecidas en las leyes pertinentes

19. Italy:

b) No, as far as individual offences are concerned. However, this kind of crime is usually perpetrated by organised criminal groups (e.g. the so-called “ecomafias”): criminal organisations that, over time, create an extensive network for the capture, procurement, transport and sale of wild animals. This entails additional criminal liability for belonging to an organised criminal group, either as a leader or as a mere participant, with a maximum penalty of more than four years of imprisonment (Article 416 of the Criminal Code). Moreover, for offences which are not perpetrated by organised criminal groups, but are committed by availing

oneself of the conditions of a mafia-type organisation or in order to facilitate the activity of this kind of criminal organisation, the penalty is increased by between one third and one half (Article 416-bis.1 of the Criminal Code).

Moreover, the European Commission's Proposal for a new Environmental Crime Directive under current negotiation (which, in case of adoption, will be transposed into the Italian national legislation), requires under Article 5 (4) on penalties for natural persons that Member States take the necessary measures to ensure that the offences referred to in Article 3(1) points (..) (l), (m), (...) are punishable by a maximum term of imprisonment of at least four years. Letter (m) concerns illegal trading of species listed in Annex I and II of Regulation 338/97.

Please attach the relevant legislative provision(s) that define the penalties and sanctions for violations of the laws preventing and combating illicit trafficking in wildlife.

Relevant legislation:

Law no. 150 of 7 February 1992, concerning offences relevant to the application in Italy of the Convention on the International Trade of Endangered Species of Wild Flora and Fauna, signed in Washington on 3 March 1973, as per Law no. 874 of 19 December 1975, and the (EEC) Regulation No. 3626/82, and later amendments, as well as provisions for the trade and keeping of live specimens of animals and reptiles that may be dangerous or harmful to public health and safety. (extracted articles)

Article 1

Except when the act amounts to a more serious criminal offence, any person who, in violation of Regulation (EC) n. 338/97 of the Council of 09 December 1996, and later implementations and amendments, in relation to the specimens of the species listed in annex A of the Regulation itself and its later amendments:

a) imports, exports or re-exports specimens, under any customs regime, without the required certificate or permit, or with a certificate or permit deemed void under Article 11, paragraph 2a, of Regulation (EC) n. 338/97 of the Council, of 9 December 1996, and later implementations and amendments,

b) Omits to abide by the requirements aimed at the safety of specimens, set down in a permit or certificate issued in compliance with Regulation (EC) no. 338/97 of the Council, of 09 December 1996, and later implementations and amendments and Regulation (EC) n. 939/97 of the Commission, of 26 May 1997, and later amendments;

c) Uses the above specimens inconsistently with the requirements set forth in the permits or certificates issued together with the import permit or subsequently;

d) Transports or provides for the transit of, also through third parties, specimens lacking the prescribed permit or certificate issued in compliance with Regulation (EC) No 338/97 of the Council, of 26 May 1997 and later implementations and amendments, and Regulation (EC) n. 939/97 of the Commission, of 26 May 1997, and later amendments and, in the case of exports or re-exports from a third country that is a party to the Washington Convention, issued in compliance thereof, or lacking sufficient evidence of their existence;

e) Trades in artificially propagated plants in contrast with the provisions of Article 7, paragraph 1b, of Regulation (EC) n. 338/97 of the Council, of 09 December 1996, and later implementations and amendments, and Regulation (EC) n. 939/97 of the Commission, of 26 May 1997, and later amendments;

f) Holds, uses for gain, purchases, sells, displays or holds for sale or for commercial purposes, offers on sale or in any event gives away specimens without the required documents

shall be punished by imprisonment from six months to two years and by a fine from EUR fifteen thousand to EUR hundred-and-fifty thousand.

2. In case of repeat offending, the punishment shall be a term of imprisonment of from one to three years and a fine of from EUR thirty thousand to EUR three-hundred thousand. Should the above offence be committed in the exercise of a business activity, the conviction shall be followed by the suspension of the permit from a minimum of six months to a maximum of two years.

The import, export or re-export of personal or household effects derivative of specimens of species set forth in paragraph 1 above, in violation of the provisions of Regulation (EC) n. 939/97 of the Commission, of 26 May 1997, and later amendments, shall be punished by an administrative sanction from EUR six thousand to EUR thirty thousand. The unlawfully introduced effects shall be confiscated by the State Forestry Police, should the confiscation not be ordered by the judicial Authority.

Article 2.

Except when the act amounts to a more serious criminal offence, any person who, in violation of the provisions of Regulation (EC) n. 338/97 of the Council of 09 December 1996, and later implementations and amendments, in relation to the specimens of the species listed in annexes B and C of the Regulation itself and its later amendments:

a) imports, exports or re-exports specimens, under any customs regime, without the required certificate or permit, or with a certificate or permit deemed void under Article 11, paragraph 2a, of Regulation (EC) n. 338/97 of the Council, of 9 December 1996, and later implementations and amendments;

b) omits to abide by the requirements aimed at the safety of specimens, set down in a permit or certificate issued in compliance with Regulation (EC) n. 338/97 of the Council, of 09 December 1996, and later implementations and amendments and Regulation (EC) n. 939/97 of the Commission, of 26 May 1997, and later amendments;

c) uses the above specimens inconsistently with the requirements set forth in the permits or certificates issued together with the import permit or subsequently;

d) transports or provides for the transit of, also through third parties, specimens lacking the prescribed permit or certificate issued in compliance with Regulation (EC) No 338/97 of the Council, of 26 1997, and later implementations and amendments and Regulation (EC) n. 939/97 of the Commission, of 2626 May 1997, and later amendments and, in the case of exports or re-exports from a third country that is a party to the Washington Convention, issued in compliance thereof, or lacking sufficient evidence of their existence;

e) trades in artificially propagated plants in contrast with the provisions of Article 7, paragraph 1b, of Regulation (EC) n. 338/97 of the Council, of 9 December 1996, and later implementations and amendments, and Regulation (EC) n. 939/97 of the Commission, of 26 May 1997, and later amendments;

f) holds, uses for gain, purchases, sells, displays or holds for sale or for commercial purposes, offers on sale or in any event gives away specimens without

the required documents, as regards the species referred to in Annex B Of the Regulation.

shall be punished by a fine from EUR twenty thousand to EUR two-hundred thousand or by imprisonment from six months to one year.

2. In case of repeat offending, the punishment shall be a term of imprisonment from six months to eighteen months and a fine of from EUR twenty thousand to EUR two-hundred thousand. Should the above offence be committed in the exercise of a business activity, the conviction shall be followed by the suspension of the permit from a minimum of six months to a maximum of eighteen months.

The introduction into the national territory, export or re-export of personal or household effects relating to species set forth in paragraph 1 above, in violation of the provisions of Regulation (EC) n. 939/97 of the Commission, of 26 May 1997, and later amendments, shall be punished by an administrative sanction of EUR three thousand to EUR fifteen thousand. The unlawfully introduced effects shall be confiscated by the State Forestry Police, should the confiscation not be ordered by the judicial authority.

Except when the act amounts to a criminal offence, any person who fails to submit the import notification referred to in Article 4, paragraph 4, of Regulation (EC) n. 338/97 of the Council, of 09 December 1996, and later implementations and amendments, or an applicant who fails to communicate that the application for a permit or certificate in compliance with Article 6, paragraph 3, of the above-mentioned Regulation has been rejected, shall be punished by an administrative sanction of from EUR three thousand to EUR fifteen thousand;

The administrative (management) authority that shall receive the report envisaged by Article 17, paragraph 1, of Law n. 689 of 24 November 1981, for the infringements envisaged and punished by this law, is the CITES service of the State Forestry Police.

Article 3.

The provisions as per Articles 1 and 2 shall apply also in the event of transit or transshipment in the Italian territory of live or dead specimens of wild fauna or flora as per the above articles, or parts or derivatives thereof.

Article 3-bis

1. In respect of the offences prescribed by Article 16, paragraph 1 - a), c), d), e), and l), of Regulation (EC) n 338/97 of the Council, of 9 December 1996, and later amendments, in the matter of falsification or alteration of certificates, permits, import notifications, declarations, communications of information for the purposes of obtaining a permit or certificate, the use of false or altered certificates or permits, the penalties as per Book II, Title VII, Chapter III of the Criminal Code shall apply.

When the provisions of the Decree of the President of the Republic no. 43 of 23 January 1973 are infringed, they shall concur with those of Articles 1 and 2 and this Article.

Article 4.

1. In case of infringement of the bans as per Articles 1 and 2 above, the confiscation of the samples shall always be ordered; maintenance costs shall be borne by the person who is the subject of the confiscation order.

When live samples are confiscated, as per paragraph 1 above, and after consultation with the CITES Scientific Commission, the following shall be ordered in the below priority order:

- a) they shall be returned, at the expense of the importer, to the exporting State;
- b) they shall be entrusted to, also foreign, public or private bodies;
- c) they shall be sold, only in the case of specimens listed in annexes B and C, by public auction, provided that the said specimens are not directly or indirectly intended for the natural or legal person they have been seized or confiscated from, or who has participated in the infringement.

In terms of dead samples, any parts or derivatives thereof, as per paragraph 1, that are the subject of the confiscation order, after consultation with the CITES Scientific Commission, the following shall be ordered:

- a) their conservation for teaching or scientific purposes, or their destruction;
- b) their sale, only in the case of specimens listed in annexes B and C, by public auction, provided that the specimens or derivatives thereof are not directly or indirectly intended for the natural or legal person they have been seized or confiscated from, or who has participated in the infringement.

The CITES Service of the State Forestry Police shall ensure, within the restrictions of the ordinary budgetary resources, the conservation of the dead specimens, any parts or derivatives thereof, as per paragraph 3 above, without prejudice to a different decision of the CITES Scientific Commission.

The Scientific Commission has been set up at the Ministry of the Environment by Decree of the Minister of the Environment, in agreement with the Minister of Agricultural, Food and Forestry Policies and the Minister of Foreign Trade, to apply the Convention on International Trade in Endangered Species of Wildlife Fauna and Flora, signed in Washington on 3 03 March 1973, transposed by Law n. 874 of 19 December 1975.

Article 727-bis of the Criminal Code (Killing, destroying, capturing, taking, holding and trading in samples of protected wild fauna or flora species).

Except when the act amounts to a more serious criminal offence, any person who, without prejudice to the allowed cases, kills, captures or holds samples of protected wild fauna species shall be punished by imprisonment from one to six months or by a fine of not more than EUR 4000, except where the action concerns a negligible number of such samples and has a negligible impact on the state of conservation of the species.

Any person who, except for the allowed cases, destroys, takes or holds samples of protected wild flora species shall be punished by a fine of not more than EUR 4000, except where the action concerns a negligible number of such samples and has a negligible impact on the state of conservation of the species.

Except when the act amounts to a more serious offence, any person who, without prejudice to the allowed cases, infringes the trading bans as per Article 8, paragraph 2, of the Decree of the President of the Republic no. 357 of 8 September 1997, shall be punished by imprisonment from two to eight months or by a fine of up to EUR 10 000.

NOTE:

* Paragraph three has recently been added to Article 727 bis of the Criminal Code, by Legislative Decree no. 135 of 5 August 2022 (in Official Gazette no. 213 of

12/09/2022), which provides for the offence of trading in samples of protected wild fauna and flora species in violation of the trading bans as per Article 8, paragraph 2, of the Decree of the President of the Republic no. 357 of 8 September 1997 (Regulation implementing Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora).

20. Japan:

Please see attached file. The attachment provided by Japan includes provisions of the Act on Conservation of Endangered Species of Wild Fauna and Flora (Act No. 75 of June 5, 1992) and Foreign Exchange and Foreign Trade Act (Tentative translation) (Act No. 228 of December 1, 1949), Customs Act. The legislation will be uploaded in SHERLOC in due course.

21. Kenya:

b) Yes - Wildlife and Conservation Management Act No. 47 of 2013

Import and export of wildlife species

Section 99 (1) No person shall trade in, import, export, re-export or introduce any specimen or product of a wildlife species into or from Kenya without a permit issued by the Service under this Act.

- (2) Without prejudice to the generality of the foregoing, no person shall—
- (a) import any such species into, or export any such species from Kenya;
 - (b) take any such species within Kenya or Kenya's territorial waters;
 - (c) take any such species upon the high seas;
 - (d) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of paragraphs (b) and (c);
 - (e) deliver, receive, carry, transport, or ship in county commerce, by any means whatsoever and in the course of a commercial activity, any such species;
 - (f) sell or offer for sale in commercial transaction within or outside Kenya any such species;
 - (g) products of listed species; or
 - (h) violate any rules and regulations pertaining to such listed species.
- (3) A person who contravenes the provisions of this section commits an offence and shall be liable, upon conviction,—
- (a) in relation to a critically endangered or endangered species, as specified in the Sixth Schedule or listed under CITES Appendix I, to a fine of not less than one hundred million shillings or to imprisonment of not less than twenty years or both such fine and imprisonment; or
 - (b) in relation to any other wildlife species or wildlife trophy, to a fine not less than twenty million shillings or a term of imprisonment not less than ten years, or to both such fine and imprisonment.
- (4) A person, agent or corporate entity that, knowingly or recklessly, aids or abets, in the commission of an offence under this section shall be liable to the penalties specified in subsection (3).

[Act No. 18 of 2018, Sch.]

22. Kyrgyzstan:

Уголовное законодательство Кыргызской Республики, предусматривает уголовную ответственность за совершение преступлений против экологической безопасности и природной среды, куда входят и особо охраняемые объекты дикой природы. Данные нормы отражены в главе 38, VIII раздела Уголовного кодекса Кыргызской Республики.

23. Latvia:

- a) Yes, for protected species.
- b) Yes. Maximum penalty for destruction and damaging of specially protected animals and plants is five years of imprisonment. (Criminal Law Section 115) Maximum penalty for violation of the trading provisions of specimens of endangered wild animal and plant species is two years (Criminal Law Section 115).

Relevant legislation:

The Criminal Law

Section 115.1 Violation of the Trading Provisions of Specimens of Endangered Wild Animal and Plant Species

For a person who commits violation of the trading provisions of specimens of endangered wild animal or plant species or parts or products thereof, if substantial harm has been caused

thereby,

the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

At the same time, we would like to draw your attention to the fact that if illegal trade in wild fauna and flora is committed by a group of persons (including an organised group), the liability of the person is increased in accordance with the aggravating circumstances. In particular, according to Section 47 of the Criminal Law, the commission of a criminal offence by a group of persons is recognised as an aggravating circumstance and the court is obliged to take into account the aggravating circumstances when determining the sentence to be imposed on a person, according to Section 46 of the Criminal Law.

The Criminal Law

Section 46. General Principles for Determination of Punishment

(1) A punishment shall be determined to the extent provided for the committed criminal offence by the sanction of the relevant Section of the Special Part of this Law, conforming to the provisions of the General Part of this Law.

(2) In determining the type of punishment, the nature of and harm caused by the criminal offence committed, as well as the personality of the offender shall be taken into account.

(3) In determining the amount of punishment, the circumstances mitigating or aggravating the liability shall be taken into account.

(31) If the sanction of the relevant Section of the Special Part of this Law for the crime committed only provides for one basic punishment - deprivation of liberty, the nature of and harm caused by the criminal offence committed, the personality of the offender, and also the circumstances mitigating or aggravating the liability shall be taken into account, in determining the duration thereof.

(4) The punishment of deprivation of liberty for a criminal violation and a less serious crime shall be applied if the purpose of the punishment cannot be achieved by determining any of the types of lesser punishment provided for in the sanction of the relevant Section.

Section 48. Aggravating Circumstances

(1) The following may be considered to be aggravating circumstances:

- 1) the criminal offence constitutes recidivism of criminal offences;
- 2) the criminal offence was committed while in a group of persons;
- 3) the criminal offence was committed, taking advantage in bad faith of an official position or trust of another person;
- 4) the criminal offence has caused serious consequences;

- 5) the criminal offence was committed against a woman, knowing her to be pregnant;
- 6) the criminal offence was committed against a person who has not attained eighteen years of age or against a person by taking advantage of his or her condition of helplessness or of infirmity due to old-age;
- 7) the criminal offence was committed against a person taking advantage of his or her official, financial or other dependence on the offender;
- 8) the criminal offence was committed with particular cruelty or with humiliation of the victim;
- 9) the criminal offence was committed by taking advantage of the circumstances of a public disaster or during an emergency situation or a state of exception;
- 10) the criminal offence was committed employing weapons or explosives, or in some other generally dangerous way;
- 11) the criminal offence was committed out of a desire to acquire property;
- 12) the criminal offence was committed under the influence of alcohol, narcotic, psychotropic, toxic or other intoxicating substances;
- 13) the person committing the criminal offence, for the purpose of having his or her punishment reduced, has knowingly provided false information regarding a criminal offence committed by another person;
- 14) the criminal offence was committed due to racist, national, ethnic, or religious motives or due to social hatred;
- 15) the criminal offence related to violence or threats of violence, or the criminal offence against morality and sexual inviolability was committed against a person to whom the perpetrator of a criminal offence is related in the first or second degree of kinship, or against the spouse or former spouse, or against a person with whom the perpetrator of a criminal offence is or has been in continuous intimate relationships, or against a person with whom the perpetrator of a criminal offence has a joint (single) household;
- 16) the criminal offence related to violence or threats of violence, or an intentional criminal offence against health or morality and sexual inviolability of a person was committed at the presence of a minor;
- 17) the perpetrator of the criminal offence has knowingly given a false testimony.

(2) Taking into account the nature of the criminal offence, it may be decided not to consider any of the circumstances referred to in Paragraph one of this Section as aggravating.

(3) In determining punishment, such circumstances may not be considered as aggravating which are not set out in this Law.

(4) A circumstance which is provided for in this Law as a constituent element of a criminal offence shall not be considered an aggravating circumstance.

24. Madagascar:

- Art 30: peine de 2 à 10 ans d'emprisonnement et d'une amende de Ar 100.000.000 à Ar 200.000.000 ou l'une des 2 peines seulement (Pour le paragraphe 1 a 4)
- Art 31 : peine de 1 à 5 ans d'emprisonnement et d'une amende de Ar 50.000.0000 à Ar. 100.000.000 ou l'une de ces deux peines seulement,
- Art 34 : la confiscation est toujours prononcée.

25. Malaysia:

International Trade in Endangered Species Act 2008 [Act 686]

Import and export

10. Any person who imports or exports any scheduled species without a permit commits an offence and shall, on conviction, be liable —

(a) where such person is an individual, to a fine not exceeding one hundred thousand ringgit for each animal, plant, or readily recognizable part or derivative of the animal or plant, of the scheduled species but such fine shall not exceed in the aggregate of one million ringgit, or to imprisonment for a term not exceeding seven years or to both;

(b) where such person is a body corporate, to a fine not exceeding two hundred thousand ringgit for each animal, plant, or readily recognizable part or derivative of the animal or plant, of the scheduled species but such fine shall not exceed in the aggregate of two million ringgit. Re-export and introduction from the sea.

11. Any person who re-exports or introduces from the sea any scheduled species without a certificate commits an offence and shall, on conviction, be liable—

(a) where such person is an individual, to a fine not exceeding one hundred thousand ringgit for each animal, plant, or readily recognizable part or derivative of the animal or plant, of the scheduled species but such fine shall not exceed in the aggregate of one million ringgit, or to imprisonment for a term not exceeding seven years or to both;

(b) where such person is a body corporate, to a fine not exceeding two hundred thousand ringgit for each animal, plant or readily recognizable part or derivative of the animal or plant, of the scheduled species but such fine shall not exceed in the aggregate of two million ringgit.

26. Mexico:

Código Penal Federal
Capítulo Segundo
De la biodiversidad

Artículo 417.- Se impondrá pena de uno a nueve años de prisión y de trescientos a tres mil días multa, al que introduzca al territorio nacional, o trafique con recursos forestales, flora o fauna silvestre viva o muerta, sus productos o derivados, que porten, padezcan o hayan padecido, según corresponda alguna enfermedad contagiosa, que ocasione o pueda ocasionar su diseminación o propagación o el contagio a la flora, a la fauna, a los recursos forestales o a los ecosistemas.

Artículo 418.- Se impondrá pena de seis meses a nueve años de prisión y por equivalente de cien a tres mil días multa, siempre que dichas actividades no se realicen en zonas urbanas, al que ilícitamente:

- I. Desmante o destruya la vegetación natural;
- II. Corte, arranque, derribe o tale algún o algunos árboles, o
- III. Cambie el uso del suelo forestal.

La pena de prisión deberá aumentarse hasta en tres años más y la pena económica hasta en mil días multa, para el caso en el que las conductas referidas en las fracciones del primer párrafo del presente artículo afecten un área natural protegida.

Artículo 419.- A quien ilícitamente transporte, comercie, acopie, almacene o transforme madera en rollo, astillas, carbón vegetal, así como cualquier otro recurso forestal maderable, o tierra procedente de suelos forestales en cantidades superiores a cuatro metros cúbicos o, en su caso, a su equivalente en madera aserrada, se impondrá pena de uno a nueve años de prisión y de trescientos a tres mil días multa. La misma pena se aplicará aun cuando la cantidad sea inferior a cuatro metros cúbicos, si se trata de conductas reiteradas que alcancen en su conjunto esta cantidad.

La pena privativa de la libertad a la que se hace referencia en el párrafo anterior se incrementará hasta en tres años más de prisión y la pena económica hasta en mil días multa, cuando los recursos forestales maderables provengan de un área natural protegida.

Artículo 419 Bis.- Se impondrá pena de seis meses a cinco años de prisión y el equivalente de doscientos a dos mil días multa a quien:

I. Críe o entrene a un perro con el propósito de hacerlo participar en cualquier exhibición, espectáculo o actividad que involucre una pelea entre dos o más perros para fines recreativos, de entretenimiento o de cualquier otra índole;

II. Posea, transporte, compre o venda perros con el fin de involucrarlos en cualquier exhibición, espectáculo o actividad que implique una pelea entre dos o más perros;

III. Organice, promueva, anuncie, patrocine o venda entradas para asistir a espectáculos que impliquen peleas de perros;

IV. Posea o administre una propiedad en la que se realicen peleas de perros con conocimiento de dicha actividad;

V. Ocasione que menores de edad asistan o presencien cualquier exhibición, espectáculo o actividad que involucre una pelea entre dos o más perros, o

VI. Realice con o sin fines de lucro cualquier acto con el objetivo de involucrar a perros en cualquier exhibición, espectáculo o actividad que implique una pelea entre dos o más perros.

La sanción a que se hace mención en el párrafo anterior, se incrementará en una mitad cuando se trate de servidores públicos.

Incurre en responsabilidad penal, asimismo, quien asista como espectador a cualquier exhibición, espectáculo o actividad que involucre una pelea entre dos o más perros, a sabiendas de esta circunstancia. En dichos casos se impondrá un tercio de la pena prevista en este artículo.

Artículo 420.- Se impondrá pena de uno a nueve años de prisión y por el equivalente de trescientos a tres mil días multa, a quien ilícitamente:

I. Capture, dañe o prive de la vida a algún ejemplar de tortuga o mamífero marino, o recolecte o almacene de cualquier forma sus productos o subproductos;

II. Capture, transforme, acopie, transporte o dañe ejemplares de especies acuáticas declaradas en veda;

II Bis. De manera dolosa capture, transforme, acopie, transporte, destruya o comercie con las especies acuáticas denominadas abulón, camarón, pepino de mar y langosta, dentro o fuera de los periodos de veda, sin contar con la autorización que corresponda, en cantidad que exceda 10 kilogramos de peso.

III. Realice actividades de caza, pesca o captura con un medio no permitido, de algún ejemplar de una especie de fauna silvestre, o ponga en riesgo la viabilidad biológica de una población o especie silvestres;

IV. Realice cualquier actividad con fines de tráfico, o capture, posea, transporte, acopie, introduzca al país o extraiga del mismo, algún ejemplar, sus productos o subproductos y demás recursos genéticos, de una especie de flora o fauna silvestres, terrestres o acuáticas en veda, considerada endémica, amenazada, en

peligro de extinción, sujeta a protección especial, o regulada por algún tratado internacional del que México sea parte, o

V. Dañe algún ejemplar de las especies de flora o fauna silvestres, terrestres o acuáticas señaladas en la fracción anterior.

Se aplicará una pena adicional hasta de tres años más de prisión y hasta mil días multa adicionales, cuando las conductas descritas en el presente artículo se realicen en o afecten un área natural protegida, o cuando se realicen con fines comerciales.

En los casos previstos en la fracción IV del presente artículo y la fracción X del artículo 2o. de la Ley Federal contra la Delincuencia Organizada, se impondrá la pena de cinco a quince años de prisión y el equivalente de tres mil a seis mil días multa cuando se trate de algún ejemplar, partes, derivados, productos o subproductos de la especie *totoaba macdonaldi*.

Artículo 420 Bis.- Se impondrá pena de dos a diez años de prisión y por el equivalente de trescientos a tres mil días multa, a quien ilícitamente:

I. Dañe, deseque o rellene humedales, manglares, lagunas, esteros o pantanos;

II. Dañe arrecifes;

III. Introduzca o libere en el medio natural, algún ejemplar de flora o fauna exótica que perjudique a un ecosistema, o que dificulte, altere o afecte las especies nativas o migratorias en los ciclos naturales de su reproducción o migración, o

IV. Provoque un incendio en un bosque, selva, vegetación natural o terrenos forestales, que dañe elementos naturales, flora, fauna, los ecosistemas o al ambiente.

Se aplicará una pena adicional hasta de dos años de prisión y hasta mil días multa adicionales, cuando las conductas descritas en el presente artículo se realicen en o afecten un área natural protegida, o el autor o partícipe del delito previsto en la fracción IV, realice la conducta para obtener un lucro o beneficio económico.

Capítulo Cuarto

Delitos contra la gestión Ambiental

Artículo 420 Quáter.- Se impondrá pena de uno a cuatro años de prisión y de trescientos a tres mil días multa, a quien:

I. Transporte o consienta, autorice u ordene que se transporte, cualquier residuo considerado como peligroso por sus características corrosivas, reactivas, explosivas, tóxicas, inflamables, biológico infecciosas o radioactivas, a un destino para el que no se tenga autorización para recibirlo, almacenarlo, desecharlo o abandonarlo;

II. Asiente datos falsos en los registros, bitácoras o cualquier otro documento utilizado con el propósito de simular el cumplimiento de las obligaciones derivadas de la normatividad ambiental federal;

III. Destruya, altere u oculte información, registros, reportes o cualquier otro documento que se requiera mantener o archivar de conformidad a la normatividad ambiental federal;

IV. Prestando sus servicios como auditor técnico, especialista o perito o especialista en materia de impacto ambiental, forestal, en vida silvestre, pesca u otra materia ambiental, faltare a la verdad provocando que se cause un daño a los recursos naturales, a la flora, a la fauna, a los ecosistemas, a la calidad del agua o al ambiente, o

V. No realice o cumpla las medidas técnicas, correctivas o de seguridad necesarias para evitar un daño o riesgo ambiental que la autoridad administrativa o judicial le ordene o imponga.

Los delitos previstos en el presente Capítulo se perseguirán por querrela de la Procuraduría Federal de Protección al Ambiente.

Disposiciones Comunes a Los Delitos Contra El Ambiente

Artículo 421. Además de lo establecido en los anteriores capítulos del Título Vigésimo Quinto, se impondrán las siguientes penas y medidas de seguridad:

I.- La reparación y, en su caso, la compensación del daño al ambiente, de conformidad a lo dispuesto en la Ley Federal de Responsabilidad Ambiental;

II.- La suspensión, modificación o demolición de las construcciones, obras o actividades, según corresponda, que hubieren dado lugar al delito ambiental respectivo;

III. La reincorporación de los elementos naturales, ejemplares o especies de flora y fauna silvestre, a los hábitat de que fueron sustraídos, siempre y cuando su reincorporación no constituya un peligro al equilibrio ecológico o dificulte la reproducción o migración de especies de flora o fauna silvestre;

IV. El retorno de los materiales o residuos peligrosos o ejemplares de flora y fauna silvestre amenazados o en peligro de extinción, al país de origen, considerando lo dispuesto en los tratados y convenciones internacionales de que México sea parte, o

V. Inhabilitación, cuando el autor o participe del delito tenga la calidad de servidor público, hasta por un tiempo igual al que se le hubiera fijado como pena privativa de libertad, la cual deberá correr al momento en que el sentenciado haya cumplido con la prisión o ésta se hubiera tenido por cumplida.

Los trabajos a favor de la comunidad a que se refiere el artículo 24 de este ordenamiento, consistirán en actividades relacionadas con la protección al ambiente o la restauración de los recursos naturales.

Para los efectos a los que se refiere este artículo, el juez deberá solicitar a la dependencia federal competente o a las instituciones de educación superior o de investigación científica, la expedición del dictamen técnico correspondiente.

Las dependencias de la administración pública competentes, deberán proporcionar al ministerio público o al juez, los dictámenes técnicos o periciales que se requieran con motivo de las denuncias presentadas por la comisión de los delitos a que se refiere el presente Título.

Los parámetros mínimos y máximos de las penas de prisión a que se refiere el presente Título se disminuirán a la mitad, cuando el imputado o procesado repare o compense voluntariamente el daño al ambiente antes de que tal obligación le haya sido impuesta por resolución administrativa o sentencia judicial. Dicha disminución procederá también, cuando se realice o garantice la reparación o compensación del daño en términos de lo dispuesto por el Título Segundo de la Ley Federal de Responsabilidad Ambiental.

Se considerarán víctimas con derecho a solicitar la reparación o compensación del daño ambiental y coadyuvar en el proceso penal, a las personas legitimadas en términos de lo dispuesto por la Ley Federal de Responsabilidad Ambiental.

Artículo 422.- En el caso de los delitos contra el ambiente, cuando el autor o partícipe tenga la calidad de garante respecto de los bienes tutelados, la pena de prisión se aumentará hasta en tres años.

Artículo 423.- No se aplicará pena alguna respecto a lo dispuesto por el párrafo primero del artículo 418, así como para la transportación de leña o madera muerta a que se refiere el artículo 419, cuando el sujeto activo sea campesino y realice la actividad con fines de uso o consumo doméstico dentro de su comunidad.

Ley Federal Contra la Delincuencia Organizada

Artículo 2o.- Cuando tres o más personas se organicen de hecho para realizar, en forma permanente o reiterada, conductas que por sí o unidas a otras, tienen como fin o resultado cometer alguno o algunos de los delitos siguientes, serán sancionadas por ese solo hecho, como miembros de la delincuencia organizada:

(...)

X. Contra el Ambiente previsto en la fracción IV del artículo 420 del Código Penal Federal.

27. Myanmar:

The Conservation of Biodiversity and Protected Areas Law, 2018

28. Netherlands:

wetten.nl - Regeling - Wet op de economische delicten - BWBR0002063 (overheid.nl)

wetten.nl - Regeling - Wet op de economische delicten - BWBR0002063 (overheid.nl)

29. New Zealand:

[Trade in Endangered Species Act 1989](#): refer sections 44-50I

[Wildlife Act 1953](#): refer sections 53 to 70Z

30. Nicaragua:

a) Sí, Ley No. 641, Código Penal de la República de Nicaragua

b) Sí, Capítulo III, Delitos Contra los Recursos Naturales Artos del 373 al 390

31. Niger:

Loi 2019-047 du 24 octobre 2019 portant répression des infractions relatives au commerce international des espèces de faune et de flore sauvages menacées d'extinction au Niger; Loi N° 98-07 du 29 avril 1998 fixant le Régime de la Chasse et de la Protection de la Faune au Niger

32. Norway:

Please find attached an unofficial translation of the Nature Diversity Act Chapter IX Section 75. Norway provided as attachment the Nature Diversity Act - Act of 19 June 2009 No.100 Relating to the Management of Biological, Geological and

Landscape Diversity. The legislation will be uploaded in [SHERLOC](#) in due course.

33. Panama:

Código Penal de la República de Panamá.

Título XIII Delitos Contra El Ambiente y el Ordenamiento Territorial.

Capítulo II. Delitos Contra La Vida Silvestre.

Artículo 410. Quien sin autorización o permiso de la autoridad competente trafique, comercialice, negocie, exporte, importe, reimporte o reexporte espécimen de la vida silvestre, especie endémica, vulnerable, amenazada o en extinción o cualquier recurso genético será sancionado con prisión de tres a cinco años. Será disminuida la pena en una tercera parte a la mitad si el espécimen de la vida silvestre o la especie endémica, vulnerable, amenazada o en peligro de extinción sea restituido a su hábitat sin daño alguno, antes de que concluya la fase de iniciación e investigación.

Artículo 411. Quien, sin autorización de la autoridad competente o infringiendo las normas sobre la materia, introduzca, utilice o propague especies de la vida silvestre o agente biológico o bioquímico, capaz de alterar significativamente la población animal o vegetal o de poner en peligro su existencia, será sancionado con prisión de cuatro a ocho años.

34. Peru:

Con relación al párrafo anterior, adjuntamos las disposiciones legislativas pertinentes de conformidad con el Decreto Legislativo 635 (Código Penal):

Artículo 308.- Tráfico ilegal de especies de flora y fauna silvestre	
Conducta sancionada	Pena
El que adquiere, vende, transporta, almacena, importa, exporta o reexporta productos o especímenes de especies de flora silvestre no maderable y/o fauna silvestre, sin un permiso o certificado válido, cuyo origen no autorizado conoce o puede presumir.	será reprimido con pena privativa de libertad no menor de tres años ni mayor de cinco años y con ciento ochenta a cuatrocientos días-multa.

Artículo 308-A.- Tráfico ilegal de especies acuáticas de la flora y fauna silvestre	
Conducta sancionada	Pena
El que adquiere, vende, transporta, almacena, importa, exporta o reexporta productos o especímenes de especies acuáticas de la flora y/o fauna silvestre bajo cualquiera de los siguientes supuestos:	Será reprimido con pena privativa de libertad no menor de tres años ni mayor de cinco años y con ciento ochenta a cuatrocientos días-multa
<ol style="list-style-type: none"> 1. Sin un permiso, licencia o certificado válido. 2. En épocas, cantidades, talla o zonas que son prohibidas o vedadas 	

Artículo 308-B.- Extracción y procesamiento ilegal de especies acuáticas	
Conducta sancionada	Pena
<p>El que extrae especies de flora o fauna acuática en épocas, cantidades, talla y zonas que son prohibidas o vedadas, o captura especies o las procesa sin contar con el respectivo permiso o licencia o exceda el límite de captura por embarcación, asignado por la autoridad administrativa competente y la ley de la materia, o lo hace excediendo el mismo o utiliza embarcaciones construidas sin autorización o sin licencia, métodos prohibidos o declarados ilícitos.</p> <p>Se exceptúan de la aplicación de este artículo las capturas incidentales de especies y/o tamaños distintos a las autorizadas, en cualquier tipo de pesca y las que se encuentran en procesos de formalización, siempre que estas se realicen durante actividades y zonas permitidas, cumpliendo con las normas regulatorias pesqueras correspondientes.</p>	<p>Será reprimido con pena privativa de libertad no menor de tres años ni mayor de cinco años y con ciento ochenta a cuatrocientos días-multa.</p>

Artículo 308-C.- Depredación de flora y fauna silvestre	
Conducta sancionada	Pena
<p>El que caza, captura, colecta, extrae o posee productos, raíces o especímenes de especies de flora y/o fauna silvestre, sin contar con la concesión, permiso, licencia o autorización u otra modalidad de aprovechamiento o extracción, otorgada por la autoridad competente.</p>	<p>Será reprimido con pena privativa de libertad no menor de tres años ni mayor de cinco años y con cincuenta a cuatrocientos días-multa.</p>

Artículo 308-D.- Tráfico ilegal de recursos genéticos	
Conducta sancionada	Pena
<p>El que adquiere, vende, transporta, almacena, importa, exporta o reexporta, de forma no autorizada, recursos genéticos de especies de flora y/o fauna silvestre, Incluyendo las acuáticas.</p>	<p>será reprimido con pena privativa de libertad no menor de tres años ni mayor de cinco años y con ciento ochenta a cuatrocientos días-multa. La misma pena será aplicable para el que a sabiendas financia, de modo que sin su cooperación no se hubiera podido cometer las actividades señaladas en el primer párrafo.</p>

De los casos previstos en los artículos 308, 308-A, 308-B, 308-C y 308-D:

Artículo 309.- Formas Agravadas	
Conducta sancionada	Pena
<p>Cuando las especies, especímenes, productos o recursos genéticos, materia del ilícito penal, provienen de áreas naturales protegidas o de zonas vedadas para la extracción de flora y/o fauna silvestre, o</p>	<p>Pena privativa de libertad no menor de 4 años ni mayor de 7 años.</p>

territorios en posesión o propiedad de comunidades nativas o campesinas; o, de las reservas territoriales o reservas indígenas para pueblos indígenas en situación de aislamiento o de contacto inicial, según corresponda.	
Mediante el uso de armas, explosivos o sustancias tóxicas.	Pena privativa de libertad no menor de 4 años ni mayor de 7 años.
Si el agente se aprovecha de su condición de funcionario o servidor público.	Pena privativa de libertad no menor de 4 años ni mayor de 7 años.
Cuando se trate de especies de flora y fauna silvestre o recursos genéticos protegidos por la legislación nacional.	Pena privativa de libertad no menor de 4 años ni mayor de 7 años.
Cuando el agente actúa como integrante de una organización criminal.	Pena privativa de libertad será no menor de 11 ni mayor de 20 años.

35. Poland:

Article 128 Who:

1) without the document required under the provisions referred to in Art. 61 sec. 1, or contrary to its conditions, transports across the border of the European Union a specimen of a species subject to protection under the provisions referred to in Art. 61 sec. 1,

2) violates the provisions of European Union law on the protection of wild animal and plant species in the scope of regulating their trade by:

(a) not submitting an import declaration

b) using specimens of specific species for purposes other than those indicated in the import permit,

c) unauthorized use of exemptions from orders when trading in artificially propagated plants,

d) offering to sell or purchase, purchase or obtain, use or publicly exhibit for commercial purposes, sell, keep or transport specimens of specific species of plants or animals for sale,

e) using a permit or certificate for a specimen other than the one for which it was issued,

f) submitting an application for an import, export or re-export permit or a certificate without being informed about the earlier rejection of the application,

3) contrary to the prohibitions referred to in Art. 73 sec. 1, owns and keeps or imports from abroad live animals of species dangerous to human life and health, or sells, exchanges, rents, grants donations from them or lends them to entities unauthorized to possess them

– shall be punishable by imprisonment from 3 months to 5 years.

36. Portugal:

Illicit trafficking in wildlife is punishable by 5 years if it is considered smuggling - that implies crossing the EU border, at least in the attempted form, which means that if it is sold within the European space it is international trade in the sense

that it involves two or more sovereign States but It's not contraband, so it is only punishable up to 2 years of imprisonment.

Environmental offences may be of a misdemeanour nature, punishable by the application of fines, or of a criminal nature.

At the level of misdemeanour legislation, we find all the other conducts that are harmful to the environment that the legislator considered deserving of sanctions, but which do not have a degree of harmfulness that justifies their criminalisation.

At the criminal level, environmental crimes are contained in Title IV of the Criminal Code regarding crimes against life in society, in Chapter III, which refers to crimes of common danger (272 to 285).

The offence of criminal association is punished autonomously (Article 299 of the Criminal Code).

For administrative offences (environmental administrative offences), fines are provided for.

For environmental crimes, penalties are applied.

In the case of administrative offences (environmental administrative breaches), as already mentioned, fines are provided for. The amounts are set at between EUR 200 and EUR 5 000 000, depending on the gravity - light, serious or very serious - and vary depending on whether they are committed by a natural or legal person.

If the conduct constitutes the commission of one of the environmental crimes set out in the Criminal Code, it may be punished with a fine or a prison sentence. In the latter case, the penalty may go up to 15 years' imprisonment when the facts include the commission of a crime of fire, explosion and other especially dangerous conducts and are committed by means of the release of nuclear energy.

Criminal association is an autonomous crime, different and separate from the crimes that can be deliberated, prepared or executed. This crime is consummated with the founding of the association for the purpose of committing crimes, or - in relation to non-founding members - with subsequent membership.

The element that characterises an association is the purpose for which it is established, that is, the commission of crimes.

For the qualification of a criminal association, it is sufficient to have a minimum of two associates, but it presupposes a leadership and a discipline or rule of operation of the organisation.

37. Qatar:

كلا ، فإن العقوبات التي نص عليها القانون رقم (5) لسنة 2006 بتنظيم الاتجار في أنواع الكائنات الفطرية

: المهدة بالانقراض ومنتجاته جاءت كالتالي

المادة 13 :

يعاقب بالحبس مدة لا تزيد عن سنة وبالغرامة التي لا تزيد عن عشرين ألف ريال ، أو بإحدى هاتين العقوبتين ، كل من قام باستيراد نوع أو عينة من الأنواع المدرجة في الملاحق أو قام بتصديره ، أو إعادة تصديره ، أو طرحه للبيع ، أو إدخاله من البحر أو شرع في القيام بهذه الأعمال بالمخالفة لأحكام هذا القانون .

المادة 14 :

يعاقب بالحبس مدة لا تزيد على ستة أشهر وبالغرامة التي لا تقل عن ألف ريال ولا تزيد عن عشرة آلاف ريال، أو بإحدى هاتين العقوبتين، كل من حاز على خلاف أحكام هذا القانون أي نوع أو عينة من الأنواع

المدرجة في الملاحق أو كان حارساً عليها، أو قدمها للعرض على الجمهور دون أن يكون مسجلاً لدى الإدارة التنفيذية.
المادة 16 :
"تضاعف العقوبة المنصوص عليها في المواد السابقة في حالة العود، ويعتبر المتهم عانداً إذا ارتكب جريمة مماثلة خلال ثلاث سنوات من تاريخ تمام تنفيذ العقوبة المحكوم بها أو انقضاءها بمضي المدة، وتعتبر جميع الجرائم المنصوص عليها في هذا القانون جرائم مماثلة وفي جميع الأحوال يحكم بإعادة الأنواع أو العينات موضوع المخالفة إلى موطنها الأصلي على نفقة المخالف أو مصادرتها، كما يحكم بمصادرة الاقفاص أو الحاويات التي استخدمت في ارتكاب الجريمة،" وتتولى الإدارة التنفيذية التصرف فيها بعد استطلاع رأي الإدارة العلمية في ذلك

38. Republic of Moldova:

https://www.legis.md/cautare/getResults?doc_id=135678&lang=ro , art. 248.

Additional:

(1) Bringing on or removal from the territory of the Republic Of Moldova of goods, through places established for customs control, by concealment of customs control, by hiding in places specially prepared or adapted for this purpose, or by fraudulent use of documents or means of Customs identification, or by non-declaration or inauthentic declaration in customs documents or other border crossing documents, if the value of the goods is more than 8000 conventional units,

It is punishable by a fine in the amount of 2500 to 3000 conventional units or imprisonment of up to 3 years, the legal entity is punishable by a fine in the amount of 5000 to 6000 conventional units with deprivation of the right to exercise a certain activity.

(2) Bringing on or removal from the territory of the Republic Of Moldova of goods through places other than those established for customs control, if the value of the goods is more than 4000 conventional units,

It is punishable by a fine in the amount of 3500 to 4500 conventional units or imprisonment of up to 3 years, the legal entity is punishable by a fine in the amount of 5500 to 6500 conventional units with deprivation of the right to exercise a certain activity.

(3) Disposal or release for free circulation, without payment of import duties, of goods under customs supervision, if the value of the goods exceeds 8000 conventional units,

It is punishable by a fine in the amount of 4000 to 5000 conventional units or imprisonment of up to 3 years, the legal entity is punishable by a fine in the amount of 6000 to 7000 conventional units with deprivation of the right to exercise a certain activity.

(4) Removal from the territory of the Republic Of Moldova of goods by inauthentic declaration of the origin of the goods as being wholly obtained in the Republic Of Moldova, if their value is greater than 8000 conventional units,

It is punishable by a fine in the amount of 4500 to 5500 conventional units or imprisonment of up to 3 years, the legal entity is punishable by a fine in the amount of 6500 to 7500 conventional units with deprivation of the right to exercise a certain activity.

(5) Bringing on or removal from the territory of the Republic Of Moldova of cultural values, both through places established for customs control, and through places other than those established for customs control, by hiding in places specially prepared or adapted for this purpose, or by fraudulent use of documents or means of Customs identification, or by nondeclaration or inauthentic

declaration in customs documents, as well as non-return on the territory of the Republic Of Moldova of cultural values

They are punishable by a fine in the amount of 4500 to 5500 conventional units or imprisonment of up to 5 years, the legal entity is punishable by a fine in the amount of 6000 to 8000 conventional units with deprivation of the right to exercise a certain activity.

(6) Bringing on or removal from the territory of the Republic Of Moldova, both through places established for customs control and through places other than those established for customs control, by hiding in places specially prepared or adapted for this purpose, or with the fraudulent use of documents or means of Customs identification, or by non-declaration or inauthentic declaration in customs documents, of drugs, precursors, ethnobotanics or their analogues, toxic and harmful substances, weapons and ammunition prohibited in the civil circuit or subject, essential components of firearms, strategic goods, military devices, explosive, nuclear or radioactive materials

It is punishable by a fine in the amount of 5500 to 6500 conventional units or by imprisonment from 3 to 8 years, the legal entity is punishable by a fine in the amount of 7000 to 11000 conventional units with deprivation of the right to exercise a certain activity.

(7) The actions referred to in par. (1)–(6): a) committed by two or more persons; b) committed with the use of the service situation; c) if the value of the goods exceeds 16000 conventional units,

They are punishable by imprisonment from 4 to 10 years, the legal entity is punishable by a fine in the amount of 8000 to 12000 conventional units with deprivation of the right to exercise a certain activity.

39. Romania:

Only the offence covered by Article 98 (5) (d) (sentence II) of GEO No. 195/2005 on environmental protection has a (maximum) limit of 4 years or more. However, this regulation is rather vague and only partly covers the scope of the CITES Convention (it is rather concerned with the protection of the indigenous environment from alien species that are illegally introduced into the country).

Law no. 407 of November 9, 2006 regarding hunting and the protection of hunting stock

Art. 44:

It constitutes a crime and is punishable by imprisonment from 3 months to 3 years or a fine: a) removing hunting trophies with national heritage value from the country, without complying with the regulations issued by the administrator; b) hunting game species included in annex no. 2 under conditions other than those of the exemptions; c) hunting flightless chicks of birds of hunting interest; d) transporting game acquired under the conditions of art. 42 or found shot or cut in the field, commercialization, naturalization and any operations regarding game or easily identifiable parts or products derived from it, acquired without complying with the conditions of the law (...)

Emergency Ordinance no. 195 of December 22, 2005 regarding environmental protection

Art. 96:

Violations of the following provisions constitute contraventions and are sanctioned with a fine from 3,000 lei (RON) to 6,000 lei (RON) for individuals, and from 25,000 lei (RON) to 50,000 lei (RON) for legal persons:

(...) 28. the obligation of natural and legal persons to individually mark the specimens belonging to the species of wild flora and fauna for which there are such provisions in the regulations of the European Commission on the conservation of species of wild fauna and flora through the regulation of trading in them, or in the specific national legislation, according to the methods approved or recommended by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and in particular the labelling of caviar for both domestic and international trade.

(2) Violations of the following provisions constitute contraventions and are sanctioned with a fine from 5,000 lei (RON) to 10,000 lei (RON) for individuals, and from 30,000 lei (RON) to 60,000 lei (RON) for legal persons:

(...)

24. the obligation of natural and legal persons to ensure optimal living conditions for wild animals kept in legal captivity, in various forms;

25. the obligation of natural and legal persons not to carry out actions that lead to the destruction of natural habitats, flora and fauna throughout the country;

26. the carrying out of harvesting, capturing and/or acquisition and commercialization activities on the domestic market of plants and animals from wild, terrestrial and aquatic flora and fauna, or parts or products thereof, in a live, fresh or semi-processed state, by individuals or legal persons who are not authorized by territorial public authorities for environmental protection. (...)

(3) Violations of the following provisions constitute contraventions and are sanctioned with a fine from 7,500 lei (RON) to 15,000 lei (RON) for individuals, and from 50,000 lei (RON) to 100,000 lei (RON) for legal persons:

(...)

12. the introduction into the country's territory, except the cases provided by the legislation in force, of cultures of microorganisms, plants and live animals from wild flora and fauna, without the consent issued by the central public authority for environmental protection with the consultation of the Romanian Academy and, as the case may be, of the central authority for health;

12¹. the export of specimens belonging to non-CITES species of wild flora and fauna or their movement, for commercialization purposes, into one of the European Union's countries, except in the cases provided by the legislation in force, without the consent for export, respectively without the certificate of origin issued by the central public authority for environmental protection. (...)

Art. 98:

(5) The following acts constitute crimes and are punishable by imprisonment from 2 to 7 years:

(...)

d) refusal of control upon the introduction and removal from the country of

dangerous substances and preparations or upon the introduction into the country, of cultures of microorganisms, plants and live animals from wild flora and fauna, without the consent issued by the central public authority for environmental protection. (...)

Emergency Ordinance no. 23 of March 5, 2008 regarding fishing and aquaculture

Art. 61:

The following acts constitute contraventions and are punishable by a fine from 1,500 lei to 3,500 lei:

the introduction into the natural fish habitats or the fish facilities, without the approval of the National Agency for Fisheries and Aquaculture, of species other than the existing ones. (...)

Art. 62:

The following acts constitute misdemeanors and are sanctioned with a fine from 1,800 lei to 4,000 lei and with the restrain and suspension of the permit, authorization or license, as the case may be, for a period of 90 days:

commercialization of fish and other aquatic animals from natural fish habitats below the legal minimum size;

b) refusal to allow access to authorized personnel for the control and inspection of ships/boats, motor vehicles, aquaculture units, processing and/or marketing units, as well as in the perimeter of water basins exploited by recreational/sports or commercial fishing;

c) the use of a ship/boat for fishing for commercial purposes, not registered with an external marking corresponding to the fishing license or registered with false data, if the act does not constitute, according to the criminal law, a crime. (...)

Art. 64:

The following acts constitute crimes and are punishable by a fine and the prohibition of the right to fish for a period between one and three years:

(...)

h) possession, transport or sale, without legal papers, of fish and other aquatic animals obtained from fishing or fish products. The documents of origin will accompany the goods, regardless of where they are, during transport, storage or marketing. Documents of origin mean, as the case may be, the fiscal invoice, the invoice, the goods accompanying notice, the customs documents, the foreign invoice or any other documents established by law. (...)

Art. 65:

The following acts constitute crimes and are punishable by a fine and the prohibition of the right to fish for a period between one and three years:

(...)

c) fishing, possession, transport, marketing of sturgeons caught on the territory of Romania from natural fish habitats, as well as the products and by-products obtained from them, without complying with the legal provisions in force, with the exception of those from aquaculture, for which proof of origin is provided by legal supporting documents and markings. (...)

Emergency Ordinance no. 57 of June 20, 2007 regarding the regime of natural protected areas, conservation of natural habitats, flora and fauna,

Art. 52:

1) Committing any of the following constitutes a crime and is punishable by imprisonment from 3 months to one year or a fine:

(...)

h¹) trade in specimens of the species provided for in annexes A and B to Regulation (EC) no. 338/97 of the Council of December 9, 1996 on the protection of wild species, fauna and flora by controlling trading in them, published in the Official Journal of the European Community no. L61 of March 3, 1997, with subsequent amendments and additions, or in parts or derivatives thereof, in violation of the legal provisions in the field, except in cases where the act affects a small amount of such specimens and has an insignificant impact on the state of preservation of species. (...)

3) The following acts constitute contraventions and are sanctioned with a fine from 7,500 lei to 15,000 lei for individuals and from 50,000 lei to 100,000 lei for legal persons:

(...)

Art. 53:

3) The following acts constitute contraventions and are sanctioned with a fine from 7,500 lei to 15,000 lei for individuals and from 50,000 lei to 100,000 lei for legal persons:

(...)

g) the sale, possession and/or transport for the purpose of selling any alive or dead parts or products derived from the species listed in annex no. 5 E without the special authorization issued by the central public authority for the protection of the environment and forests, according to the provisions of art. 33 para. (6);

h) the introduction of allochthonous wild species without carrying out an assessment of the impact of this introduction on indigenous species of flora and fauna, according to the provisions of art. 34;

(...)

l) the sale on the domestic, intra-community market and the export, for any purpose, of products derived from seals without complying with the provisions of Regulation (EC) no. 1.007/2009.

(...)

n) non-compliance with the provisions of art. 7 of Regulation (EU) no. 1,143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species.

Law no. 101 of June 15, 2011 (*republished*) for the prevention and sanctioning of certain acts regarding environmental degradation*).

(...)

Art 6.:

(1) Trading in specimens of protected species of wild fauna or flora or with their parts or derivatives, in violation of the legal provisions in the field, except in cases where the act affects a small amount of such specimens and has an insignificant impact on the state conservation of species, is punishable by imprisonment from 3 months to one year or a fine.

(2) If trading is carried out with species of fauna from those provided for in art. 33 para. (1) and (2) of the Government Emergency Ordinance no. 57/2007 regarding the regime of natural protected areas, conservation of natural habitats, flora and fauna, approved with amendments and additions by Law no. 49/2011, with subsequent amendments, sanctions will apply as provided for in art. 52 para.

(1) from the emergency ordinance.

Referring to Romania's Criminal Code, respectively Law 286/2009 :

art. 228 Theft - (1) Taking a movable asset from the possession or custody of another, without his consent, in order to wrongfully appropriate it, is punishable by imprisonment from 6 months to 3 years or a fine;

Art. 229 Qualified Theft

Theft committed in the following circumstances:

a) in a means of public transport;

b) during the night;

c) by a masked or disguised person;

d) by burglary, escalation or by unauthorized use of a real key or a false key;

e) by taking the alarm or surveillance system out of operation, is punished with imprisonment from one to 5 years.

Government Emergency Ordinance no. 23 of March 5, 2008 on fishing and aquaculture

Art. 65 (1) Constitute crimes and are punishable by imprisonment from 1 to 3 years and the prohibition of the right to fish for a period between 1 and 3 years:

a) electric fishing, possession of devices and devices that destroy living aquatic resources by electrocution, electrocution, fishing with explosive materials, fishing with toxic and narcotic substances of any kind, fishing with japca and any other unauthorized tools, as well as the use of firearms for the purpose of killing fish or other aquatic life;

b) fishing with nets and aves on the territory of the "Danube Delta" Biosphere Reserve, with the exception of the Black Sea, the Danube and its branches;

c) fishing or deliberate killing of marine mammals.

(2) The attempt is punishable

Government Emergency Ordinance no. 57 of June 20, 2007 regarding the regime of natural protected areas, conservation of natural habitats, flora and fauna – article no. 52 (the crime is punishable by imprisonment from 3 months to one year or a fine)

The crimes presented above are most often committed in conjunction with other crimes, thus the final punishment applied by the courts is higher.

40. Russian Federation:

b) Да

Наказание зависит от конкретной нормы уголовного закона, в отдельных статьях минимальное наказание отвечает приведенным условиям (например, в статье 258.1 УК РФ).

УК РФ Статья 258. Незаконная охота

1. Незаконная охота, если это деяние совершено:

a) с причинением крупного ущерба;

б) с применением механического транспортного средства или воздушного судна, взрывчатых веществ, газов или иных способов массового уничтожения птиц и зверей;

в) в отношении птиц и зверей, охота на которых полностью запрещена;

г) на особо охраняемой природной территории либо в зоне экологического бедствия или в зоне чрезвычайной экологической ситуации, –

наказывается штрафом в размере до пятисот тысяч рублей или в размере заработной платы или иного дохода осужденного за период до двух лет, либо исправительными работами на срок до двух лет, либо лишением свободы на

срок до двух лет.

2. То же деяние, совершенное лицом с использованием своего служебного положения либо группой лиц по предварительному сговору или организованной группой либо причинившее особо крупный ущерб, –

наказывается штрафом в размере от пятисот тысяч до одного миллиона рублей или в размере заработной платы или иного дохода осужденного за период от трех до пяти лет либо лишением свободы на срок от трех до пяти

лет с лишением права занимать определенные должности или заниматься определенной деятельностью на срок до трех лет или без такового.

Примечание. Крупным ущербом в настоящей статье признается ущерб, исчисленный по утвержденным Правительством Российской Федерации таксам и методике, превышающий сорок тысяч рублей, особо крупным - сто двадцать тысяч рублей.

УК РФ Статья 258.1. Незаконные добыча и оборот особо ценных диких животных и водных биологических ресурсов, принадлежащих к видам, занесенным в Красную книгу Российской Федерации и (или) охраняемым международными договорами Российской Федерации

1. Незаконные добыча, содержание, приобретение, хранение, перевозка, пересылка и продажа особо ценных диких животных и водных биологических ресурсов, принадлежащих к видам, занесенным в Красную книгу Российской Федерации и (или) охраняемым международными договорами Российской Федерации, их частей и дериватов (производных) –

наказываются обязательными работами на срок до четырехсот восьмидесяти часов, либо исправительными работами на срок до двух лет, либо принудительными работами на срок до четырех лет со штрафом в размере до одного миллиона рублей или в размере заработной платы или иного дохода осужденного за период до двух лет или без такового и с ограничением свободы на срок до одного года или без такового, либо лишением свободы на срок до четырех лет со штрафом в размере до одного миллиона рублей или в размере

заработной платы или иного дохода осужденного за период до двух лет или без такового и с ограничением свободы на срок до одного года или без такового.

1.1 Незаконные приобретение или продажа особо ценных диких животных и водных биологических ресурсов, принадлежащих к видам, занесенным в Красную книгу Российской Федерации и (или) охраняемым международными договорами Российской Федерации, их частей и дериватов (производных) с использованием средств массовой информации либо электронных или информационно-телекоммуникационных сетей, в том числе сети "Интернет", –

наказываются принудительными работами на срок до пяти лет со штрафом в размере от пятисот тысяч до одного миллиона пятисот тысяч рублей или в размере заработной платы или иного дохода осужденного за период от одного года до трех лет или без такового и с ограничением свободы на срок до двух лет или без такового либо лишением свободы на срок до пяти лет со штрафом в размере от пятисот тысяч до одного миллиона пятисот тысяч рублей или в размере заработной платы или иного дохода осужденного за период от одного года до трех лет или без такового и с ограничением свободы на срок до двух лет или без такового.

2. Деяния, предусмотренные частью первой настоящей статьи, совершенные:

а) лицом с использованием своего служебного положения;

б) с публичной демонстрацией, в том числе в средствах массовой информации или информационно-телекоммуникационных сетях (включая сеть "Интернет"), –

наказываются лишением свободы на срок до шести лет со штрафом в размере до двух миллионов рублей или в размере заработной платы или иного дохода осужденного за период до пяти лет или без такового и с лишением права занимать определенные должности или заниматься определенной деятельностью на срок до трех лет или без такового.

2.1 Деяния, предусмотренные частью 1.1 настоящей статьи, совершенные лицом с использованием своего служебного положения, –

наказываются лишением свободы на срок от трех до семи лет со штрафом в размере от одного миллиона до трех миллионов рублей или в размере заработной платы или иного дохода осужденного за период от трех до пяти лет или без такового и с лишением права занимать определенные должности или заниматься определенной деятельностью на срок до пяти лет или без такового.

3. Деяния, предусмотренные частями первой или второй настоящей статьи, совершенные группой лиц по предварительному сговору или организованной группой, –

наказываются лишением свободы на срок от пяти до восьми лет со штрафом в размере до двух миллионов рублей или в размере заработной платы или иного дохода осужденного за период до пяти лет или без такового, с ограничением свободы на срок до двух лет или без такового и с лишением права занимать определенные должности или заниматься определенной деятельностью на срок до пяти лет или без такового.

3.1 Деяния, предусмотренные частями 1.1 или 2.1 настоящей статьи, совершенные группой лиц по предварительному сговору или организованной группой, –

наказываются лишением свободы на срок от шести до девяти лет со штрафом в размере от одного миллиона пятисот тысяч до трех миллионов рублей или в размере заработной платы или иного дохода осужденного за период от трех до пяти лет или без такового, с ограничением свободы на срок до двух лет или без такового и с лишением права занимать определенные должности или заниматься определенной деятельностью на срок до семи лет или без такового.

УК РФ Статья 260. Незаконная рубка лесных насаждений

1. Незаконная рубка, а равно повреждение до степени прекращения роста лесных насаждений или не отнесенных к лесным насаждениям деревьев,

кустарников, лиан, если эти деяния совершены в значительном размере, –

наказываются штрафом в размере до пятисот тысяч рублей или в размере заработной платы или иного дохода осужденного за период до трех лет, либо обязательными работами на срок до четырехсот восьмидесяти часов, либо исправительными работами на срок до двух лет, либо принудительными работами на срок до двух лет со штрафом в размере от ста тысяч до двухсот тысяч рублей или в размере заработной платы или иного дохода осужденного за период от одного года до восемнадцати месяцев или без такового, либо лишением свободы на срок до двух лет со штрафом в размере от ста тысяч до двухсот тысяч рублей или в размере заработной платы или иного дохода осужденного за период от одного года до восемнадцати месяцев или без такового.

2. Незаконная рубка, а равно повреждение до степени прекращения роста лесных насаждений или не отнесенных к лесным насаждениям деревьев, кустарников, лиан, если эти деяния совершены:

- а) группой лиц;
- в) лицом с использованием своего служебного положения;
- г) в крупном размере, –

наказываются штрафом в размере от пятисот тысяч до одного миллиона пятисот тысяч рублей или в размере заработной платы или иного дохода осужденного за период от трех до четырех лет, либо принудительными работами на срок до четырех лет со штрафом в размере от ста пятидесяти тысяч до трехсот тысяч рублей или в размере заработной платы или иного дохода осужденного за период от восемнадцати месяцев до двух лет или без такового и с лишением права занимать определенные должности или заниматься определенной деятельностью на срок до трех лет или без такового, либо лишением свободы на срок до четырех лет со штрафом в размере от ста пятидесяти тысяч до трехсот тысяч рублей или в размере заработной платы или иного дохода осужденного за период от

такого и с лишением права занимать определенные должности или заниматься определенной деятельностью на срок до трех лет или без такового.

3. Деяния, предусмотренные частями первой или второй настоящей статьи, совершенные в особо крупном размере, группой лиц по предварительному сговору или организованной группой, –

наказываются штрафом в размере от одного миллиона до трех миллионов рублей или в размере заработной платы или иного дохода осужденного за период от четырех до пяти лет, либо принудительными работами на срок до пяти лет со штрафом в размере от трехсот тысяч до пятисот тысяч рублей или в размере заработной платы или иного дохода осужденного за период от двух до трех лет или без такового и с лишением права занимать определенные должности или заниматься определенной деятельностью на срок до трех лет или без такового, либо лишением свободы на срок до семи лет со штрафом в размере от трехсот тысяч до пятисот тысяч рублей или в размере заработной платы или иного дохода осужденного за период от двух до трех лет или без такового и с лишением права занимать определенные должности или заниматься определенной деятельностью на срок до трех лет или без такового.

Примечание. Значительным размером в настоящей статье признается ущерб, причиненный лесным насаждениям или не отнесенным к лесным насаждениям деревьям, кустарникам и лианам, исчисленный по утвержденным Правительством Российской Федерации таксам и методике, превышающий пять тысяч рублей, крупным размером – пятьдесят тысяч рублей, особо крупным размером – сто пятьдесят тысяч рублей

41. Saudi Arabia:

صت المادة الأربعون من نظام البيئة الصادر بالمرسوم الملكي رقم (م/١٦٥) و تاريخ ١٩/١١/١٤٤١هـ، دون إخلال بأي عقوبة أشد ينص عليها نظام آخر، يعاقب بالسجن مدة لا تزيد على عشر سنوات و بغرامة لا تزيد على (٣٠,٠٠٠,٠٠٠) ثلاثين مليون ريال، أو بإحدى هاتين العقوبتين، و منها "كل من يرتكب أياً من الأفعال الواردة في المادة (الخامسة و الثلاثون)".

و قد نصت الفقرة (٤) من المادة (الخامسة و الثلاثون) يعد من المخالفات لاحكام النظام القيام بأي من الأفعال الآتية : "الاتجار بالكائنات الفطرية المهدة بالانقراض و مشتقاتها و منتجاتها ، أو قتلها ، أو صيدها".

42. Senegal:

b) Non

En effet l'article L32 du code de la chasse dispose « Quiconque sans autorisation, importe des animaux vivants intégralement ou partiellement protégés au Sénégal leurs dépouilles ou trophées, quiconque détient ces animaux vivants sans autorisation, quiconque qui détient ou fait circuler ces dépouilles ou trophées sans certificat d'origine ou justification de propriété dument établi, quiconque commerciales ou exporte de la viande de chasse d'origine sénégalaise sans autorisation, est puni d'une amende de 120.000 à 1.200.000 et d'un emprisonnement de un mois à un an ou de l'une de ces deux peines seulement. »

43. Serbia:

Whoever destroys or damages a specially protected natural asset, will be punished with imprisonment from six months to five years from Art. 265 paragraph 1 of Criminal Code of the Republic of Serbia.

Illegal Trade

Article 235

(1) Whoever, without an authorization for trading, procures goods or other objects of a substantial value for the purpose of sale, or who without authorisation and to a substantial degree engages in trade or in mediation in trade, or engages in representation of organisations in domestic or foreign movement of goods and services, shall be fined or punished with imprisonment of up to two years.

(2) Whoever engages in the sale of goods the production of which he has illegally organised, shall be punished with imprisonment of three months to three years.

(3) The punishment specified in paragraph 2 of this Article shall also be imposed on whoever unlawfully sells, buys or barter goods or objects the movement of which is prohibited or restricted.

(4) If the perpetrator of the offences specified in paragraphs 1 through 3 of this Article has organised a network of dealers or middlemen, or has acquired material gain exceeding four hundred and fifty thousand dinars, he/she shall be punished with imprisonment of six months to five years.

(5) The goods and objects in unlawful trade shall be seized.

Destroying, Damaging, Taking abroad and bringing in Serbia a Protected Natural Asset

Article 265

(1) Whoever destroys or damages a protected natural asset, shall be punished by imprisonment of six months to five years.

(2) If the offence specified in paragraph 1 of this Article is committed from negligence, the offender shall be punished by fine or imprisonment up to six months.

(3) Whoever contrary to regulations exports or takes abroad a protected or particularly protected plant or animal, or import or bring in to Serbia foreign plant or animal protected by the international treaty or documents, shall be punished by imprisonment of three months to three years and fine.

(4) The attempt of the offence specified in paragraph 3 of this Article shall be punished.

(5) Particularly protected or protected plant or animal specified in paragraph 3 of this Article shall be seized.

44. Slovakia:

a) Yes, in case that the social value of protected species (specimen) exceeds the sum of 2660 Euro (Ministry of Interior)

b) Relevant legislation (Ministry of Justice): The Criminal Code of the Slovak Republic regulates illicit trafficking in wildlife as a criminal offence in its Section 305:

Violation of Flora and Fauna Protection

(1) Whoever, even out of negligence, contrary to generally binding legal regulations on nature and landscape protection or generally binding legal regulations on species protection to a larger extent

a) damages, destroys, pulls, digs up or collects a protected plant or damages, or destroys its habitat,

b) kills, injures, catches or moves a protected animal or damages, or destroys its habitat and dwelling,

c) damages or destroys a natural biotope, or

d) endangers the protected animal species or plant species through trading with them,

shall be punished by a prison sentence of up to two years.

(2) Whoever, contrary to generally binding legal regulations on nature and landscape protection, or generally binding legal regulations illegally drives a motor vehicle, motor tricycle, motor quads, motorcycle or a scooter on forest or agricultural land within the forestry management area shall be punished by a prison sentence of up to one year.

(3) Whoever, contrary to generally binding legal regulations on nature and landscape protection and generally binding legal regulations on species protection by regulating trade with them to a larger extent

a) obtains or procures for themselves or another person a protected animal or protected plant or procures a species,

b) holds in their possession, cultivates, breeds, processes, imports or exports protected plants or protected animals, or species or trades them, or otherwise disposes them, or

c) intentionally removes, forges, alters or otherwise illegally uses unique identification of protected animals or species,

shall be punished by a prison sentence of six months to three years.

(4) A prison sentence of one to five years shall be imposed upon an offender if they committed an act referred to in Subsection 1, 2 or 3

a) in a more serious manner of conduct,

b) out of a special motive,

c) to a significant extent,

d) with the intention to obtain a significant benefit for themselves or another person, or

e) although they were previously convicted for such act in the last twenty-four months or they were charged with a similar act in the last twenty-four months.

(5) An offender shall be punished by a prison sentence of three to eight years if they committed an act referred to in Subsection 1, 2 or 3

a) as a member of a dangerous group,

b) to a large extent, or

c) with the intention of procuring a benefit of a large extent for themselves or another person.

In addition, violations of generally binding regulations on species protection by regulating trade with them at national level (Act No. 15/2005 Coll. on protection of wildlife animals and plants and on regulating trade with them) are punishable as administrative offences.

According to Section 22 of Act No. 15/2005 Coll. on protection of wildlife animals and plants and on regulating trade with them, State authorities (e. g. district office, inspectorate of environment) may impose, in case of legal persons,

- a) fine ranging from 80 euros to 16 600 euros or the forfeiture of the specimen for violations of administrative requirements and unlawful acts set forth by the law;
- b) fine ranging from 1500 euros to 33 000 euros or the forfeiture of the specimen for unlawful acts including illegal import and export of species to/from the territory of the European Union.

The forfeiture of the specimen can be imposed if the specimen is in the possession of the person who committed the illegal act and the specimen was

- a) used or intended to commit another criminal offense or
- b) obtained by another administrative offence, or was acquired for a copy obtained by another administrative offence.

According to Section 23 of Act No. 15/2005 Coll. on protection of wildlife animals and plants and on regulating trade with them, State authorities (e. g. district office, inspectorate of environment) may impose, in case of natural persons,

- a) reprimand or fine ranging from 16,59 euros to 4979,08 euros for violations of administrative requirements and unlawful acts set forth by the law;
- b) fine ranging from 66,38 euros to 9958,17 euros for unlawful acts including illegal import and export of species to/from the territory of the European Union.

45. South Africa:

National Environmental Management: Biodiversity Act 10 of 2004

Penalties : A person convicted of an offence in terms of section 101 is liable to a fine not exceeding R10 million, or an imprisonment for a period not exceeding ten years, or to both such a fine and such imprisonment.

Prevention Of Organised Crime Act 121 of 1998 (POCA)

In terms of Schedule, 1, item 25 the dealing in, being in possession of or conveying endangered, scarce, and protected game or plants or parts or remains thereof in contravention of a statute or provincial ordinance falls within the ambit of POCA.

Penalties: Any person convicted of an offence referred to in section 2(1) shall be liable to a fine not exceeding R1 000 million, or to imprisonment for a period up to imprisonment for life.

Offences Relating to Proceeds of Unlawful Activities (Money laundering, assisting another to benefit from proceeds of unlawful activities, Acquisition, possession or use of proceeds of unlawful activities) in terms of POCA

Penalties : Any person convicted of an offence contemplated in section 4, 5 or 6 shall be liable to a fine not exceeding R100 million, or to imprisonment for a period not exceeding 30 years.

Offences Relating to Criminal Gang Activities (POCA)

Penalties (1) Any person convicted of an offence contemplated in - (a) section 9 (1) or (2) (a) shall be liable to a fine, or to imprisonment for a period not exceeding six years; (b) section 9 (2) (b) or (c), shall be liable to a fine, or to imprisonment for a period not exceeding three years; (c) section 9 (1) or (2) (a) and if the offence was committed under circumstances referred to in subsection (2) shall be liable to a fine, or to imprisonment for a period not exceeding eight years; (d) section 9 (2) (b) or (c), and if the offence was committed under circumstances referred to in subsection (2) shall be liable to a fine or to imprisonment for a period not exceeding five years.

46. Spain:

Actualmente, la pena máxima es de 2 años de prisión, si bien si el delito de tráfico de especies se encuentra asociado a otros tipos delictivos (crimen organizado, contrabando, falsedades documentales, etc.), la pena se incrementa notablemente.

Actualmente, el delito de tráfico de especies se encuentra recogido en el Artículo 334 de la L.O. 10/1995, del Código Penal:

“1. Será castigado con la pena de prisión de seis meses a dos años o multa de ocho a veinticuatro meses y, en todo caso, inhabilitación especial para profesión u oficio e inhabilitación especial para el ejercicio del derecho de cazar o pescar por tiempo de dos a cuatro años quien, contraviniendo las leyes u otras disposiciones de carácter general:

- a) cace, pesque, adquiera, posea o destruya especies protegidas de fauna silvestre;
- b) trafique con ellas, sus partes o derivados de las mismas; o,
- c) realice actividades que impidan o dificulten su reproducción o migración.

La misma pena se impondrá a quien, contraviniendo las leyes u otras disposiciones de carácter general, destruya o altere gravemente su hábitat.

2. La pena se impondrá en su mitad superior si se trata de especies o subespecies catalogadas en peligro de extinción.

3. Si los hechos se hubieran cometido por imprudencia grave, se impondrá una pena de prisión de tres meses a un año o multa de cuatro a ocho meses y, en todo caso, inhabilitación especial para profesión u oficio e inhabilitación especial para el ejercicio del derecho de cazar o pescar por tiempo de tres meses a dos años.”

47. Sweden:

About species protection crimes

Section 2 b For species protection crimes, fines or imprisonment for a maximum of two years that are intentional or negligent

1. kills, injures, captures or disturbs animals, removes or damages eggs, roe or nests, damages or destroys animals' breeding area or resting place in violation of a prohibition order issued by the government in accordance with ch. 8. § 1,

2. removes, damages or takes out seeds or other parts of a plant in violation of regulations on prohibitions that the government has announced in accordance with ch. 8. Section 2,

3. exhibits an animal or a plant in the natural environment in violation of a regulation on prohibition that the government has announced with the support of ch. 8. Section 4 first paragraph 1 and second paragraph,

4. transports or otherwise transfers, imports, exports, stores, exhibits, prepares, uses for profit, acquires, sells, rents, trades or exchanges, offers to buy, sells or holds for sale animals, plants, eggs, rum, seed or nest, or part or product thereof, or other goods,

1. in violation of Article 8.1, 8.5 or 9.1 of Council Regulation (EC) No. 338/97 of 9 December 1996 on the protection of species of wild animals and plants by controlling trade in them, or

2. in violation of regulations on prohibitions or permits that the government has announced with the support of ch. 8. Section 4 first paragraph 2 and second paragraph, or

5. violates conditions or provisions which in the individual case have been decided on the basis of

1. Article 8.3 or 9.2 compared to Article 11.3 of Council Regulation (EC) No 338/97, or

2. a regulation referred to in 4 b.

If the crime is serious, the penalty for serious art protection crime shall be imprisonment for a minimum of six months and a maximum of four years. When assessing whether the crime is serious, particular consideration must be given to whether it has been directed at a particularly dangerous, rare or otherwise protected species or if it has been part of a crime that has been carried out systematically and over a long period of time. on a large scale or for profit.

For attempting or preparing a serious copyright infringement, you will be punished under Chapter 23 offences.

Liability shall not be assessed according to this section, if responsibility for the deed can be assessed according to § 1. Stock (2018:1427).

48. Tunisia:

Articles: 193; 228; 229 ; 230 du code forestier Tunisien

49. Türkiye:

The Turkish Constitution, laws, regulations, and international conventions such as Paris, Ramsar, Bern, Washington (CITES), Barcelona, Combatting Desertification, and Biological Diversity provide the legal framework for nature conservation, sustainable resource use and management. Forest Law coded 6831 enacted in 1956, National Parks Law coded 2873 enacted in 1983, and Land Hunting Law coded 4915 enacted in 2003 authorizes Ministry of Agriculture and Forestry for conservation, improvement, and sustainable management of forests, wildlife resources, and biodiversity.

Our culture attaches great importance to conserve nature. Nature conservation practices of Türkiye have been institutionalized since 1839.

Sustainable management of wildlife resources depends on successful conservation. For the successful implementation of conservation measures an efficient inspection and control mechanisms have to be developed. Within the frame of this policy, wildlife rangers working in 15 regional and 81 provincial offices of the Ministry of Agriculture and Forestry have been trained in inspection procedures and a handbook is prepared, published, and distributed to all provincial and regional offices in order to provide standardization. In addition, to develop an efficient control mechanism, necessary equipment such as guns, radios, binoculars, cameras, sleeping bags, tents, and field vehicles have been provided to all the rangers in the provincial and regional offices.

Wildlife managers have been working to maintain or restore rare and declining wildlife populations for more than 50 years in Türkiye . Especially since the adoption of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) more resources and public attention have been focused on species that are legally recognized as endangered or threatened.

According to Violation of Anti-smuggling Law No.5607, export and import of the CITES related matters is prohibited by law. Because of this regulation, it is stated in our anti smuggling law that, if a person exports the CITES related matters shall be punished from one year up to three years imprisonment and five thousand days of judicial fine. Moreover, if a person imports the CITES related matters shall be punished from two years up to six years imprisonment and twenty thousand days of judicial fine. A person who buys, exposes for sale, sells, carries or stores the property on purpose, shall be punished with the same penalty.”

According to the 8th paragraph of the 3rd article of the "Law No. 5607 on Fight Against Smuggling"; The person exporting the goods, the export of which is prohibited by law, is punished with imprisonment from one year to three years and a judicial fine of up to five thousand days, unless the act constitutes another crime that requires a heavier penalty.

With this; According to the 1st paragraph of the 3rd article of the "Anti-Smuggling Law No. 5607"; “The person who brings the goods into the country without subjecting them to customs procedures (imprisonment from one to five years and a judicial fine up to ten thousand days) is punished. According to the 2nd paragraph of the 3rd article of the customs gates of the goods; “The person who brings the goods into the country without paying the customs duties partially or completely through deceptive transactions and behaviors is punished with imprisonment from two to five years and a judicial fine up to ten thousand days.”

Legal action is established within the framework of its provisions.

Also,

A) According to the subparagraph (k) of the Article 20 titled "Penalties in Administrative Nature" of the Environmental Law numbered 2872;

"20.000 Turkish Liras (244.315 TL) shall be imposed on those who;

- devastate biological diversity contrary to the matters prescribed in the subparagraph (a) of the article 9 of the Law,

- act contrary to the protection and usage principles determined for Special Environmental Protection Regions which have been announced pursuant to the subparagraph (d),

- act contrary to the protection and usage procedures and principles determined in the legislation for the wetlands pursuant to the second paragraph of the subparagraph (e),

- act contrary to the principles and prohibitions determined in the subparagraph (f).

100.000 Turkish Liras (1.221.763 TL) shall be imposed on those who act contrary to the first paragraph of the subparagraph (e)".

B) The following provisions are stipulated in the Land Hunting Law No. 4915;

1- In Article 18 entitled "Principles of trade":

"Domestic or introduced species of game and wild animals whose trade is prohibited by international conventions to which our country is a party and wild animals which are hunted in violation of the hunting principles and procedures laid down under Article 6 of this Law cannot be sold, purchased, transferred and imported and exported, either alive or dead, as well as their meat, egg, skin, fur, horn and similar parts and derivatives.

The Ministry shall have the authority to audit and partially or fully prohibit the trade of species whose trade is regulated by international conventions to which our country is a party and game which are legally hunted within the scope of this Law and the trade of parts obtained from these animals, and the authority to regulate the principles and procedure concerning obtaining of revenue by Circulating Capital Enterprises obtained from the trade thereof.

Wild animals whose import is permitted by the Ministry within the scope of the international conventions for the purpose of display within the country or for show purposes cannot be sold. These matters shall be audited by the Ministry."

2- In Article 19 entitled "Principles of production":

"Public institutions and organisations and real and legal persons may produce game and wild animals that naturally live in Türkiye provided that a permit is received from the Ministry. Obtaining a separate permit from the Ministry is mandatory for the release of these animals to the nature. The Ministry may give permission, by receiving opinions of relevant institutions and organisations, to the importation and production of introduced species which do not pose a harm to our natural species and are in line with the international obligations of Türkiye."

3- In Article 26 entitled "Violating the prohibition of trade of game and wild life":

"(Amended on 23/01/2008 with Article 512 of Law No. 5728)

Those who violate the principles that are laid down by the Ministry in accordance with paragraphs 1 and 2 of Article 18, and Article 19 shall be punished with an administrative fine from five hundred Turkish Liras to two thousand and five hundred Turkish Liras.

Those who violate the prohibition set forth in paragraph 3 of Article 18 shall be punished with an administrative fine in the amount of three thousand Turkish Liras.

50. United States of America:

Pursuant to the "yes" response to question 6(b):

Lacey Act, [16 U.S.C. § 3373 \(d\)\(1\)\(a\)](#), [16 U.S.C. § 3373 \(d\)\(1\)\(b\)](#), [16 U.S.C. § 3373 \(d\)\(3\)\(A\)\(i\)](#), and [16 U.S.C. § 3373 \(d\)\(3\)\(A\)\(ii\)](#)

Money Laundering, [18 U.S. Code § 1956](#)

Smuggling, [18 U.S. Code § 545](#)
Mail Fraud, [18 U.S. Code § 1341](#)
Wire Fraud, [18 U.S. Code § 1343](#)

51. European Union:

a) Yes.

EU current legal requirements and legislative initiatives of relevance for this question:

- Article 3 of Directive 2008/99/EC on the protection of the environment through criminal law, requires Member States to ensure that conducts related to breaches of EU environmental law, constitute a criminal offence, when committed intentionally or with at least serious negligence. Under these conditions, Article 3(g) of that Directive defines as a criminal offence: the trading in specimens of protected wild fauna or flora species or parts or derivatives thereof, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species. ‘Protected wild fauna and flora species’ are those listed in Annexes A and B to Council Regulation (EC) No 338/97.
- In December 2021, European Commission adopted a proposal for a new Environmental Crime Directive (ECD) to replace the current 2008 Environmental Crime Directive⁹. The proposal continues to cover CITES-related infringements as an environmental crime category, (“trading in specimens of wild fauna or flora species or parts or derivatives thereof listed in Annexes A and B to Council Regulation (EC) No 338/97, except for such cases where the conduct concerns a negligible quantity of such specimens”). Further, the proposal includes as a new environmental crime category the placing or making available on the Union market of illegally harvested timber or of timber products that were made of illegally harvested wood falling within the scope of the current EU Timber Regulation¹⁰, except for cases where the conduct concerns a negligible quantity. This Proposal is currently being debated by the EU co-legislators and it may be subject to amendments.

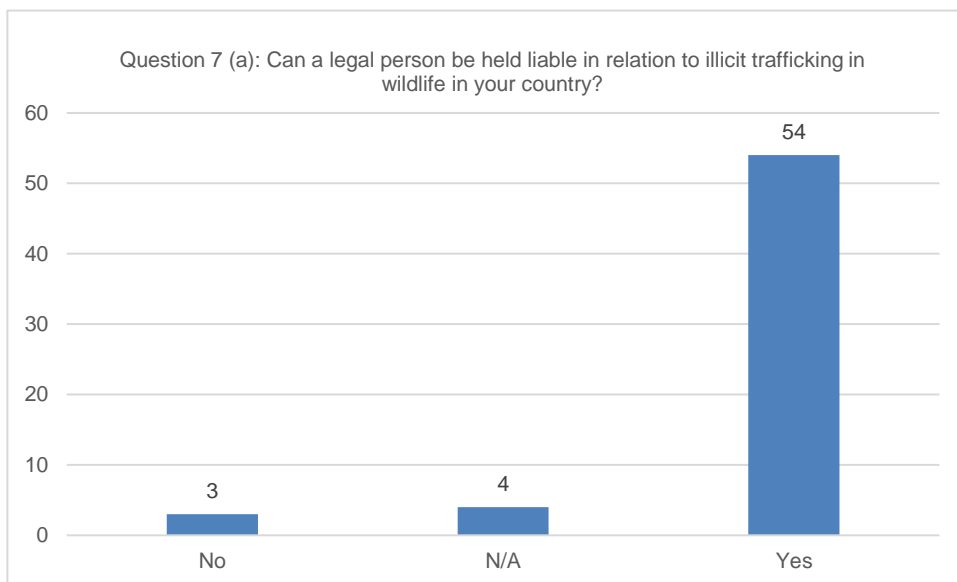
b) No. However, the European Commission’s Proposal for a new Environmental Crime Directive under current negotiation, requires under Article 5 (4) on penalties for natural persons that Member States take the necessary measures to ensure that the offences referred to in Article 3(1) points (..) (l), (m), (...) are punishable by a maximum term of imprisonment of at least four years. Letter (m) concerns illegal trading of species listed in Annex I and II of Regulation 338/97.

Question 7:

- a) Can a legal person be held liable in relation to illicit trafficking in wildlife in your country?

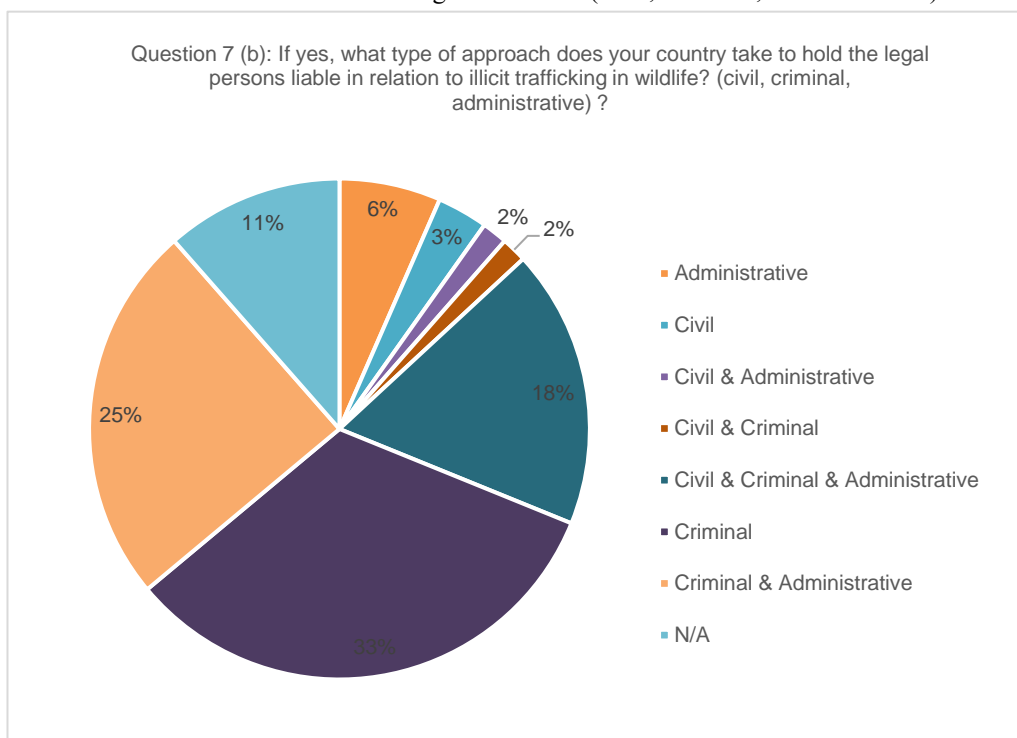
⁹ Proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directive 2008/99/EC, COM/2021/851

¹⁰ Currently Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market. These rules will change as the Commission adopted in 2021 a proposal for Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010; Co-legislators reached a political agreement in December 2022.



The following Member States that are parties to the Organized Crime Convention noted that a legal person cannot be held liable in relation to illicit trafficking in wildlife in their country: Belarus, Burundi, Colombia. No answer/N/A was received from: Gabon, Malawi, Saudi Arabia, Switzerland. The following Member States that are parties to the Organized Crime Convention and the European Union confirmed that their legal system allow for the liability of a legal person in relation to illicit trafficking in wildlife: Angola, Armenia, Austria, Bolivia (Plurinational State of), Brazil, Burkina Faso, Canada, China, Côte d'Ivoire, Croatia, Czechia, Denmark, Finland, France, Germany, Guatemala, Hungary, Italy, Japan, Kenya, Kyrgyzstan, Latvia, Madagascar, Malaysia, Mexico, Morocco, Myanmar, Netherlands, New Zealand, Nicaragua, Niger, Norway, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Moldova, Romania, Russian Federation, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Thailand, Tunisia, Türkiye, United Kingdom, United States of America.

b) If yes, what type of approach does your country take to hold the legal persons liable in relation to illicit trafficking in wildlife? (civil, criminal, administrative)



Member States use both civil and administrative sanctions: Russian Federation. The following Member State uses civil and criminal sanctions: Austria. The following countries that are parties to the Organized Crime Convention and the European Union use all three types of sanctions: Angola, China, France, Japan, Mexico, Nicaragua, Portugal, Romania,

Spain, United States of America. The following countries that are parties to the Organized Crime Convention use criminal sanctions: Brazil, Burkina Faso, Côte d'Ivoire, Croatia, Denmark, Finland, Guatemala, Kenya, Malaysia, New Zealand, Niger, Panama, Poland, Qatar, Republic of Moldova, Senegal¹¹, Slovenia, Sweden, Thailand, United Kingdom. The following Member States that are parties to the Organized Crime Convention use criminal and administrative sanctions: Armenia, Bolivia (Plurinational State of), Canada, Czechia, Kyrgyzstan, Latvia, Morocco, Netherlands, Norway, Philippines, Serbia, Slovakia, South Africa, Tunisia, Türkiye, No answer/N/A was received from: Belarus, Burundi, Colombia, Gabon, Malawi, Saudi Arabia, Switzerland.

- c) What are the possible sanctions for legal persons (criminal or non-criminal, including monetary sanction)?

Please attach the relevant legislative provision(s) that address legal person liability and sanctions contained in the laws on preventing and combating illicit trafficking in wildlife.

1. Angola:

The sanctions that fall on Legal Persons are criminal and non-criminal. Therefore, the Angolan Penal Code generally criminalizes and assigns criminal responsibility to Legal Persons, in accordance with its article 9.^o.

Likewise, Presidential Decree No. 194/11, of July 7, which approves the Regulation on Liability for Environmental Damage, provides for the “polluter pays” principle, so as to prevent the scenario of repair environment, mitigating, in a first phase, the risks that may be associated with human activities. Since those responsible for environmental damage fall under the obligation to recover the degraded environmental components, without prejudice to the payment of compensation fines to compensate the injured parties, whether individuals or the State.

Article 9 of the Angolan Penal Code provides for the “criminal liability of legal persons”, as well as Presidential Decree No. 194/11, of 7 July, which approves the Regulation on Liability for Environmental Damage, among other provisions, “responsibility for damage to the environment” in article 5 and “strict liability” in article 6, as described below:

Article 9

(Criminal liability of legal persons)

1. Legal persons, with the exception of the State and International Organizations governed by public law, are liable to criminal liability.
2. Corporate and similar persons, even if irregularly constituted, are responsible for offenses committed in their name, on their behalf and in their interest, or for their benefit, individually or in the performance of functions, by their bodies, representatives, or by people who hold a leadership position in it.
3. The legal persons referred to in the previous number are also responsible for crimes committed in their name, on their behalf and in their interest, or for their benefit, by natural persons who act under the authority of the persons referred to in the previous number, whenever the crime has become possible due to a willful violation of the duties of surveillance or control that are incumbent upon the latter.

¹¹ Please see Senegal answer below.

4. When the law determines the liability of legal persons as such, it must be understood that they are legal persons or mere de facto actions.

Article 5

(Liability for damage to the environment)

1. All those who, with intent or mere negligence, have caused damage to the environment are obliged to repair the damages and/or indemnify the State and individuals for the losses and damages to which they have caused in the form of compensation measures and the recovery environmental.

two. ...

3. When the administrative decision is not accepted, the court sets, using criteria of equity, the amount of compensation, taking into account, namely the damage to the environmental component, the foreseeable cost of restoring the situation prior to the practice of the harmful act and the economic benefit eventually obtained without neglecting the provisions of article 494 of the Civil Code.

Article 6

(Strict liability)

1. Anyone who, by virtue of the exercise of any activity, offends the rights or interests of others through damage to any environmental component is obliged to repair and prevent damage resulting from that offence, in accordance with the applicable legislation in force and the fundamental principles of the environmental law, regardless of fault or intent.

2. The obligation to repair the damage results from the existence of the causal link between the damage and the activity that caused it, and liability is not reduced or excluded even when the person causing the damage proves that he acted taking into account all due diligence and good technique.

2. Armenia:

Articles 307, 385-390 of the Criminal Code. Articles 52, 78, 86, 88, 90, 94 of the Code of Administrative Offences of the Republic of Armenia

3. Bolivia (Plurinational State of):

Para las sanciones penales, se debe tomar en cuenta lo manifestado en la pregunta 7, en cuanto a las sanciones administrativas, estas se encuentran dispuestas en la Ley N° 1333 de Medio Ambiente y su Reglamentación.

4. Brazil:

Receita Federal (Customs): Partial or total suspension of activities; temporary interdiction of establishment, work or activity; prohibition of contracting with the Government, as well as obtaining subsidies, grants or donations from it; community services; forced liquidation and its property will be lost in favor of the National Penitentiary Fund.

Relevant legislation:

https://www.planalto.gov.br/ccivil_03/leis/19605.htm LEI N° 9.605, DE 12 DE FEVEREIRO DE 1998. Art. 22.

Federal Prosecution Service (MPF); International Cooperation Unit (SCI); Environmental Crimes Law: articles 21, 22, 23 and 24 (<https://www2.camara.leg.br/legin/fed/lei/1998/lei-9605-12-fevereiro-1998-365397-publicacaooriginal-1-pl.html>).

Relevant legislation:

Law 9.605, from 1998 (<https://www2.camara.leg.br/legin/fed/lei/1998/lei-9605-12-fevereiro-1998-365397-publicacaooriginal-1-pl.html>).

The legislation will be uploaded in SHERLOC in due course.

5. Burkina Faso:

Pénale y compris sanctions pécuniaires

Article 268 du code forestier

6. Canada:

See above for criminal sentencing provisions in the above statutes that target legal persons.

7. China:

中国《刑法》第一百五十一条第四款对走私珍贵动物、珍贵动物制品罪的单位犯罪做出了规定。单位实施的其他非法贩运野生生物行为，刑法分则和其他法律虽未规定追究单位的刑事责任，但根据全国人大常委会《关于〈中华人民共和国刑法〉第三十条的解释》，可以对组织、策划、实施该行为的人依法追究刑事责任。此外，根据《刑事诉讼法》第一百零一条的规定，由于被告人的犯罪行为给他人、国家财产、集体财产造成损失的，可以在刑事诉讼过程中提起附带民事诉讼，在这种情况下，被告（包括单位）需要承担民事责任。

《刑法》关于惩治单位犯走私珍贵动物、珍贵动物制品罪的规定如下：

第一百五十一条：走私国家禁止出口的文物、黄金、白银和其他贵重金属或者国家禁止进出口的珍贵动物及其制品的，处五年以上十年以下有期徒刑，并处罚金；情节特别严重的，处十年以上有期徒刑或者无期徒刑，并处没收财产；情节较轻的，处五年以下有期徒刑，并处罚金。

走私珍稀植物及其制品等国家禁止进出口的其他货物、物品的，处五年以下有期徒刑或者拘役，并处或者单处罚金；情节严重的，处五年以上有期徒刑，并处罚金。

单位犯本条规定之罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照本条各款的规定处罚。

8. Côte d'Ivoire:

b) Les personnes morales sont pénalement responsables des infractions commises pour leur compte par leurs organes ou représentants.

c) Seule la peine d'amende (sanction pécuniaire) est prononcée principalement. Celle-ci peut être portée à un montant maximal cinq fois supérieur à celui encouru pour la même infraction par une personne physique.

« Les personnes morales, à l'exclusion de l'Etat et de ses démembrements, sont pénalement responsables des infractions commises pour leur compte par leurs organes ou représentants. Lorsque la responsabilité de la personne morale est retenue, seule la peine d'amende est prononcée au titre des peines principales. Celle-ci peut être portée à un montant maximal cinq fois supérieur à celui encouru pour la même infraction par une personne physique. La responsabilité pénale des personnes morales n'exclut pas celle des personnes physiques auteurs ou complice des mêmes faits » article 96 du code pénal.

9. Croatia:

The Act on the Responsibility of Legal Persons for the Criminal Offences (Official Gazette No. NN 151/03, 110/07, 45/11, 143/12, 114/22) prescribes fines and termination of the legal person as types of punitive measures for criminal offences committed by

legal persons. Suspended sentence may be pronounced for criminal offences for which the court has imposed a fine on the legal person in the amount of up to 6636,14 euros. Apart from other penalties the court may impose one or more of the following security measures on the legal person: ban on performance of certain activities or transactions, ban on obtaining of licenses, authorizations, concessions or subventions, ban on transaction with beneficiaries of the national or local budgets, and confiscation.

Relevant legislation:

The Act on the Responsibility of Legal Persons for the Criminal Offences (Official Gazette No. NN 151/03, 110/07, 45/11, 143/12, 114/22) prescribes as follows:

Types of penalties

Article 8

The penalties can be a fine and the termination of the legal person.

Amount of a fine

Article 10 (Official Gazette No. 114/22)

- (1) If the criminal offence is punishable by a fine or imprisonment for a term of up to one year, the legal person may be punished by a fine of 660,00 to 1.061.780,00 euros.
- (2) If the criminal offence is punishable by imprisonment for a term of up to five years, the legal person may be punished by a fine of 1990,00 to 1.327.220,00 euros.
- (3) If the criminal offence is punishable by imprisonment for a term of up to ten years, the legal person may be punished by a fine of 3980,00 to 1.592.670,00 euros.
- (4) If the criminal offence is punishable by imprisonment for a term of up to fifteen years or by long-term imprisonment, the legal person may be punished by a fine of 6630,00 to 1.990.840,00 euros.

Termination of legal person

Article 12

- (1) The penalty of termination of the legal person may be pronounced if the legal person has been established for the purpose of committing criminal offences or if the same has used its activities primarily to commit criminal offences.
- (2) The penalty of termination of the legal person may not be pronounced on units of local and regional self-government, political parties and trade unions.
- (3) Apart from the penalty of termination of the legal person the court may also impose a fine upon the legal person.
- (4) After the judgement on termination of the legal person becomes final, liquidation shall be carried out.

Suspended sentence

Article 13 (Official Gazette No. 114/22)

- (1) The court may pronounce a suspended sentence on the legal person and simultaneously determine that the fine shall not be collected if the legal person does not commit another criminal offence within the time specified by the court, which may not be shorter than one or longer than three years.
- (2) Suspended sentence may be pronounced for criminal offences for which the court has imposed a fine on the legal person in the amount of up to 6636,14 euros.
- (3) Partial suspended sentence may not be applied to a legal person.

Types of security measures

Article 15

Apart from other penalties the court may impose one or more of the following security measures on the legal person: ban on performance of certain activities or transactions, ban on obtaining of licenses, authorizations, concessions or subventions, ban on transaction with beneficiaries of the national or local budgets, and confiscation.

Ban on performance of certain activities or transactions

Article 16

(1) A ban on performance of certain activities or transactions may be imposed on one or more activities or transactions, the performance of which was a criminal offence.

(2) A ban on performance of certain activities or transactions may be imposed on the legal person on the basis of court judgement for the period of one to three years as of the moment the judgement becomes final, if further performance of certain activities or transactions would be a danger to life, health or security of persons, or hazardous to property, or economy, or if the legal person has already been punished for the same or similar criminal offence.

(3) A ban on performance of certain activities or transactions may not be imposed on units of local and regional self-government and political parties.

Ban on obtaining of licenses, authorizations, concessions or subventions

Article 17

(1) Ban on obtaining of licenses, authorizations, concessions or subventions as issued by government bodies or units of local and regional self-government may be imposed on the legal person in case of a threat that such obtaining of licenses, authorizations, concessions or subventions might instigate the same to commit another criminal offence.

(2) The security measure referred to in paragraph 1 of this Section shall be imposed for a period of one to three years after the court judgement becomes final.

Ban on transaction with beneficiaries of national or local budgets

Article 18

(1) A ban on transactions with beneficiaries of the national or local budgets may be imposed on the legal person in case of a threat that such operations might instigate the same to commit another criminal offence.

(2) The security measure referred to in paragraph 1 of this Article shall be imposed for a period of one to three years after the court judgement becomes final.

Confiscation of proceeds of crime and confiscation of objects

Article 19

The provisions of the Criminal Code shall apply to confiscation of proceeds of crime and confiscation of objects.

10. Czechia:

Please see the annex. Czechia provided the following legislative provisions as an annex: Criminal Code (Act No. 40/2009 Coll.), Section 299 Unauthorized Disposing with Protected Wild Animals and Herbs; Section 300 Negligent Unauthorized Disposal with Protected Wild Animals and Herbs ; Section 216 Legalization of Proceeds from Criminal Activity; Section 216a Special Provisions on Imposing Punishment; Section 217 Negligent Legalization of Proceeds from Criminal Activity; Section 217a Common Provisions.

Act on Criminal Liability of Legal Persons (Act No. 418/2011 Coll.) Section 7 Criminal Acts; Section 8 Criminal Liability of a Legal entity; Section 15 Types of Punishments and Protective Measures

Criminal Procedure Code (Act No. 141/1961 Coll.): Section 7a; Section 8 (2) a 8 (3))

The legislation will be uploaded in SHERLOC in due course.

11. Denmark:

<https://www.retsinformation.dk/eli/retsinfo/2019/9611>

12. Finland:

c) As regards nature conservation offence (Chapter 48, Section 5), aggravated nature conservation offence (Chapter 48, Section 5 a) and smuggling (Chapter 46, Section 4), the provisions on corporate criminal liability apply.

The criminal sanction for a legal person is a corporate fine. According to Chapter 9, Section 5 of the Criminal Code, a corporate fine is imposed as a lump sum. The minimum monetary amount of a corporate fine is EUR 850 and the maximum monetary amount is EUR 850,000.

Relevant legislation: Criminal Code, Chapter 9 (Corporate criminal liability)

The legislation is cited in Appendix 1. Finland provided in Appendix 1 the following legislative provisions: Nature Conservation Act (1096/1996), Section 44 (30.5.1997/492) International trade in endangered species, Section 58 Penalties; Section 59 (26.10.2001/878) Forfeiture, and the Criminal Code (39/1889) Chapter 9 (743/1995) Corporate criminal liability; Section 1-8, Section 10; Chapter 32 (769/1990), Receiving and money laundering offences (61/2003), Section 6 -14; Chapter 46 (769/1990) Offences connected to import and export (425/2009). Section 4 and 5; Section 13-16; Chapter 48 (578/1995) Environmental offences. Section 5, 5a, 7, 9. The legislation will be uploaded in SHERLOC in due course.

13. France:

b) Civile:

Les lois n°2016-1087 du 8 août 2016 et n°2019-773 du 24 juillet 2019 prévoient l'obligation, sur le plan civil, de réparer le préjudice écologique. L'article 1247 du code civil prévoit qu'« est réparable, dans les conditions prévues au présent titre, le préjudice écologique consistant en une atteinte non négligeable aux éléments ou aux fonctions des écosystèmes ou aux bénéfices collectifs tirés par l'homme de l'environnement », de telles dispositions pouvant indirectement concerner les atteintes à l'habitat des espèces protégées. Les personnes morales sont susceptibles d'être condamnées sur ce fondement.

c) A titre de peine principale, les amendes encourues pour les personnes morales sont du quintuple de celles encourues par les personnes physiques (article 131-38 du code pénal).

Ainsi, l'amende encourue sur le fondement des articles L. 415-3 et L. 415-6 du code de l'environnement est de 750 000 euros.

Il convient cependant de souligner que l'amende prévue par l'article L. 415-3 du code de l'environnement est doublée lorsque les faits sont commis dans un parc national ou une réserve naturelle, de telle sorte que si l'infraction est commise par une personne morale, l'amende encourue est portée à 1 500 000 euros.

Par ailleurs, lorsqu'une personne (physique ou morale) est condamnée sur le fondement de l'article L. 415-3 du code de l'environnement, le tribunal peut mettre à sa charge les frais exposés pour la capture, les prélèvements, la garde ou la destruction des spécimens rendus nécessaires.

En outre, l'article L. 173-8 du code de l'environnement (modifié en dernier lieu par la loi n° 20211104 du 22 août 2021, portant lutte contre le dérèglement climatique et renforcement de la résilience face à ses effets, dite « climat et résilience ») prévoit que les personnes morales reconnues pénalement responsables des infractions délictuelles prévues au même code encourrent également les peines prévues aux 1°, 3°, 4°, 5°, 6°, 8°, 9° et 12° de l'article L. 131-39 du code pénal ainsi que celle prévue au 2° de ce même article, qui, si elle est prononcée, s'applique à l'activité dans l'exercice ou à

l'occasion de l'exercice de laquelle l'infraction a été commise : dissolution, interdiction d'exercer directement ou indirectement une ou plusieurs activités professionnelles ou sociales, placement sous surveillance judiciaire, fermeture des établissements ayant servi à commettre les faits incriminés, exclusion des marchés publics, interdiction de procéder à une offre au public de titres financiers ou de faire admettre ses titres financiers aux négociations sur un marché réglementé, confiscation, affichage ou diffusion de la décision prononcée, interdiction de détenir un animal.

14. Germany:

§§ 30, 130 OWiG (Act on Regulatory Offences) provide for fines of up to € 10 million in addition to the confiscation of profits obtained by the offence.

Relevant legislative provisions:

[convenience translation only, translation provided by Neil Mussett, published on www.gesetze-im-internet.de]

Section 30

Regulatory Fine Imposed on Legal Persons and on Associations of Persons

(1) Where someone acting

1. as an entity authorised to represent a legal person or as a member of such an entity,
2. as chairman of the executive committee of an association without legal capacity or as a member of such committee,
3. as a partner authorised to represent a partnership with legal capacity, or
4. as the authorised representative with full power of attorney or in a managerial position as procura-holder or the authorised representative with a commercial power of attorney of a legal person or of an association of persons referred to in numbers 2 or 3,
5. as another person responsible on behalf of the management of the operation or enterprise forming part of a legal person, or of an association of persons referred to in numbers 2 or 3, also covering supervision of the conduct of business or other exercise of controlling powers in a managerial position,

has committed a criminal offence or a regulatory offence as a result of which duties incumbent on the legal person or on the association of persons have been violated, or where the legal person or the association of persons has been enriched or was intended to be enriched, a regulatory fine may be imposed on such person or association.

(2) The regulatory fine shall amount

1. in the case of a criminal offence committed with intent, to not more than ten million Euros,
2. in the case of a criminal offence committed negligently, to not more than five million Euros.

Where there has been commission of a regulatory offence, the maximum regulatory fine that can be imposed shall be determined by the maximum regulatory fine imposable for the regulatory offence concerned. If the Act refers to this provision, the maximum amount of the regulatory fine in accordance with the second sentence shall be multiplied by ten for the offences referred to in the Act. The second sentence shall also apply where there has been commission of an act simultaneously constituting a criminal offence and a regulatory offence, provided that the maximum regulatory fine imposable for the regulatory offence exceeds the maximum in accordance with the first sentence.

(2a) In the event of a universal succession or of a partial universal succession by means of splitting (section 123 subsection 1 of the Reorganisation Act [Umwandlungsgesetz]), the regulatory fine in accordance with subsections 1 and 2 may be imposed on the legal successor(s). In such cases, the regulatory fine may not exceed the value of the assets which have been assumed, as well as the amount of the regulatory fine which is suitable against the legal successor. The legal successor(s) shall take up the procedural position

in the regulatory fine proceedings in which the legal predecessor was at the time when the legal succession became effective.

(3) Section 17 subsection 4 and section 18 shall apply *mutatis mutandis*.

(4) If criminal proceedings or regulatory fining proceedings are not commenced on account of the criminal offence or of the regulatory offence, or if such proceedings are discontinued, or if imposition of a criminal penalty is dispensed with, the regulatory fine may be assessed independently. Statutory provision may be made to the effect that a regulatory fine may be imposed in its own right in further cases as well. Independent assessment of a regulatory fine against the legal person or association of persons shall however be precluded where the criminal offence or the regulatory offence cannot be prosecuted for legal reasons; section 33 subsection 1 second sentence shall remain unaffected.

(5) Assessment of a regulatory fine incurred by the legal person or association of persons shall, in respect of one and the same offence, preclude a confiscation order, in accordance with sections 73 or 73c of the Penal Code or in accordance with section 29a, against such person or association of persons.

(6) On issuance of a regulatory fining notice, in order to secure the regulatory fine, section 111e subsection 2 of the Code of Criminal Procedure shall be applied on proviso that the judgment is substituted by the regulatory fining notice.

Violation of Obligatory Supervision in Operations and Enterprises

Section 130

(1) Whoever, as the owner of an operation or undertaking, intentionally or negligently omits to take the supervisory measures required to prevent contraventions, within the operation or undertaking, of duties incumbent on the owner and the violation of which carries a criminal penalty or a regulatory fine, shall be deemed to have committed a regulatory offence in a case where such contravention has been committed as would have been prevented, or made much more difficult, if there had been proper supervision. The required supervisory measures shall also comprise appointment, careful selection and surveillance of supervisory personnel.

(2) An operation or undertaking within the meaning of subsection 1 shall include a public enterprise.

(3) Where the breach of duty carries a criminal penalty, the regulatory offence may carry a regulatory fine not exceeding one million Euros. Section 30 subsection 2 third sentence shall be applicable. Where the breach of duty carries a regulatory fine, the maximum regulatory fine for breach of the duty of supervision shall be determined by the maximum regulatory fine imposable for the breach of duty. The third sentence shall also apply in the case of a breach of duty carrying simultaneously a criminal penalty and a regulatory fine, provided that the maximum regulatory fine imposable for the breach of duty exceeds the maximum in accordance with the first sentence.

15. Guatemala:

a) Si, artículo 38 del Decreto del Congreso de la Republica de Guatemala numero 174-73 Código Penal;

c) Las sanciones son pecuniarias (pago de multas según la pena del tipo penal), privativas de libertad (para el representante legal titular al momento del cometimiento del ilícito y cancelación de la patente (procedimiento no desarrollado por la Ley)

16. Italy:

Legislative Decree no. 231 of 08 June 2001

Art. 25-undecies (Environmental Criminal Offences) (extracted article)

1. In respect of the perpetration of offences envisaged by the Criminal Code, the following monetary sanctions shall be applied to the entity:

[...]

f) for the infringement of Article 727-bis, the monetary sanction shall be of up to two-hundred-and-fifty units;

[...]

3. In respect of the perpetration of offences envisaged by Law no. 150 of 7 February 1992, the following monetary sanctions shall be applied to the entity:

a) for the infringement of Articles 1 paragraphs 1, 2 and 6 paragraph 4, the monetary sanction shall be of up to two-hundred-and-fifty units;

b) for the infringement of Article 1, paragraph 2, the monetary sanction shall be from hundred-and-fifty to two-hundred-and-fifty units;

c) for the offences of the Criminal Code referred to in Article 3-bis, paragraph 1, of the same Law no. 150 of 1992, respectively:

1) the monetary sanction of up to two-hundred-and-fifty quotas, when the committed criminal offences are punished by a maximum term of imprisonment of one year;

2) the monetary sanction of from one-hundred-and-fifty to two-hundred-and-fifty units, when the committed criminal offences are punished by a maximum term of imprisonment of two years;

3) the monetary sanction of from two-hundred to three-hundred units, when criminal offences are committed that are punished by a maximum term of imprisonment of three years;

4) the monetary sanction of from three-hundred to five-hundred units, when criminal offences are committed that are punished by a maximum term of imprisonment of at least three years.

17. Japan:

Please see attached file. Japan provided the following legislative provisions in the attachment: Act on Conservation of Endangered Species of Wild Fauna and Flora (Act No. 75 of June 5, 1992) and Foreign Exchange and Foreign Trade Act (Tentative translation) (Act No. 228 of December 1, 1949), Customs Act. The legislation will be uploaded in SHERLOC in due course.

18. Kenya:

c) Imprisonment, Fines, Forfeiture of assets and Interdiction and/or Dismissal from the service.

Relevant legislation:

Sec. 99 (3) A person who contravenes the provisions of this section commits an offence and shall be liable, upon conviction,—

(a) in relation to a critically endangered or endangered species, as specified in the Sixth Schedule or listed under CITES Appendix I, to a fine of not less than one hundred million shillings or to imprisonment of not less than twenty years or both such fine and imprisonment; or

(b) in relation to any other wildlife species or wildlife trophy, to a fine not less than twenty million shillings or a term of imprisonment not less than ten years, or to both such fine and imprisonment.

(4) A person, agent or corporate entity that, knowingly or recklessly, aids or abets, in the commission of an offence under this section shall be liable to the penalties specified in subsection (3).

19. Kyrgyzstan:

Приложите текст соответствующего положения (положений) об ответственности и санкциях из законов о предупреждении и пресечении незаконного оборота объектов дикой природы.

Статья 262. Вывоз, перевозка, хранение и реализация незаконно добытых объектов животного мира

1. Вывоз, перевозка, хранение и реализация незаконно добытых объектов животного мира, охраняемых в соответствии с международными договорами, вступившими в силу в соответствии с законодательством, либо занесенных в Красную книгу Кыргызской Республики, в том числе их продуктов, частей, шкур, а также меховых изделий из них, –

влекут наложение штрафа на физических лиц в размере 200 расчетных показателей, на юридических лиц – 650 расчетных показателей.

2. Вывоз, перевозка, хранение или реализация незаконно добытой рыбы и выработанных из нее рыбной продукции и икры –

влекут наложение штрафа на физических лиц в размере 100 расчетных показателей, на юридических лиц – 280 расчетных показателей.

3. Деяния, предусмотренные частью 2 настоящей статьи, совершенные в отношении особо ценных и эндемичных видов рыб, –

влекут наложение штрафа на физических лиц в размере 200 расчетных показателей, на юридических лиц – 650 расчетных показателей.

Привлечение юридического лица, за совершение преступлений против экологической безопасности и природной среды, теоретически возможно. Однако в большинстве случаев, при расследовании данных преступлений, в большей части привлекаются физические лица.

В Кыргызской Республике предусмотрена уголовная ответственность и ответственность, предусмотренная Кодексом КР о правонарушениях за совершение вышеупомянутой категории преступлений. При этом санкции статей УК КР и Кодекса КР о правонарушениях определены с учетом характера совершенных преступлений.

20. Latvia:

b) Criminal, Administrative

Latvian authorities take the same approach as with physical persons. If violations are found that are done in legal persons business, for example in a trading place (store or similar) or in a place where animals are held in captivity, then the legal person is fined.

c) We would like to draw your attention to the fact that according to Section 70.1 of the Criminal Law For the criminal offences provided for in the Special Part of this Law, a court or in the cases provided for by the Law - a prosecutor may apply a coercive measure to a legal person governed by private law, including State or local government capital company, as well as partnership, if a natural person has committed the offence in the interests of the legal person, for the benefit of the person or as a result of insufficient supervision or control, acting individually or as a member of the collegial authority of the relevant legal person. In this regard for a legal person one of the following coercive measures may be specified: 1) liquidation; 2) restriction of rights; 3) confiscation of property; 4) recovery of money.

Additionally, sanctions are monetary and cases are administrative. For legal person for violation in the field of the laws and regulations governing the trade in specimens of species of wild fauna and flora endangered by the international trade fine from 28 to 1400 units of fine (one unit of fine is 5 euros, therefore the fine is from 140 to 7000 euros).

Relevant legislation:

Law on the Conservation of Species and Biotopes

Section 29. Administrative Offences in the Field of the Laws and Regulations Governing the Trade in Specimens of Species of Wild Fauna and Flora Endangered by the International Trade

For violating the requirements for the trade of specimens in the territory of the European Union laid down in the laws and regulations governing the trade in specimens of species of wild fauna and flora endangered by the international trade, a warning or a fine from fourteen to one hundred and forty units of fine shall be imposed on a natural person, but a fine from twenty eight to one thousand and four hundred units of fine - on a legal person.

Section 30. Administrative Offences in the Field of the Laws and Regulations Governing the Storage, Registration, Keeping in Captivity, Marking, Breeding, and Issue of Certificates for Specimens of Species of Wild Fauna and Flora Endangered by the International Trade

For violating the requirements laid down in the laws and regulations governing the storage, registration, keeping in captivity, marking, breeding, and issue of certificates for specimens of species of wild fauna and flora endangered by the international trade, a warning or a fine from fourteen to one hundred and forty units of fine shall be imposed on a natural person, but a fine from twenty eight to one thousand and four hundred units of fine - on a legal person.

The Criminal Law

Section 70.1 Basis for the Application of a Coercive Measure to a Legal Person

For the criminal offences provided for in the Special Part of this Law, a court or in the cases provided for by the Law - a prosecutor may apply a coercive measure to a legal person governed by private law, including State or local government capital company, as well as partnership, if a natural person has committed the offence in the interests of the legal person, for the benefit of the person or as a result of insufficient supervision or control, acting individually or as a member of the collegial authority of the relevant legal person:

- 1) on the basis of the right to represent the legal person or act on the behalf thereof;
- 2) on the basis of the right to take a decision on behalf of the legal person;
- 3) in implementing control within the scope of the legal person.

Section 70.2 Types of Coercive Measures Applicable to a Legal Person

(1) For a legal person one of the following coercive measures may be specified:

liquidation;

restriction of rights;

confiscation of property;

recovery of money.

(2) For a legal person one or several of the coercive measures provided for in Paragraph one of this Section may be applied. In applying liquidation, other coercive measures shall not be specified.

(3) The procedures for executing coercive measures shall be determined in accordance with the law.

(4) For a criminal violation, a less serious crime or a serious crime for which deprivation of liberty for a period of up to five years is provided for in the Special Part of this Law a prosecutor, in drawing up a penal order regarding the coercive measure, may determine the recovery of money or restriction of rights as a coercive measure to a legal person.

Section 70.³ Liquidation

- (1) Liquidation is the compulsory termination of activities of a legal person.
- (2) A legal person shall be liquidated only in such cases, if the legal person has been especially established for the committing of a criminal offence or if a serious or especially serious crime has been committed.
- (3) In liquidating a legal person, all of the existing property thereof shall be alienated without compensation to the ownership of the State.

Section 70.⁴ Restriction of Rights

Restriction of rights is the deprivation of specific rights or permits or the determination of such prohibition which prevents a legal person from exercising certain rights, receive State support or assistance, participate in a State or local government procurement procedure, to perform a specific type of activity for a period of one year and up to ten years.

Section 70.⁵ Confiscation of Property

- (1) Confiscation of property is the compulsory alienation of the property owned by a legal person to the State ownership without compensation.
- (2) A court, when determining the confiscation of property, shall specifically indicate which property is to be confiscated.
- (3) [14 March 2013]
- (4) Property owned by a legal person which has been transferred to another person, may also be confiscated.

Section 70.⁶ Recovery of money

(1) The recovery of money is a sum of money which is imposed by a court or prosecutor to be paid for the benefit of the State within 30 days in the amount laid down in this Section.

(11) A monetary levy proportionate to the harmfulness of the criminal offence and the financial status of the legal person shall be determined:

for a criminal violation - in the amount of five and up to ten thousand minimum monthly wages prescribed in the Republic of Latvia;

for a less serious crime - in the amount of ten and up to fifty thousand minimum monthly wages prescribed in the Republic of Latvia;

for a serious crime - in the amount of twenty and up to seventy five thousand minimum monthly wages prescribed in the Republic of Latvia;

for an especially serious crime - in the amount of thirty and up to hundred thousand minimum monthly wages prescribed in the Republic of Latvia.

(12) At the time of rendering the adjudication, the amount of the money levy shall be indicated in the adjudication in the monetary units of the Republic of Latvia.

- (2) The recovery of money which has been imposed upon a legal person, shall be paid from the funds of the legal person.
- (3) A court or prosecutor accordingly may divide the payment for the recovery of money into periods or postpone for a time period not exceeding one year from the day when a ruling or injunction on coercive measure has entered into effect.
- (4) If recovery of money has not been paid, the coercive measure shall be implemented by compulsory procedures.

21. Madagascar:

c) Art 34 : la confiscation des spécimens d'espèces, objet de l'infraction, de tout moyen de transport, des objets ayant servi à masquer le fraude, et des articles et matériels ayant servi de moyen à la commission de l'infraction au sens de la présente loi de ses textes d'application, est toujours prononcée.

22. Malaysia:

International Trade in Endangered Species Act 2008 [Act 686]

Offence committed by body corporate

45. Where a body corporate commits an offence under this Act, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management—

(a) may be charged severally or jointly in the same proceedings with the body corporate; and

(b) where the body corporate is found to have committed the offence, shall be deemed to commit that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—

(i) that the offence was committed without his knowledge, consent or connivance; and

(ii) that he took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

Offence by partner, agent or servant

46. Any person who would have been liable to any penalty under this Act for any act, omission, neglect or default if the act, omission, neglect or default is committed by him personally shall be liable to the same penalty if the act, omission, neglect or default is committed by his partner, agent or servant unless he proves—

(a) that the act, omission, neglect or default was committed without his knowledge, consent or connivance; and

(b) that he took all reasonable precautions and had exercised due diligence to prevent the act, omission, neglect or default

Wildlife Conservation Act 2010 [Act 716]

Offence committed by body corporate

124. (1) Where a body corporate commits an offence under this Act or any of its subsidiary legislation, any person who at the time of the commission of the offence was a chief executive officer, director, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management—

(a) may be charged severally or jointly in the same proceedings with the body corporate; and

(b) where the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—

(i) that the offence was committed without his knowledge, consent or connivance; and

(ii) that he took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) Where any person would be liable under this Act or any of its subsidiary legislation to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of such agent, if such act, omission, neglect or default was committed—

(a) by his employee in the course of his employment

(b) by the agent when acting on his behalf; or

(c) by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

23. Mexico:

De acuerdo a lo establecido por el Código Nacional de Procedimientos Penales, las consecuencias para una persona jurídica de forma genérica son las siguientes:

Artículo 422. Consecuencias jurídicas

A las personas jurídicas, con personalidad jurídica propia, se les podrá aplicar una o varias de las siguientes sanciones:

- I. Sanción pecuniaria o multa;
- II. Decomiso de instrumentos, objetos o productos del delito;
- III. Publicación de la sentencia;
- IV. Disolución, o
- V. Las demás que expresamente determinen las leyes penales conforme a los principios establecidos en el presente artículo.

Para los efectos de la individualización de las sanciones anteriores, el Órgano jurisdiccional deberá tomar en consideración lo establecido en el artículo 410 de este ordenamiento y el grado de culpabilidad correspondiente de conformidad con los aspectos siguientes:

- a) La magnitud de la inobservancia del debido control en su organización y la exigibilidad de conducirse conforme a la norma;
- b) El monto de dinero involucrado en la comisión del hecho delictivo, en su caso;
- c) La naturaleza jurídica y el volumen de negocios anual de la persona moral;
- d) El puesto que ocupaban, en la estructura de la persona jurídica, la persona o las personas físicas involucradas en la comisión del delito;
- e) El grado de sujeción y cumplimiento de las disposiciones legales y reglamentarias, y
- f) El interés público de las consecuencias sociales y económicas o, en su caso, los daños que pudiera causar a la sociedad, la imposición de la pena.

Para la imposición de la sanción relativa a la disolución, el órgano jurisdiccional deberá ponderar además de lo previsto en este artículo, que la imposición de dicha sanción sea necesaria para garantizar la seguridad pública o nacional, evitar que se ponga en riesgo la economía nacional o la salud pública o que con ella se haga cesar la comisión de delitos.

Las personas jurídicas, con o sin personalidad jurídica propia, que hayan cometido o participado en la comisión de un hecho típico y antijurídico, podrá imponérseles una o varias de las siguientes consecuencias jurídicas:

- I. Suspensión de sus actividades;
- II. Clausura de sus locales o establecimientos;
- III. Prohibición de realizar en el futuro las actividades en cuyo ejercicio se haya cometido o participado en su comisión;
- IV. Inhabilitación temporal consistente en la suspensión de derechos para participar de manera directa o por interpósita persona en procedimientos de contratación del sector público;
- V. Intervención judicial para salvaguardar los derechos de los trabajadores o de los acreedores, o
- VI. Amonestación pública.

En este caso el Órgano jurisdiccional deberá individualizar las consecuencias jurídicas establecidas en este apartado, conforme a lo dispuesto en el presente artículo y a lo previsto en el artículo 410 de este Código.

24. Morocco:

c) De manière générale, la responsabilité pénale des personnes morales est reconnue par le droit marocain, et ce en vertu de l'article 127 du code pénal, qui aux termes duquel « les personnes morales ne peuvent être condamnées qu'à des peines pécuniaires et aux peines accessoires prévues à l'article 36. Elles peuvent également être soumises aux mesures de sureté réelles de l'article 62 ».

Les peines accessoires cités ci-dessus de l'article 36 sont :

- La confiscation partielle des biens appartenant au condamné, indépendamment de la confiscation prévue comme mesure de sureté ;
- La dissolution d'une personne juridique ;
- La publication de la décision de la condamnation.

Les mesures de sureté réelles de l'article 62 mentionnées ci-dessus sont :

- La confiscation des objets ayant un rapport avec l'infraction ou des objets nuisibles ou dangereux, ou dont la possession est illicite ;
- La fermeture de l'établissement qui a servi à commettre une infraction.

25. Myanmar:

Regarding this and the previous question, relevant line departments may have separate laws and regulations to handle effective, as the Forest Department do not charge in such kind of issues.

The Conservation of Biodiversity and Protected Areas Law

26. Netherlands:

Fines with a maximum of € 90.000 or in accordance with paragraph 23, 7 Criminal code € 900.000 (When a legal person is convicted, if the fine category determined for the offense does not allow for an appropriate punishment, a fine may be imposed up to the amount of the next higher category. If a fine of the sixth category can be imposed for the offense and that fine category does not allow for an appropriate punishment, a fine may be imposed up to a maximum of ten percent of the annual turnover of the legal person in the financial year preceding the judgment or punishment order.)

27. New Zealand:

Refer Legislation linked in the answer to Question 6:

[Trade in Endangered Species Act 1989](#): refer sections 44-50I

[Wildlife Act 1953](#): refer sections 53 to 70Z

28. Nicaragua:

Se adjunta Ley No. 217; Ley General del Medio Ambiente y los Recursos Naturales; Decreto No. 9-96, Reglamento a la Ley 217, Ley General del Medio Ambiente y los Recursos Naturales; Ley No. 807, Ley de Conservación y Utilización Sostenible de la Diversidad Biológica; Decreto No. 24-2019, Reglamento a la LEY No. 807, Ley de Conservación y Utilización Sostenible de la Diversidad Biológica; Decreto No. 20-2017 Sistema de Evaluación Ambiental de permisos y autorizaciones para el uso sostenible de los Recursos Naturales; Decreto 01-2007, Reglamento de Áreas Protegidas de Nicaragua; Ley No. 462, Ley de Conservación, Fomento y Desarrollo Sostenible del Sector Forestal; Decreto No. 73-2003, Reglamento de la Ley No. 462;

Ley No. 489, Ley de Pesca y Acuicultura; Decreto Ejecutivo No. 9-2005, Reglamento de Ley No. 489, Ley de Pesca y Acuicultura

29. Niger:

c) Conformément à la Loi 2019-047 du 24 octobre portant répression des infractions relatives au commerce international des espèces de faune et de flore sauvages menacées d'extinction au Niger, Art.9: lorsque l'infraction est commises par une personne morale, les dirigeants, les administrateurs, ou les mandataires, qui l'ont ordonnée, autorisée, tolérée, ou y ont participé sont considérés comme des coauteurs de l'infraction et encourrent les peines prévues à cet effet.

Loi 2019-047 du 24 octobre portant répression des infractions relatives au commerce international des espèces de faune et de flore sauvages menacées d'extinction au Niger.

30. Norway:

c) Criminal sanctions: The penalty is a fine. The enterprise may also be sentenced to lose the right to operate, or may be prohibited from operating in certain forms, and be subject to confiscation.

Non-criminal sanctions include order to remedy or stop situations, order to carry out reasonable measures to prevent or limit damage or nuisance, order to restore diversity to its former state, seizure, confiscation, coercive fines and administrative fines.

Please find attached an unofficial translation of The Penal Code Section 27 and an unofficial translation of the Nature Diversity Act chapter IX. The legislation provided by Norway will be uploaded in SHERLOC in due course.

31. Panama:

Código Penal de la República de Panamá.

Artículo 51. Cuando una persona jurídica sea usada o creada para cometer delito, aunque no sea beneficiada por él, se le aplicará cualesquiera de las siguientes sanciones: 1. CANCELACIÓN O SUSPENSIÓN DE LA LICENCIA O REGISTRO POR UN TÉRMINO NO SUPERIOR A CINCO AÑOS.

2. Multa no inferior a cinco mil balboas (B/.5,000.00) ni superior al doble de la lesión o al beneficio patrimonial.

3. Pérdida total o parcial de los beneficios fiscales.

4. Inhabilitación para contratar con el Estado, directa o indirectamente, por un término no superior a cinco años, la cual será imposter junto con cualquiera de las anteriores.

5. Disolución de la sociedad.

6. Multa no inferior de veinticinco mil balboas (B/.25,000.00) ni superior al doble de la lesión o al beneficio patrimonial, en caso de que la persona jurídica sea prestadora del servicio de transporte mediante el cual se introduce la droga al territorio nacional.

Código Penal de la República de Panamá.

Título XIII Delitos Contra El Ambiente y el Ordenamiento Territorial.

Capítulo V. Disposiciones comunes

Artículo 423. Cuando una persona jurídica sea utilizada para promover, ocasionar, subsidiar o dirigir algunos de los hechos punibles lesivos al ambiente, descritos en el presente Título será sancionada con multa mínima de cinco mil balboas (B/.5,000.00) y máxima de cien millones de balboas (B/.100,000,000.00), según la gravedad del daño ambiental causado.

Ley 41 de 1 de julio de 1998. Ley General de Ambiente.

Capítulo II. Infracciones Administrativas

Artículo 114. La violación a las normas contempladas en la presente Ley, constituye infracción administrativa, y será sancionada por la Autoridad Nacional del Ambiente con multa que no excederá de diez millones de balboas con cero centésimo (B/.10,000,000.00). El monto de la sanción corresponderá a la gravedad de la infracción

o reincidencia del infractor, de acuerdo con lo establecido en los reglamentos respectivos. El Administrador Nacional del Ambiente impondrá multas hasta de un millón de balboas con cero centésimo (B/.1,000,000.00). Las multas de un millón un balboas (B/.1,000,001.00) a diez millones de balboas (B/.10,000,000.00), serán impuestas por el Consejo Nacional del Ambiente. Accesoriamente, la Autoridad Nacional del Ambiente queda facultada para ordenar al infractor el pago del costo de limpieza, mitigación y compensación del daño ambiental, sin perjuicio de las responsabilidades civiles y penales que correspondan.

32. Peru:

c) En el Perú, las personas jurídicas solo pueden ser imputadas de responsabilidad penal por delitos enmarcados en la lucha contra la corrupción y lavado de activos, todo ello regulado en la Ley 30424, Ley que regula la responsabilidad administrativa de las personas jurídicas. En dicha normativa se precisa lo siguiente: “Las personas jurídicas son responsables administrativamente por los delitos señalados en el artículo 1, cuando estos hayan sido cometidos en su nombre o por cuenta de ellas y en su beneficio, directo o indirecto”. Asimismo, la citada ley establece medidas administrativas aplicables y complementarias especificadas en los artículos 5 y 6 de la Ley 30424, como multas, inhabilitación, disolución, suspensión de actividades y para contratar con el Estado, entre otros.

Con relación al párrafo anterior, adjuntamos las disposiciones legislativas pertinentes de conformidad con la Ley 30424 que regula la responsabilidad administrativa de las personas jurídicas por el delito de cohecho activo transnacional:

Conducta sancionada	Penas
<p>Artículo 3.- Responsabilidad administrativa de las personas jurídicas</p> <p><u>Las personas jurídicas son responsables administrativamente por los delitos señalados en el artículo 1 (crimen organizado), cuando estos hayan sido cometidos en su nombre o por cuenta de ellas y en su beneficio, directo o indirecto, por:</u></p> <p>a. Sus socios, directores, administradores de hecho o derecho, representantes legales o apoderados de la persona jurídica, o de sus filiales o subsidiarias.</p> <p>b. La persona natural que, estando sometida a la autoridad y control de las personas mencionadas en el literal anterior, haya cometido el delito bajo sus órdenes o autorización.</p>	<p>Artículo 5. Medidas administrativas aplicables</p> <p>El juez, a requerimiento del Ministerio Público, puede disponer, según corresponda, las siguientes medidas administrativas contra las personas jurídicas que resulten responsables de la comisión de los delitos previstos en el artículo 1:</p> <p>a. Multa no menor al doble ni mayor al séxtuplo del beneficio obtenido o que se espera obtener con la comisión del delito, sin perjuicio de lo dispuesto en el artículo 7</p> <p>b. Inhabilitación, en cualquiera de las siguientes modalidades:</p> <ol style="list-style-type: none"> 1. Suspensión de sus actividades sociales por un plazo no menor de seis meses ni mayor de dos años. 2. Prohibición de llevar a cabo en el futuro actividades de la misma clase o naturaleza de aquellas en cuya realización se haya cometido, favorecido o encubierto el delito. La prohibición podrá tener carácter temporal o definitivo. La prohibición temporal no será

<p>c. La persona natural señalada en el literal precedente, cuando la comisión del delito haya sido posible porque las personas mencionadas en el literal a. han incumplido sus deberes de supervisión, vigilancia y control sobre la actividad encomendada, en atención a la situación concreta del caso.</p> <p>Las personas jurídicas que tengan la calidad de matrices serán responsables y sancionadas siempre que las personas naturales de sus filiales o subsidiarias, que incurran en cualquiera de las conductas señaladas en el primer párrafo, hayan actuado bajo sus órdenes, autorización o con su consentimiento.</p> <p>Las personas jurídicas no son responsables en los casos en que las personas naturales indicadas en el primer párrafo hubiesen cometido los delitos previstos en el artículo 1, exclusivamente en beneficio propio o a favor de un tercero distinto a la persona jurídica.</p>	<p>menor de un año ni mayor de cinco años.</p> <p>3. Para contratar con el Estado de carácter definitivo.</p> <p>c. Cancelación de licencias, concesiones, derechos y otras autorizaciones administrativas o municipales.</p> <p>d. Clausura de sus locales o establecimientos, con carácter temporal o definitivo. La clausura temporal es no menor de un año ni mayor de cinco años.</p> <p>e. Disolución.</p>
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33. Philippines

Both penalize and fine

34. Poland:

The Act of 28 October 2002 on the Liability of Collective Entities for Acts Prohibited under Penalty defines in detail the principles of holding the accused persons accountable.

35. Portugal:

a) Yes

"In the crime of damage to nature as typified in Article 278(1)(a) of the Criminal Code, the legislature uses an elastic, open or imprecise concept that allows for different evaluations, leaving the interpreter with the task of defining it.

In effect, the legislator adds to the expression "eliminate" the need for the conduct to have as its object a "significant number" of specimens of fauna or flora. It was thus due to the greater gravity of the conduct thus assessed that the legislator delimited the circle of criminally punishable behaviours, bearing in mind that the legal system also has a system of administrative offences that cover behaviours which cause damage to nature, which forced the most serious forms of conduct to be reserved for the provision in article 278.

The legal interest protected in Art 278 (1) (a) is the preservation of ecosystems through the maintenance of two of its components: the fauna and the flora.

This being the case and given that within each ecosystem each species of fauna or flora occupies a complex space with its own characteristics, the respective elimination can only be referred to as "significant" when the specific characteristics of the particular ecosystem in which it occurs are taken into account.

In this context it is possible, for example, to consider as "very significant" the elimination of five birds in a specific ecosystem where the global population is 20, and the elimination of that same number of birds cannot be qualified as "very significant" in another ecosystem where the global population of that species is much higher.

To that extent, the analysis of criminally punishable conduct necessarily implies a value judgment which can only be reached by using technically based indicators".

c)

In addition to the fines, the following accessory sanctions may also be applied

- a) Seizure and forfeiture in favour of the State of the objects belonging to the defendant, used or produced at the time of the offence;
- b) Prohibition to exercise professions or activities whose exercise depends on a public title or on an authorization or homologation by a public authority
- c) Deprivation of the right to benefits or subsidies granted by national or community public entities or services;
- d) Loss of the right to participate in conferences, fairs or national or international markets with the purpose of trading or publicizing their products or activities;
- (e) exclusion from the right to participate in public tenders or bids which have as their object the contracting or concession of public works, the acquisition of goods and services, the concession of public services and the granting of licenses or permits
- f) Closure of an establishment whose operation is subject to an authorization or license issued by an administrative authority
- g) Termination or suspension of licenses, permits or authorizations related to the exercise of the respective activity;
- h) Loss of tax benefits, credit benefits and credit financing lines of which it has availed itself;
- i) Sealing of equipment destined for operation;
- j) Imposition of measures that are deemed appropriate to prevent environmental damage, to restore the situation prior to the infraction and to minimise its effects;
- l) Publicity for the conviction;
- m) The seizure of animals.

If the conduct constitutes the commission of a crime, the penalty will be aggravated by the result of death or serious injury to the physical integrity of another person:

"If of the crimes under articles 272 to 274, 277, 280, or 282 to 284, death or serious injury to the physical integrity of another person results, the perpetrator shall be punished with the penalty that would be applicable in the case, increased by one third in its minimum and maximum limits."

Relevant legislation:

Criminal Code

Article 11

Liability of natural persons and legal persons

1 – Except for the provisions of paragraph 2 below and in the special cases provided by law, only natural persons can be held criminally liable.

2 – Legal persons and equivalent entities, with the exception of the State, of other public legal persons and of international organisations of public law, are held liable for the offences falling within articles 144-B, 150, 152-A and 152-B, 156, 159 and 160, 163 to 166, when the victim is a minor, and within articles 168, 169, 171 to 177, 203 to 206, 209 to 223, 225, 226, 232, 232, 240, 256, 258, 262 to 283, 285, 299, 335, 348, 353, 359, 363, 367, 368-A and 372 to 377, when committed:

a) On their behalf and in the collective interest by persons who have a leading position therein;

b) By whoever acting under the authority of the persons referred to in subparagraph a) above, by virtue of a breach of the supervision or control duties incumbent upon them.

3 - (Repealed.)

4 – Are deemed to have a leading position both the bodies and representatives of the legal person and any person with the power to exercise control of its activity.

5 – Civil companies and de facto associations are deemed to be entities equivalent to legal persons for purposes of their criminal liability.

6 - The liability of legal persons and equivalent entities is excluded when the offender acted against orders or instructions given by a person entitled thereto.

7 - The liability of legal persons and equivalent entities does not exclude the individual liability of the respective offenders, nor does it depend upon their being liable therefor.

8 - The criminal liability of a legal person or an equivalent entity is not extinct following a demerger or a merger, and the following persons shall remain liable for the commission of the offence:

a) The legal person or equivalent entity within which the merger has taken place; and

b) The legal persons or equivalent entities resulting from the demerger.

9 – Without prejudice to the recursory right, the persons holding a leading position are subsidiary responsible for the payment of any fines and compensations to which the legal person or equivalent entity has been sentenced in respect of criminal offences.

a) Committed in the period in which such persons held their position, without their express opposition thereto;

b) Committed at a prior time, where the insufficiency of the property of the legal person or equivalent entity to cover payment is their sole responsibility;

or

c) Committed at a prior time where the final decision to impose the said payment has been notified during the period of tenure and the lack of payment is attributable to them.

10 – In case several persons are held liable under the preceding paragraph, they become jointly and severally liable.

11 – Where the fines or compensations are imposed on an entity without legal personality, their payment shall be made from the joint property and, in the absence or insufficiency thereof, jointly and severally out of each partner's property.

Article 12

Acting on behalf of another

1 – Whoever acts voluntarily as holder of a body of a legal person, company or mere de facto association, or in legal or voluntary representation of another, is punishable, even when the respective type of criminal offence requires:

a) Certain personal elements, which are only met in the represented person; or

b) That the offender acts in his own interest and the representative acts in the represented person's interest.

2 – The ineffectiveness of the act upon which the representation was based does not preclude the applicability of the provisions set forth in the preceding paragraph.

For a better framework, the following are some of the provisions of the Criminal Code that typify offences in which legal persons may incur criminal liability:

- Articles 272 to 285 (Crimes of common danger), 299 (Criminal association), 335 (Trading in influence), 348 (Disobedience), 353 (Breach of impositions, prohibitions or interdictions), 359 (False testimony or statement), 363 (Bribery), 367 (Personal favouring), 368-A (Money laundering) and 372 to 377 (Crimes committed while holding public offices – passive corruption and active corruption).

36. Qatar:

نعم ، يحمل الشخص المسؤول عن إدارة الشخص المعنوي المسؤولية كما لو كان شريك للفاعل الأصلي

نصت المادة (7) من القانون رقم (5) لسنة 2006 بتنظيم الاتجار في أنواع الكائنات الفطرية المهدة

: بالانقراض ومنتجاته على أنه

إذا كان مرتكب الجريمة أو المرتكبة باسمه أو لصالحه شخصاً معنوياً ، عوقب مثله القانوني بوصفه "

شريكاً للفاعل الأصلي بالعقوبات المنصوص عليها في هذا القانون

ويعفى ممثل الشخص المعنوي من العقوبة إذا ثبت أن الجريمة وقعت بدون علمه أو رغباً عنه أو إضراراً

به".

أي يكون الحكم على الشخص المعنوي بذات العقوبات المقررة على الشخص الطبيعي ، وأما ما يتعلق

بالجزاء المحتملة سواء جنائية أو غير جنائية أو نقدية فكما ذكر أعلاه في إجابة السؤال

المشار - 14 - السادس (ب) فإن الجزاءات الجنائية والنقدية تتمثل بما جاء فيه نصوص المواد (16) (13

. إليها أنفاً

37. Romania:

Please find hereinafter the requested examples:

Law no. 86/2006 regarding the Customs Code, article 270: the introduction into or removal from the country, by any means, of goods or merchandise, through places other than those established for customs control, constitutes the crime of smuggling and is punishable by imprisonment from 2 to 7 years and the prohibition of certain rights.

Law no. 86/2006 regarding the Customs, article 272: The use, at the customs authority, of customs transport or commercial documents that refer to other goods or goods or to other quantities of goods or goods than those presented at customs constitutes the crime of using false documents and is punishable by imprisonment from 2 to 7 years and the prohibition of certain rights.

Law no. 86/2006 regarding the Customs, article 273: The use, at the customs authority, of falsified customs transport or commercial documents constitutes the crime of using falsified documents and is punishable by imprisonment from 3 to 10 years and the prohibition of certain rights.

Emergency Ordinance no. 57 of June 20, 2007: trade in specimens of the species provided for in annexes A and B to Regulation (EC) no. 338/97 of the Council of December 9, 1996 regarding the protection of wild species, fauna and flora by controlling trade with them, published in the Official Journal of the European Communities no. L61 of March 3, 1997, with subsequent amendments and additions, or with parts or derivatives thereof, in violation of the legal provisions in the field, except in cases where the act affects a small amount of such specimens and has an insignificant impact on the state of preservation of species is punishable by imprisonment from 3 months to one year or a fine;

According to the Government Decision no. 707 of June 7, 2006 for the approval of the Regulation on the application of the Romanian Customs Code, non-presentation of documents of any nature and on any type of support, requested during customs control, as well as non-compliance with the deadline set by the customs authority for the presentation of documents constitutes a contravention and are sanctioned with a fine from 1.500 RON to 3.000 RON.

Relevant legislative provisions:

Also:

Art. 135 – 151 of the Penal Code

Art. 489 – 503 of the Criminal Proceedings Code

We will refer strictly to the way in which criminal liability is incurred, as this aspect alone concerns the competences of the Public Ministry:

General legal framework: Articles 135 to 151 of the Criminal Code, more precisely the whole of Title VI of this normative act (criminal liability of legal persons). According to the general regime, the specific sanction for a legal person is the criminal fine, according to a system of day-fines, which is determined in two steps: first the number of day-fines is individualised, ranging from 30 days to 600 days, which is then multiplied by the amount corresponding to one day-fine, ranging from 100 to 5,000 lei. The court shall determine the number of day-fines according to the general criteria for the individualisation of the penalty as well as according to other special criteria (turnover or value of assets, as the case may be, and the possibility of increasing the limits by 1/3 if the offence was committed for the purpose of obtaining financial gains).

In the case of certain environmental offences, including trafficking in wildlife, the legislator has provided for the following special criminal liability regime for legal persons:

- by way of derogation from the general liability regime, in the case of the offence referred to in (...), the amount corresponding to one day-fine for a legal person shall be between 500 lei and 25,000 lei (see in this respect Article 52 (3) of GEO No. 57/2007, as well as Article 98 (9) of GEO No. 195/2005).

With reference to Romania's Criminal Code – Law 286/2009:

Art. 135 (1) The legal person, with the exception of the state and public authorities, is criminally liable for crimes committed in the pursuit of the object of activity or in the interest or on behalf of the legal person.

(3) The criminal liability of the legal person does not exclude the criminal liability of the natural person who contributed to the commission of the same act.

Art. 136: Penalties applicable to the legal person

(1) The penalties applicable to the legal person are main and complementary.

(2) The main punishment is the fine.

(3) Complementary penalties are:

a) dissolution of the legal entity;

b) suspension of the activity or one of the activities of the legal entity for a period of 3 months to 3 years;

c) closing some work points of the legal entity for a period of 3 months to 3 years;

d) prohibition to participate in public procurement procedures for a period of one to 3 years;

e) placement under judicial supervision;

f) displaying or publishing the conviction.

Government Emergency Ordinance no. 57 of June 20, 2007 regarding the regime of natural protected areas, conservation of natural habitats, flora and fauna

Prison – 3 months to a year or a fine for crimes falling under art. 52

Fine from 3.000 RON to 6.000 RON for individuals, 25.000 RON to 50.000 RON for companies for the prohibited activities falling under art. 53

38. Russian Federation:

с) предупреждение, административный штраф, конфискация орудия/предмета административного нарушения, административное приостановление деятельности.

К юридическим лицам в Российской Федерации могут применяться санкции (уголовные, неуголовные, включая денежные взыскания) предусмотренные следующими законами:

«Кодексом Российской Федерации об административных правонарушениях» от 30.12.2001 № 195-ФЗ

Статья 8.35. Уничтожение редких и находящихся под угрозой исчезновения видов животных или растений

Уничтожение редких и находящихся под угрозой исчезновения видов животных или растений, занесенных в Красную книгу Российской Федерации либо охраняемых международными договорами, а равно действия (бездействие), которые могут привести к гибели, сокращению численности либо нарушению среды обитания этих животных или к гибели таких растений, либо добыча, хранение, перевозка, сбор, содержание, приобретение, продажа либо пересылка указанных животных или растений, их продуктов, частей либо дериватов без надлежащего на то разрешения или с нарушением условий, предусмотренных разрешением, либо с нарушением иного установленного порядка, если эти действия не содержат уголовно наказуемого деяния, –

влечет наложение административного штрафа на граждан в размере от двух тысяч пятисот до пяти тысяч рублей с конфискацией орудий добычи

животных или растений, а также самих животных или растений, их продуктов, частей либо дериватов или без таковой; на должностных лиц – от пятнадцати тысяч до двадцати тысяч рублей с конфискацией орудий добычи животных или растений, а также самих животных или растений, их продуктов, частей либо дериватов или без таковой; на юридических лиц – от пятисот тысяч до одного миллиона рублей с конфискацией орудий добычи животных или растений, а также самих животных или растений, их продуктов, частей либо дериватов или без таковой.

Статья 8.37. Нарушение правил охоты, правил, регламентирующих рыболовство и другие виды пользования объектами животного мира

1) Нарушение правил охоты, за исключением случаев, предусмотренных частями 1.2, 1.3 настоящей статьи, -

влечет наложение административного штрафа на граждан в размере от пятисот до четырех тысяч рублей с конфискацией орудий охоты или без таковой или лишение права осуществлять охоту на срок до двух лет; на должностных лиц - от двадцати тысяч до тридцати пяти тысяч рублей с конфискацией орудий охоты или без таковой.

1.1. Повторное в течение года совершение административного правонарушения, предусмотренного частью 1 настоящей статьи, –

влечет наложение административного штрафа на граждан в размере от четырех тысяч до пяти тысяч рублей с конфискацией орудий охоты или без таковой или лишение права осуществлять охоту на срок от одного года до трех лет; на

должностных лиц - от тридцати пяти тысяч до пятидесяти тысяч рублей с конфискацией орудий охоты или без таковой.

1.2. Осуществление охоты с нарушением установленных правилами охоты сроков охоты, за исключением случаев, если допускается осуществление охоты вне установленных сроков, либо осуществление охоты недопустимыми для использования орудиями охоты или способами охоты –

влечет для граждан лишение права осуществлять охоту на срок от одного

года до двух лет; наложение административного штрафа на должностных лиц в размере от тридцати пяти тысяч до пятидесяти тысяч рублей с конфискацией орудий охоты или без таковой.

1.3. Непредъявление по требованию должностных лиц органов, уполномоченных в области охраны, контроля и регулирования использования объектов животного мира (в том числе отнесенных к охотничьим ресурсам) и среды их обитания, органов, осуществляющих функции по контролю в области организации и функционирования особо охраняемых природных территорий федерального значения, государственных учреждений, находящихся в ведении органов исполнительной власти субъектов Российской Федерации, осуществляющих государственный охотничий надзор, функции по охране, контролю и регулированию использования объектов животного мира и среды их обитания, других уполномоченных в соответствии с законодательством Российской Федерации должностных лиц, производственных охотничьих инспекторов охотничьего билета, разрешения на добычу охотничьих ресурсов, путевки либо разрешения на хранение и ношение охотничьего оружия в случае осуществления охоты с охотничьим огнестрельным и (или) пневматическим оружием –

влечет для граждан лишение права осуществлять охоту на срок от одного года до двух лет; наложение административного штрафа на должностных лиц в размере от двадцати пяти тысяч до сорока тысяч рублей с конфискацией орудий охоты или без таковой.

2. Нарушение правил, регламентирующих рыболовство, за исключением случаев, предусмотренных частью 2 статьи 8.17 настоящего Кодекса, –

влечет наложение административного штрафа на граждан в размере от двух тысяч до пяти тысяч рублей с конфискацией судна и других орудий добычи (вылова) водных биологических ресурсов или без таковой; на должностных лиц - от двадцати тысяч до тридцати тысяч рублей с конфискацией судна и других орудий добычи (вылова) водных биологических

ресурсов или без таковой; на юридических лиц - от ста тысяч до двухсот тысяч рублей с конфискацией судна и других орудий добычи (вылова) водных биологических ресурсов или без таковой.

3. Нарушение правил пользования объектами животного мира, за исключением случаев, предусмотренных частями 1-2 настоящей статьи, –

влечет наложение административного штрафа на граждан в размере от пятисот до одной тысячи рублей с конфискацией орудий добывания животных или без таковой; на должностных лиц - от двух тысяч пятисот до пяти тысяч рублей с конфискацией орудий добывания животных или без таковой; на юридических лиц - от пятидесяти тысяч до ста тысяч рублей с конфискацией орудий добывания животных или без таковой.

Федеральным законом от 24.07.2009 № 209-ФЗ «Об охоте и о сохранении охотничьих ресурсов и о внесении изменений в отдельные законодательные акты Российской Федерации»

Статья 58. Возмещение вреда, причиненного охотничьим ресурсам

Возмещение вреда, причиненного охотничьим ресурсам, осуществляется в добровольном порядке или в судебном порядке на основании утвержденных в

соответствии с Федеральным законом "О животном мире" такс и методик исчисления ущерба, причиненного животному миру, а при их отсутствии - исходя из затрат на воспроизводство охотничьих ресурсов.

Федеральным законом от 24.04.1995 № 52-ФЗ «О животном мире»

Статья 56. Ответственность юридических лиц и граждан за ущерб, нанесенный объектам животного мира и среде их обитания

Юридические лица и граждане, причинившие вред объектам животного мира и среде их обитания, возмещают нанесенный ущерб добровольно либо по решению суда или арбитражного суда в соответствии с таксами и методиками исчисления ущерба животному миру, а при их отсутствии - по фактическим затратам на компенсацию ущерба, нанесенного объектам животного мира и среде их обитания, с учетом понесенных убытков, в том числе упущенной

выгоды.

В случае невозможности предотвратить ущерб, нанесенный в результате жизнедеятельности объектов животного мира сельскому, водному и лесному хозяйству, убытки возмещаются из фондов экологического страхования, если пользователь животным миром является членом такого фонда.

Ущерб должен быть взыскан с пользователей животным миром, если они не приняли реальных и необходимых мер по предотвращению или уменьшению ущерба на закрепленных за ними территориях, акваториях. В случаях, если специально уполномоченные государственные органы по охране, контролю и регулированию использования объектов животного мира и среды их обитания необоснованно ограничивают пользователей животным миром в изъятии объектов животного мира, наносящих ущерб сельскому, водному и лесному хозяйству, ответственность за нанесенный ущерб несут должностные лица соответствующего специально уполномоченного государственного органа по охране, контролю и регулированию использования объектов животного мира и среды их обитания.

39. Senegal:

a) Oui

Il y a lieu de préciser d'abord que le code de la chasse ne prévoit pas la responsabilité pénale des personnes morales. Mais, la loi 2021-33 du 23 juillet 2021 modifiant le Code pénal sénégalais prévoit le principe de la responsabilité générale des personnes morales.

La loi de 2021 prévoit une amende dont le taux maximum est égal au quintuple de celui prévu pour les personnes physiques par la loi qui réprime l'infraction. (Sanction personne physique 120.000 à 1.200.000). Il y a aussi la possibilité de prononcer contre les personnes morales : la dissolution, l'interdiction à titre temporaire ou définitive, l'exclusion de marchés publics à titre temporaire ou définitif, la confiscation et la diffusion publique de la décision.

40. Serbia:

Legal person liability and sanctions are envisaged by the Law on the Liability of Legal Entities for Criminal Offences.

2. Penal Sanctions Types of Penal Sanctions

Article 12

The following penal sanctions may be imposed against a legal person for the commission of criminal offences:

- sentence;
- suspended sentence;
- security measures.

a) Sentences Types of Sentences

Article 13

The following sentences may be imposed against a legal person:

- fine;
- termination of the status of a legal entity.

Fine and the termination of the status of a legal entity may be imposed solely as principal sentences.

41. Slovakia:

Ministry of Justice: Criminal:

According To Section 10 of Act No. 91/2016 Coll. on Criminal liability of legal persons, the court may impose the following penalties on a legal person for a criminal offence:

- a) dissolution of the legal person
- b) forfeiture of assets,
- c) forfeiture of items,
- d) monetary penalty,
- e) disqualification
- f) the penalty of prohibition to receive subsidies or subsidies,
- g) the penalty of prohibition to receive aid and assistance from European Union funds,
- h) the penalty of prohibition from participating in public procurement procedures,
- i) the penalty of publication of the conviction.

Administrative: see question 6.

Ministry of Interior: Under administrative law, it is possible to impose a fine up to 33,000 EUR to a legal person and forfeiture of specimens. According to criminal liability in accordance with Section 10 (1) and others of Act No. 91/2016 Coll. on Criminal Liability of Legal Persons Amending and Supplementing Certain Acts as amended, it is possible to impose:

- Annulment of legal person
- Forfeiture of the item
- Fine (1,500- 1,600,000 EUR)
- Prohibition of the activity
- Publication conviction

42. Slovenia:

The sanctions are the same as for the individual.

Relevant legislation:

Illegal handling of protected wild animal and plant species

Article 344

(1) Whoever illegally possesses, takes away, damages, kills, exports, imports, exports, imports or trades in protected wild animal and plant species or their parts or products made from them, shall be punished by imprisonment for up to three years.

(2) If the thing referred to in the preceding paragraph is of great or exceptional nature conservation importance, or if the act referred to in the preceding paragraph is committed in a criminal organization to carry out such acts, the perpetrator shall be punished with imprisonment from six months to five years.

43. South Africa:

c) National Environmental Management Act 107 of 1998:

Vicarious criminal liability of employers and personal criminal liability of directors where their negligence contributed to the offence:

S34 Criminal proceedings

(5) Whenever any manager, agent or employee does or omits to do an act which it had been his or her task to do or to refrain from doing on behalf of the employer and which would be an offence under any provision listed in Schedule 3 for the employer to do or omit to do, and the act or omission of the manager, agent or employee occurred because the employer failed to take all reasonable steps to prevent the act or omission in question, then the employer shall be guilty of the said offence and, save that no penalty other than a fine may be imposed if a conviction is based on this subsection, liable on conviction to the penalty specified in the relevant law, including an order under subsections (2), (3) and (4), and proof of such act or omission by a manager, agent or employee shall constitute prima facie evidence that the employer is guilty under this subsection.

(6) Whenever any manager, agent or employee does or omits to do an act which it had been his or her task to do or to refrain from doing on behalf of the employer and which would be an offence under any provision listed in Schedule 3 for the employer to do or omit to do, he or she shall be liable to be convicted and sentenced in respect thereof as if he or she were the employer.

(7) Any person who is or was a director of a firm at the time of the commission by that firm of an offence under any provision listed in Schedule 3 shall himself or herself be guilty of the said offence and liable on conviction to the penalty specified in the relevant law, including an order under subsection (2), (3) and (4), if the offence in question resulted from the failure of the director to take all reasonable steps that were necessary under the circumstances to prevent the commission of the offence: Provided that proof of the said offence by the firm shall constitute prima facie evidence that the director is guilty under this subsection.

(8) Any such manager, agent, employee or director may be so convicted and sentenced in addition to the employer or firm.

(9) In subsection (7) and (8) -

(a) "firm" shall mean a body incorporated by or in terms of any law as well as a partnership; and

(b) "director" shall mean a member of the board, executive committee, or other managing body of a corporate body and, in the case of a close corporation, a member of that close corporation or in the case of a partnership, a member of that partnership.

44. Spain:

Se definen, en lo relativo a la comisión de delitos, en el Artículo 328 de la L.O. 10/1995, del Código Penal:

“Cuando de acuerdo con lo establecido en el artículo 31 bis una persona jurídica sea responsable de los delitos recogidos en este Capítulo, se le impondrán las siguientes penas:

a) Multa de uno a tres años, o del doble al cuádruple del perjuicio causado cuando la cantidad resultante fuese más elevada, si el delito cometido por la persona física tiene prevista una pena de más de dos años de privación de libertad.

b) Multa de seis meses a dos años, o del doble al triple del perjuicio causado si la cantidad resultante fuese más elevada, en el resto de los casos.

Atendidas las reglas establecidas en el artículo 66 bis, los jueces y tribunales podrán asimismo imponer las penas recogidas en las letras b) a g) del apartado 7 del artículo 33.”

45. Sweden:

About corporate fines

§ 7 At the request of the public prosecutor, a company must be imposed a corporate fine for a crime, if a more severe punishment than fines is prescribed for the crime and the crime was committed in the exercise of

1. commercial activities,
2. such public activities that can be equated with commercial activities, or
3. other activities that a company carries out, if the crime has been likely to lead to a financial advantage for the company.

A corporate fine is also required for the company to be imposed

1. that the company has not done what could reasonably be required to prevent the crime, or
2. that the crime has been committed by
 1. a person with a leading position in the company, based on the authority to represent the company or to make decisions on its behalf, or
 2. a person who otherwise had special responsibility for supervision or control in the business.

Companies refer to individual traders and legal entities.

The first paragraph does not apply if the crime was directed against the company. Law (2019:829).

§ 8 When a company is imposed a corporate fine for several crimes, the court must determine a joint corporate fine for the combined crime.

When determining the size of the corporate fine, a sanction value of at least five thousand kroner and at most ten million kroner must first be determined. The penalty value must be determined based on the penalty value for the total crime. Special consideration must be given to the damage or danger that the crime entailed and to the relationship of the crime to the business. Reasonable consideration must also be given to whether the company has previously been ordered to pay a corporate fine.

Unless otherwise provided by section 9 or 10, the corporate fine must be set at an amount that corresponds to the sanction value. Law (2019:829).

Section 9

If the sanction value is at least 500 000 kronor, the corporate fine for a large company is set higher than follows from Section 8 (increased corporate fine). The increased corporate fine is set at an amount that is justified in view of the financial position of the company. However, an increased corporate fine may not be set higher than an amount corresponding to fifty times the sanction value. 'Large company' means sole traders and legal persons that correspond to the criteria stated in Chapter 1, Section 3, first paragraph, point 4 of the Annual Accounts Act (1995:1554). The provisions of this Section do not apply to central government, municipalities or regions. Act 2019:839.

46. Thailand:

Office of the Attorney General: c) Monetary sanction under Section 32 of the Anti-Participation in Transnational Organized Crime Act B.E.2556

Department of National Parks, Wildlife and Plant Conservation:

1. Penalty fine
2. Imprisonment
3. Seizure of all illegal items

Main legislation:

1. Wild Animal Reservation and Protection Act B.E. 2562

Section on 22, 23, 24, 25 and Section 89

Relevant legislation:

1. Animal Epidemic Act B.E. 2558

2. Customs Act B.E. 2560

3. Prevention and Suppression of participate in transnational Organized Crime Act B.E. 2556

4. Anti-Money Laundering Prevention and Suppression Act B.E. 2542

5. Code of Criminal Procedure, Section 20

6. Plant Protection Act. B.E. 2535 (1992) and amended

47. Tunisia:

c) Amende, saisie, emprisonnement

48. Türkiye:

A) According to the Article 8 titled "Liability due to the behaviour of organ or representative" of Misdemeanour Law numbered 5326;

"(1) Administrative sanction can also be imposed against the legal person due to misdemeanour committed within the scope of the relevant duty by the person who acts as organ or agency or who assumes duty within the framework of the activity of the legal person despite not being an organ or agency.

(2) Administrative sanction can also be imposed on the represented real person due to misdemeanour committed by the person acting as agency, in connection with this capacity. Administrative sanction can also be imposed on the employer due to misdemeanour committed by the person who works in a workplace belonging to a real person, within the scope of such activity.

(3) Provisions of the aforementioned paragraphs shall be applied in cases where the Law looks for special qualifications in the organ or agency or the represented person.

(4) Provisions of the first and second paragraph shall also be applied in cases where the procedure constituting basis for the organ or agency or service relationship prevails further in legal terms".

B) According to the subparagraph (k) of the Article 20 titled "Penalties in Administrative Nature" of the Environmental Law numbered 2872;

"20.000 Turkish Liras (244.315 TL) shall be imposed on those who;

- devastate biological diversity contrary to the matters prescribed in the subparagraph (a) of the article 9 of the Law,

- act contrary to the protection and usage principles determined for Special Environmental Protection Regions which have been announced pursuant to the subparagraph (d),

- act contrary to the protection and usage procedures and principles determined in the legislation for the wetlands pursuant to the second paragraph of the subparagraph (e),

- act contrary to the principles and prohibitions determined in the subparagraph (f).

100.000 Turkish Liras (1.221.763 TL) shall be imposed on those who act contrary to the first paragraph of the subparagraph (e)".

C) The following provisions are stipulated in the Land Hunting Law No. 4915;

1- In Article 18 entitled "Principles of trade":

“Domestic or introduced species of game and wild animals whose trade is prohibited by international conventions to which our country is a party and wild animal which are hunted in violation of the hunting principles and procedures laid down under Article 6 of this Law cannot be sold, purchased, transferred and imported and exported, either alive or dead, as well as their meat, egg, skin, fur, horn and similar parts and derivatives.

The Ministry shall have the authority to audit and partially or fully prohibit the trade of species whose trade is regulated by international conventions to which our country is a party and game which are legally hunted within the scope of this Law and the trade of parts obtained from these animals, and the authority to regulate the principles and procedure concerning obtaining of revenue by Circulating Capital Enterprises obtained from the trade thereof.

Wild animals whose import is permitted by the Ministry within the scope of the international conventions for the purpose of display within the country or for show purposes cannot be sold. These matters shall be audited by the Ministry.”

2- In Article 19 entitled “Principles of production”:

“Public institutions and organisations and real and legal persons may produce game and wild animals that naturally live in Türkiye provided that a permit is received from the Ministry. Obtaining a separate permit from the Ministry is mandatory for the release of these animals to the nature. The Ministry may give permission, by receiving opinions of relevant institutions and organisations, to the importation and production of introduced species which do not pose a harm to our natural species and are in line with the international obligations of Türkiye.”

3- In Article 26 entitled “Violating the prohibition of trade of game and wild life”:

“(Amended on 23/01/2008 with Article 512 of Law No. 5728)

Those who violate the principles that are laid down by the Ministry in accordance with paragraphs 1 and 2 of Article 18, and Article 19 shall be punished with an administrative fine from five hundred Turkish Liras to two thousand and five hundred Turkish Liras.

Those who violate the prohibition set forth in paragraph 3 of Article 18 shall be punished with an administrative fine in the amount of three thousand Turkish Liras.

49. United Kingdom:

c) Up to 7 years in prison or an unlimited fine.

Relevant legislative provisions:

[COTES 2018](#) – Schedule 1 for criminal and Schedule 2 for civil.

Customs and Excise Management Act 1979 (CEMA).

50. United States of America:

Bald and Golden Eagle Protection Act, [16 U.S.C. 668](#)

Migratory Bird Treaty Act, [16 U.S.C. 707](#)

Marine Mammal Protection Act, [16 U.S.C. 1375](#)

Endangered Species Act, [16 U.S.C. 1538](#)

Lacey Act, [16 U.S.C. 3373](#)

African Elephant Conservation Act, [16 U.S.C. 4224](#)

Rhinoceros and Tiger Conservation Act, [16 U.S.C. 5305a](#)

Money Laundering, [18 U.S. Code § 1956](#)

Smuggling, [18 U.S. Code § 545](#)

Mail Fraud, [18 U.S. Code § 1341](#)

Wire Fraud, [18 U.S. Code § 1343](#)

51. European Union:

a) Yes

Article 6 “Liability of legal persons” of Directive 2008/99/EC¹² on the protection of the environment through criminal law requires that Member States ensure that legal persons can be held liable for offences related to unlawful conducts concerning protected wild fauna or flora species, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species. However, the Directive does not demand ‘criminal’ liability of legal persons. Also, the same provision sets out in its paragraph (3) that the liability of legal persons shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences.

The Proposal for a Directive on Corporate Sustainability Due Diligence¹³ would also be of relevance for provisions on civil liability for companies. Please see point b) below.

b) Criminal, Civil, Administrative

Article 3 of Directive 2008/99/EC on the protection of the environment through criminal law, requires Member States to ensure that conducts related to breaches of relevant EU environmental law, including on wildlife trafficking, constitute a criminal offence, when unlawful and committed intentionally or with at least serious negligence. Article 6, “Liability of legal persons” sets out that the liability of legal persons shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences. Article 7, “Penalties for legal persons”, requires Member States to ensure that legal persons held liable pursuant to Article 6 are punishable by effective, proportionate and dissuasive penalties. Where Member States’ national law does not provide for the criminal liability of legal persons, non-criminal sanctions with regard to legal persons have to be effective, dissuasive and proportionate.

The proposal for a new Environmental Crime Directive keeps the requirement that legal persons shall be held liable for environmental criminal offences, including wildlife trafficking. According to Article 7 (1) of the Proposal, Member States are to take necessary measures to ensure that sanctions or measures for legal persons liable shall include criminal or non-criminal fines. The proposal includes also specific provisions on type and level of sanctions for legal persons. The minimum level of maximum fines for legal persons shall be based on the annual world-wide turnover of the concerned legal persons (3% for the CITES-related offence). The proposal further requires ancillary sanctions and measures for legal persons, such as: exclusion from entitlement to public benefits or aid; temporary exclusion from access to public funding, including tender procedures, grants and concessions; temporary or permanent disqualification from the practice of business activities; withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence; placing under judicial supervision; judicial winding-up; temporary or permanent closure of establishments used for committing the offence; obligation of companies to install due diligence schemes for enhancing compliance with environmental standards; publication of the judicial decision relating to the conviction or any sanctions or measures applied.

At EU level, pending legislative developments such as the Commission Proposal for a Directive on Corporate Sustainability Due Diligence¹⁴ are relevant for civil liability. Its Article 22 (Civil liability) would require Member States to ensure that companies are liable for damages if they did not take appropriate measures to prevent or to adequately mitigate potential adverse environmental impacts and to ensure that companies take appropriate measures to bring to an end actual adverse human rights and environmental impacts identified. “Adverse environmental impact” is defined at Article 3 of the Proposal as “an adverse impact on the environment resulting from the violation of one of the prohibitions and obligations pursuant to the international environmental conventions listed in the Annex, Part II”. Part II includes the violation of the prohibition

¹² Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law, OJ L 328, 6.12.2008

¹³ Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, COM/2022/71 final

¹⁴ Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, COM/2022/71 final

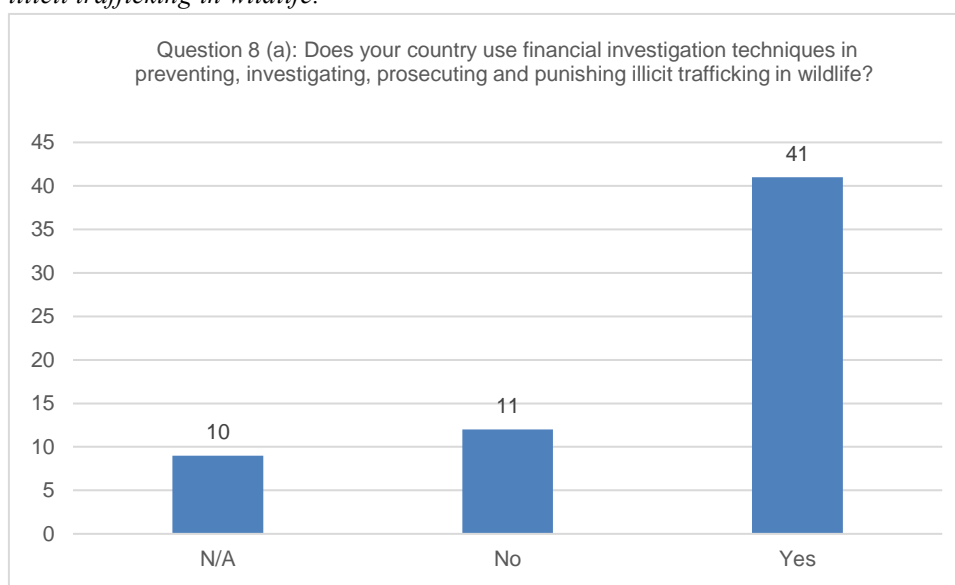
to import or export any specimen included in an Appendix of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) of 3 March 1973 without a permit, pursuant to Articles III, IV and V.” This Directive will not prevent Member States from imposing further, more stringent obligations on companies or from otherwise taking further measures having the same objectives.

c) Please, see above, point b)

Question 8:

- a) Does your country use financial investigation techniques¹ in preventing, investigating, prosecuting and punishing illicit trafficking in wildlife?

If yes, please provide an example of a case where you have used financial investigation techniques in preventing, investigating, prosecuting and punishing illicit trafficking in wildlife.



The following Member States that are parties to the Organized Crime Convention noted that they do not make use of financial investigative techniques in preventing, investigating, prosecuting and punishing illicit trafficking in wildlife: Brazil (Federal Prosecution Service (MPF), International Cooperation Unit (SCI)), Burkina Faso, Burundi, Colombia, Denmark, Morocco, Myanmar, Niger, Peru, Slovenia, Tunisia. No answer/N/A was received from: Armenia, Côte d’Ivoire, Gabon, Guatemala, Kyrgyzstan, Malawi, Republic of Moldova, Saudi Arabia, Switzerland and the European Union. The following Member States that are parties to the Organized Crime Convention confirmed that they use financial investigative techniques in preventing, investigating, prosecuting and punishing illicit trafficking in wildlife: Angola, Austria, Belarus, Bolivia (Plurinational State of), Brazil (Receita Federal (Customs)), Canada, China, Croatia, Czechia, Finland, France, Germany, Hungary, Italy, Japan, Kenya, Latvia, Madagascar, Malaysia, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Senegal, Serbia, Slovakia, South Africa, Spain, Sweden, Thailand, Türkiye, United Kingdom, United States of America.

1. Angola:

With the help of the Financial Information Unit of Angola (UIF), which is responsible for receiving, collecting, centralizing, analyzing and disseminating, at national level, information regarding operations suspected of constituting the practice of crimes of money laundering or financing of terrorism, ensuring,

internally, cooperation and articulation with the competent police and judicial authorities, other government entities, with supervisory and inspection authorities and regulated sectors, and, internationally, cooperation with the information units international financial institutions or similar structures.

2. Austria:

The Austrian Code of Criminal Procedure would allow such techniques, but there has not been a case in which those have been used.

3. Belarus:

Фактов выявления отмывания доходов, полученных в результате незаконного оборота объектов дикой природы, не имелось.

4. Bolivia (Plurinational State of):

En flora y fauna no se cuenta, pero se está proyectando un protocolo de investigaciones financieras contra delitos medio ambientales.

5. Brazil:

Receita Federal (Customs): We don't have a recent case in customs and would like more training on this matter if possible.

6. Canada:

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Canada's financial intelligence unit, has disclosed actionable financial intelligence to law enforcement in relation to the laundering of the proceeds of crime associated to the illegal wildlife trade. One such case example in this regard can be found in the Appendix of FINTRAC's recently published Operational alert: Laundering the proceeds of crime from illegal wildlife trade (canada.ca). Feedback in relation to this FINTRAC disclosure, which was disseminated in support of an international law enforcement investigation of an illegal wildlife trade network, noted that FINTRAC's financial intelligence improved investigators understanding of the multijurisdictional connections of this criminal network, provided additional insight into the nature, duration, and status of particular relationships, and generated a number of new intelligence leads.

7. China:

相关案例如下:。

2018年,中国厦门海关发现中国犯罪嫌疑人A、B从海外购买穿山甲鳞片,经尼日利亚、越南走私入境。中国厦门海关在中国海关总署的协调下,向越南海关通报该疑点并展开联合行动。中国反洗钱监测分析中心也积极配合中国海关,经分析后确认并提供17家相关实体的1830份大额交易报告和可疑交易报告,帮助中国海关查明走私集团的组织结构、走私规模和主要交易方式。

2019年3月,根据中国厦门海关提供的情报,越南海关在越南海防一个申报为进口塑料的集装箱内查获8.25吨穿山甲鳞片。中国海关和公安也在国内展开行动,共逮捕8名犯罪嫌疑人。

8. Croatia:

If a criminal offence is committed by a member of a criminal association, in such situations, under the conditions stipulated by the Criminal Procedure Act (Official Gazette No. 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 126/19, 130/20, 80/22), against the perpetrator of the criminal offence for whom there are grounds for suspicion of the commission of the criminal offence, special collection of evidence as prescribed in Article 332 of the Act may be carried out.

9. Czechia:

Financial investigation techniques are used to prevent, investigate, prosecute and punish illegal wildlife trafficking. The details are laid down in the Police President's Binding Instruction No 174/2011 on financial investigation. The provisions of Section 7a of the Criminal Procedure Code apply as well. There is also the possibility of requesting data from bank accounts or accounts from securities registers, information from tax administrators and the use of the institute of bank account monitoring (Section 8(2) and (3) of the Criminal Procedure Code). Relevant provisions of the Criminal Code are also applicable.

10. Finland:

Financial investigation techniques are mainly used in investigations when it may be seen that the perpetrator has gained illegal profits by committing the crime.

According to Chapter 1, Section 2 of the Criminal Investigation Act (805/2011), the following shall be clarified in the criminal investigation: (1) in the manner required by the nature of the matter, the suspected offence, the circumstances in which it was committed, the damage caused by it and the benefit obtained from it, the parties as well as the other circumstances necessary for the consideration of prosecution and of the sanction to imposed as a consequence of the offence; (2) the possibilities for the return of property obtained through the offence and for enforcement of forfeiture to be ordered as a consequence of the offence or for compensation to be paid to an injured party.

There are also provisions on confiscation and confiscation for security in Chapters 6 and 7 in the Coercive Measures Act (806/2011).

https://finlex.fi/en/laki/kaannokset/2011/en20110805_20150736.pdf

https://finlex.fi/en/laki/kaannokset/2011/en20110806_20131146.pdf

The relevant provisions in the Criminal Code are in Chapter 10. The unofficial translation of the Criminal Code may be found on-line:

https://www.finlex.fi/en/laki/kaannokset/1889/en18890039_20210433.pdf

11. France:

Lorsqu'elles sont opportunes, les infractions économiques et financières sont relevées dans le cadre des enquêtes en lien avec le trafic d'espèces sauvages. A cet égard, la circulaire du ministère de la Justice du 16 décembre 2013 relative aux trafics d'espèces protégées encourage les procureurs à relever, au-delà des infractions au code de l'environnement et au code des douanes, les infractions économiques et financières notamment : faux, usage de faux, travail illégal, escroquerie, tromperie, blanchiment ou corruption. Elle rappelle également l'importance de réaliser en sus des enquêtes patrimoniales approfondies, aux fins de procéder à des saisies et confiscations.

Il convient également de souligner que les parquets et les juges d'instruction dirigeant les enquêtes d'ampleur ont également compétence pour traiter les affaires économiques et financières complexes et celles relatives à la criminalité organisée, puisqu'il s'agit des magistrats rattachés aux juridictions interrégionales spécialisées (JIRS). Il s'agit donc de professionnels rodés à la stratégie d'enquête propres aux qualifications économiques et financières.

Sur les dossiers d'importance, des services d'enquêtes rodés tels que l'office central de lutte contre les atteintes à l'environnement et à la santé publique (OCLAESP) ou encore le Service des Enquêtes Judiciaires des Finances (SEJF, service spécialisé de la douane qui est saisi dès lors que les faits revêtent une dimension douanière, ce qui est quasiment systématique en matière de trafic illégal d'espèces protégées), ont vocation à intervenir. Ces services chevronnés sont habitués au maniement de qualifications économiques et financière et bénéficient plus largement de l'expertise et des moyens dédiés à la lutte contre la délinquance économique et financière respectivement de la gendarmerie nationale et de la direction générale des douanes et droits indirects (DGDDI).

Eux-mêmes dotés de pouvoirs de police judiciaire renforcés depuis la loi n°2019-773 du 24 juillet 2019 et en première ligne pour la détection des atteintes à l'environnement dans leur mission de police administrative, les inspecteurs de l'environnement (notamment ceux de l'Office français pour la biodiversité, OFB, des parcs nationaux, ou encore de l'office nationale de la chasse et de la faune sauvage, ONCFS) vont la plupart du temps être co-saisi avec des services de police judiciaire tels que le SEJF ou l'OCLAESP lorsque l'enquête judiciaire débute.

Une coordination est utilement mise en place dans le cadre des comités de coopération interservices où sont abordées toutes les questions relatives à la lutte contre la fraude concernant les espèces sauvages. Ces comités sont présidés au plan national par la direction de l'eau et de la biodiversité (DEB, affiliée au ministère de l'écologie, du développement durable et de l'énergie) et au plan régional par les directions régionales de l'environnement, de l'aménagement et du logement (DREAL) ou les directions régionales et interdépartementales de l'environnement et de l'énergie (DRIEE) et peuvent associer, le cas échéant, les directions du travail, les services fiscaux et les directions départementales de protection des populations. Ce partage d'expertise permet d'élargir l'angle par lequel est appréhendé le trafic d'espèces sauvages, afin notamment de prendre en compte les aspects relatifs à la fraude.

Au total, entre 2017 et 2022, 90 personnes sont visées à la fois par une ou plusieurs infractions de trafic d'espèces protégées et une infraction économique ou financière. Parmi ces 90 personnes 65 sont liées à une infraction de blanchiment. Dans 52 cas, une infraction douanière est également visée. Dans la presque totalité des cas, une information judiciaire est ouverte pour ces faits.

Les techniques d'enquête financière sont, par exemple, mobilisés dans le contentieux sur les civelles. Toutes les enquêtes importantes initiées par l'OCLAESP consacraient une partie des investigations sur un volet patrimoniale.

Ce volet patrimonial consistait à déterminer les actifs financiers, immobiliers et professionnels des personnes visées dans l'enquête. Le résultat ont permis d'effectuer des saisies conséquentes qui ont débouchées sur des confiscations.

L'infraction de blanchiment de fraude fiscale était souvent relevée puisque le ou les auteurs percevaient, dans ce trafic illégal d'espèce non domestique (civelles), des sommes en espèces importantes qui n'étaient jamais déclarées fiscalement.

Ce volet patrimonial qui consistait à évaluer la surface financière de la personne était ensuite rapporté à l'ensemble des investigations (toutes les techniques

spéciales d'enquête par exemple) menées sur le terrain pour tenter d'évaluer le montant du préjudice de ce trafic et ainsi définir le montant des avoirs criminels à saisir.

12. Guatemala:

El Instituto Nacional de Bosques – INAB – carece de la competencia administrativa para conocer tales técnicas a lo cual no se puede dar respuesta a la pregunta anteriormente enunciada.

13. Kenya:

The Directorate of Criminal Investigations Kenya investigated a case of Dealing in endangered wildlife trophies and it led to the financial analysis of the accounts I.e Mobile accounts and banking accounts. This culminated to forfeiture of asset and fines. The financial Investigation revealed the channel of money flow and the persons involved.

14. Latvia:

Yes. Nature Conservation Agency has collaborated with State Police Main Criminal Police Department Economic Violation Eradication Department in cases where selling of illegal protected species specimens.

15. Madagascar:

Exemple : Enquête sur un trafiquant des bois précieux (Bois de Rose et palissandre) au niveau de Pôle Anti-corruption. L'auteur est incarcéré.

16. Malaysia:

In Malaysia, the offence of money laundering is provided in the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 [Act 613]. Section 4 of Act 613 provides the offence of money laundering in general, as such, it may also include engagement in a transaction that involves proceeds of an unlawful activity that affects the environment. The provision pertaining to investigation is provided for in Part III and Part IV of Act 613.

17. Mexico:

Se solicita información sobre las personas a la Unidad de Inteligencia financiera (UIF), la cual informa si tienen movimientos inusuales, relevantes o preocupantes en el sistema financiero. En caso de presentarse alguno de esos tipos de movimientos, y una vez que se tienen los números de cuenta y la entidad financiera, se solicitan, mediante control judicial, los movimientos relevantes que dicha persona realizó, a efecto de corroborar lo informado por la UIF. Asimismo, de forma paralela, se solicita su información fiscal y patrimonial (bienes muebles e inmuebles a su nombre), para que peritos en materia contable dictaminen si la persona que se encuentra siendo investigada, posiblemente opera recursos de procedencia ilícita y una posible defraudación fiscal, y si este recurso proviene de actividades delictivas relacionadas con el tráfico de especies de fauna y flora silvestres.

Unidad de Inteligencia Financiera (UIF) México- Caso: Tiburón

Con el objetivo de identificar casos relacionados con el tráfico ilegal de especies, la Unidad de Inteligencia Financiera de México (UIF-MX) analizó los reportes de operaciones inusuales enviados por las Instituciones Financieras (IF) para identificar en la narrativa de la “descripción de la operación” y “razón inusual”

elementos relacionados con contrabando, tráfico, compra o venta ilegal de especies protegidas o en peligro de extinción de flora y fauna”, así como de las especies más comunes, caza furtiva, tala o pesca ilegal.

Se realizó una búsqueda masiva con minería de texto mediante un indicador que contiene patrones o palabras claves relacionadas al delito y sus modalidades y así, se identifican reportes de operaciones inusuales.

Los sujetos identificados con al menos un reporte inusual donde se activó el indicador, se cruzan con el modelo de riesgo global para lavado de dinero (LD). El modelo de riesgo global genera una calificación que incluye información financiera y de actividades vulnerables (APNFDs) que recibe la UIF-MX de los sujetos obligados; la calificación del modelo de riesgo es un instrumento que ayuda a priorizar a los sujetos para un análisis operativo más focalizado de manera proactiva.

De los resultados de la metodología antes descrita, se analizaron las ubicaciones geográficas que tuvieron mayor número de sujetos reportados, destacando el estado de Yucatán.

Se identificó que la mayoría de los sujetos reportados operaban en este estado, además formaban parte de un mismo grupo familiar y que la razón de lo inusual en dichos reportes fueron las alertas por el decomiso de un cargamento que importaba tiburones congelados de Costa Rica a México; sin embargo, de la revisión del cargamento se identificó que en el interior de los tiburones congelados ocultaban cocaína, además de la comercialización de Pepino de Mar en temporada de veda (especie que se encuentra sujeta a protección especial por parte de las autoridades mexicanas y de especies protegidas internacionalmente por virtud de la Convención sobre el Comercio Internacional de Especies Amenazadas de Fauna y Flora Silvestres, más conocida como CITES).

Derivado del análisis anterior, se identificó que el sujeto A (Sujeto con 23 ROS) quien reportó actividad de comercialización de marisco, fue alertado por ser el receptor del cargamento de escualos congelados procedentes de Costa Rica y tenían como punto de destino el puerto de Progreso, Yucatán.

El sujeto A, junto a su familia directa (esposa e hijos) crearon 06 empresas en las que todos contaban con participación corporativa. Las empresas tienen como indicador común la recepción de fuertes cantidades de efectivo sin aparente justificación. Destaca que la familia conformó dichas empresas con actividades específicas y que son partícipe de cada uno de los ciclos de producción y comercialización de productos derivados del mar, las empresas fueron creadas entre 2005 y 2016. En la parte corporativa de la constitución de las empresas se identificó que forman parte su esposa y sus cuatro hijos, las empresas presentan actividades como elaboración de hielo, preparación y envasado de mariscos, restaurante bar y dos empresas son constituidas en el extranjero (Estados Unidos y Hong Kong) identificadas como receptoras de exportaciones.

En las seis empresas se identificó como accionistas al Sujeto A, su esposa y sus 4 hijos, mismas que fondean a la red familiar para que los integrantes de la familia directa adquieran propiedades inmuebles, joyas y vehículos de alta gama, operaciones que fueron reportadas por parte de las APNFD.

Este esquema fue identificado de forma inicial con el tráfico de cocaína a través de tiburones congelados, sin embargo, se detectó a lo largo de los años que se fue diversificando a través de empresas especializadas en alguna rama del proceso de la comercialización de los productos marinos congelados. Además, se identificaron operaciones de comercio de las empresas con especies protegidas en época de veda (pepino de mar) y transacciones financieras de las mismas con

sujetos alertados por tráfico de especies marinas protegidas. En ese sentido, fue posible identificar la manera en que los recursos ilícitos fueron mezclados con los recursos lícitos de las empresas, con la finalidad de encubrir las ganancias procedentes de actividades ilícitas.

Dentro del proceso de análisis de las operaciones financieras, resulta relevante el destacar que las instituciones financieras presentaron 95 reportes de tipo ROS que permitieron identificar algunas alertas de reporte:

- Los sujetos se encuentran relacionados con la comercialización de pepino de mar.
- Se vinculan con la comercialización de tiburones rellenos de cocaína.
- Realizan operaciones de comercialización de especies en veda.
- Reciben depósitos por altos montos de dinero en efectivo.
- No existe permanencia de recursos en sus cuentas.
- Manejan altos montos de dinero en periodos cortos de tiempo.
- Sus operaciones no son acordes a las actividades declaradas.
- Transferencia de recursos entre cuentas propias.

También se localizó que las APNFD generaron 39 reportes al identificar que los sujetos del núcleo familiar realizaron operaciones vinculadas con actividades de: compra de vehículos, joyas, propiedades, mutuo préstamos o créditos y utilización de tarjetas de servicio o crédito. Es importante destacar que la zona de operación de la organización criminal es un puerto al sur de México considerado uno de los puertos con mayor riesgo delictivo del país, ya que en fuentes abiertas hay notas por piratería en alta mar, saqueo a barcos pesqueros y obstáculos a la libre pesca en el lugar, además de que en tierra el nivel de inseguridad ha aumentado considerablemente en los últimos años, existiendo disputas de grupos vinculados al narcotráfico con el fin de obtener el control del lugar, sin embargo, esto no solo es privativo de esta zona, se sabe que Centroamérica es una de las zonas consideradas más violentas del mundo, ya que, de acuerdo con reportes de los últimos años, las autoridades locales de los países de Centroamérica han localizado con mayor frecuencia cultivos de coca en zonas aisladas y poco habitadas de países como El Salvador, Nicaragua, Guatemala, Honduras y Costa Rica.

Sumado a que estos países poseen una vasta área de acceso al mar lo que apremia aún más la comercialización de este tipo de drogas, tal fue el caso del hallazgo de los tiburones congelados rellenos de cocaína procedentes de Costa Rica con destino a México.

En México, de acuerdo con su Evaluación Nacional de Riesgos de 2020 y con datos del 6to Informe de Gobierno del año 2018, se orientaron esfuerzos para mejorar las condiciones de seguridad pública y de procuración de justicia. En este informe, se publicó que las autoridades mexicanas aseguraron nueve toneladas de cocaína y se reveló que el tráfico ilegal de especies es una de las actividades con las que la delincuencia organizada obtiene recursos para su financiamiento.

Bajo el esquema de operación identificado, se localizó como beneficiarios finales a la familia del Sujeto A, quienes se benefician directamente del esquema de operación de lavado de dinero, obteniendo como resultado final el acrecentamiento de su riqueza personal. De igual manera, se aprecia que el esquema de operación es utilizado por diversos Grupos criminales como “Cártel de Sinaloa”, “Los Beltrán Leyva” y “Flores Hernández”, grupos del crimen organizado que utilizan este esquema para comercializar drogas y lavar dinero procedente de operaciones ilícitas.

Derivado de los reportes recabados procedentes de las IF y las APNFD, los cuales fueron analizados por la UIF México, se localizó que el esquema maneja un monto

de operación en el periodo de 2002 a 2020 de \$860,431,315.80 de pesos mexicanos en depósitos; y de \$2,074,804,910.47 de pesos mexicanos en retiros; de 2013 al 2020, se detectaron operaciones con divisas presentado depósitos por \$93,844,390.65 dólares americanos, retiros por \$34,278,803.45 dólares americanos y \$10,020.98 euros.

Es importante destacar que el esquema de operación localizado y analizado, contó con la participación de otras autoridades mexicanas como la Secretaría de Marina, cuyo personal aportó información de inteligencia sobre la familia del Sujeto A, para lograr identificar con mayor claridad la estructura corporativa de la sociedad criminal.

De igual manera, en 2020 se requirió de la cooperación internacional a través de la Red Segura de Grupo Egmont realizando dos solicitudes a Estados Unidos y a Hong Kong, respectivamente, ambas por 10 sujetos que contaban con transferencias financieras con destino u origen desde dichos países.

También se retomó información de una solicitud requerida en 2017 por Costa Rica en la que nuestra homóloga señaló a las empresas ordenantes del cargamento de tiburones rellenos de cocaína hacia México.

Derivado del análisis de la información del esquema, la UIF incluyó a 9 sujetos a la Lista de Personas Bloqueadas, con la finalidad de detener el flujo de capital de origen ilícito en el Sistema Financiero Mexicano y evitar también con ello la transferencia de recursos financieros al extranjero.

De acuerdo con informes de la Secretaría de Marina de 2019, se incautó más de una tonelada de cocaína escondida dentro de los vientres de tiburones congelados y que pretendían entrar por el Puerto de Progreso en Yucatán.

18. Myanmar:

So far we do not have such case stemmed from illicit trafficking in wildlife.

19. Netherlands:

<https://www.bijzonderstrafrecht.nl/home/ontneming-illegale-dierenhandelaren>

A 57-year-old man from Woerden and a 40-year-old man from Someren must repay more than 200,000 euros to the State, the Central Netherlands court ruled in a confiscation case. The two were guilty of large-scale illegal animal trafficking between 2010 and 2012.

Illegal pet trade

The men were sentenced to prison in 2015 for illegal trade in dozens of species of birds and protected animals such as ligers and ring-tailed lemurs. They had all kinds of constructions to trade animals all over the world. For example, they used the 'zoo route': the animals seemed destined for a zoo, but in fact often went to other users and buyers. The so-called 'five bird regulation' was also violated. This arrangement allows up to 5 birds to be transported as pets, but in fact the birds were intended for trade.

Refund

In the confiscation proceedings, the court looked at the profit they made from the trade. This is determined on the basis of the file. A 57-year-old man from Woerden who had a leading role in the organization must repay around 152,000 euros to the State. The 40-year-old man from Someren has to repay around 67,000 euros. Read the full statements here:

ECLI:NL:RBMNE:2018:5540

ECLI:NL:RBMNE:2018:5538

20. New Zealand:

In New Zealand, Police's Financial Crime Group (FCG) is made up of the Financial Intelligence Unit (FIU), the Money Laundering Team (MLT), and Asset Recovery Units (ARUs).

The FIU is mandated to assist with the detection and investigation of money laundering, terrorism financing and other offences. It collects, analyses and disseminates financial information received under the Anti Money Laundering and Countering Financing of Terrorism Act 2009. These functions are undertaken on behalf of the Commissioner of Police to assist all government agencies that have a law enforcement role, financial sector supervisors or other domestic and international partner agencies.

The MLT was established in 2017 to bridge the investigative gap between financial intelligence, financial investigations and organised crime investigations. The MLT investigate criminal offenders moving the proceeds of predicate offending. The focus is on disrupting and dismantling facilitators assisting organised criminal groups to hide illicit funds, including legal professionals and other third parties such as money remitters.

Information collection to inform the latest version of New Zealand's National Risk Assessment (NRA) is currently underway. The NRA identifies areas at risk of money laundering, including transactions relating to environmental crimes, such as wildlife trafficking. Nationally significant risks will be published and used to inform policy and resourcing decisions within the anti-money laundering system. If wildlife trafficking is identified as a significant risk, specific guidance will be provided to reporting entities to increase awareness of the issue. It is important to note that suspicious financial activity is not necessarily indicative of a particular offence, so and therefore wildlife trafficking may be identified through standard transaction monitoring practices.

In New Zealand, the Department of Conservation (DOC) is the lead agency for combatting illicit trafficking in wildlife. However, DOC has only recently started using financial investigation techniques. As such, it is premature to comment on the effectiveness of these techniques as they have not yet been tested in court.

21. Nicaragua:

Se cuenta la Unidad de Análisis Financiero (UAF), a la fecha no se aplicado ningún caso relacionado al tráfico de flora y fauna.

22. Norway:

Three companies that had imported Anguilla Anguilla without CITES-permits were fined and the proceeds were confiscated.

23. Panama:

Tráfico de vida silvestre, fauna. (en fase de recolección de elementos)
Investigación que surge de la alerta generada por la comisión de una actividad ilegal de captura, tráfico y comercialización de especies de anfibios endémicos y en peligro de extinción, con nexos con personas jurídicas y naturales.
De la información obtenida, se ubicaron los puntos de acopio, domicilio y la ruta utilizada para el tráfico de las especies, logrando aprehensiones de personas

naturales y la recuperación de las especies traficadas, aun en suelo panameño, las cuales su destino (presuntamente) era Estados Unidos y posteriormente Europa.

Ante las señales de alerta identificadas y el posible uso de técnicas para dar apariencia de legalidad a los fondos de procedencia ilícita, se apertura una investigación paralela, por presunto delito de blanqueo de capitales, en vista de la realización de pequeños y numerosos depósitos o transferencias de dinero, internacionales, utilizando casas de remesas.

Las transferencias internacionales de dinero, vinculan a clientes que comercializan de manera virtual, anfibios, además de la existencia de vínculos comerciales entre las personas naturales (nacionales y extranjeros), y jurídica, esta última la que sirve de empresa de transporte de carga.

Dentro de la investigación se ha reservado las actuaciones y utilizado técnicas especiales de investigación como operaciones encubiertas, consistente en la vigilancia y seguimiento, además del uso de otras herramientas como la colaboración eficaz y asistencia judicial internacional. Actualmente, nos encontramos en la fase de recolección de elementos, ubicando información tributaria, financiera, constitución de empresas, actividades en el exterior, aunado a la coordinación con las unidades de blanqueo de capitales y la solicitud previa de análisis financiero y delictivo.

24. Peru:

Sin embargo, como resultado de la I Conferencia de Alto Nivel de las Américas sobre el Comercio Ilegal de Vida Silvestre, realizada en octubre de 2019 en el Perú, 20 países de la región suscribieron la Declaración de Lima, la cual incluye entre sus compromisos la adopción de medidas encaminadas a reconocer el furtivismo y el comercio ilegal de vida silvestre como delitos graves, así como a utilizar técnicas de investigación financiera y apoyar las instituciones público privadas para identificar los flujos financieros ilícitos, así como las organizaciones criminales y sus redes asociadas con el tráfico ilegal de vida silvestre.¹⁵

25. Poland:

The criminal procedure in Poland is applied to all types of cases to the same extent. All available methods and techniques may be used in any criminal proceedings in order to establish the exact circumstances of the case and detect the perpetrator.

The police do not have such examples of cases (where financial investigation techniques were used in preventing, investigating, prosecuting and punishing illicit trafficking in wildlife)

26. Portugal:

In Portugal, the prevailing principle regarding the gathering of evidence is that all evidentiary methods are admissible as long as they are not prohibited by law. To this extent, whenever there is a need, a parallel financial investigation may be carried out, either to prove the commission of the crime or for the purposes of asset recovery.

¹⁵ Declaración de Lima sobre el comercio ilegal de vida silvestre, adoptada el 4 de octubre de 2019. Véase documento en: https://cites.org/sites/default/files/esp/news/pr/2019/Declaracion-de-Lima-04.10_PM_esp.pdf

Where there is a suspicion of money laundering, regardless of the type of crime being investigated, the techniques used are those laid down for the crime of money laundering.

27. Qatar:

ن أساليب التحقيق في الجرائم المنطوية على جرائم مالية في دولة قطر تشمل التحقيق المالي وطلب إحضار الوثائق المثبتة لمصدر الأموال ومناقشة المتهم ومواجهته بهذه الوثائق والمستندات والتحقيق الشامل معه في هذا الشأن.

28. Romania:

Case 421/P/2018 aforementioned.

Financial investigation techniques are used in any case which requires such techniques for evidence providing and in accordance with the case's particularities.

29. Slovakia:

Techniques of financial investigation in cases of illicit trafficking in wildlife were applied in several more extensive cases. Nevertheless, their application for the crime in question still cannot be considered established practice.

30. South Africa:

South Africa has a Private Public Partnership since 2020 with the banks. The Partnership is called the South African Anti-Money Laundering Integrated Task Force (SAMLIT). Within the SAMLIT, we have tactical operations groups (TOGs) which is created to assist with financial investigations and intelligence for serious crimes.

A TOG using provisions of the Anti-Money Laundering Laws in South Africa, has been formed to assist the criminal investigators with serious illegal wildlife investigations. To date, the TOG is assisting in providing financial analysis for five major illegal wildlife investigations. In the TOG, we present the allegations under investigation, and the associated links with bank accounts and financial transactions. The banks are provided with critical facts of the investigations to conduct analytics to assist to identify alleged proceeds of crimes. Once pertinent and relevant transactions are detected by the banks, the information is provided to the Financial Intelligence Centre who then conducts the required analysis before the information is routed to the criminal investigators. This method of exchange of financial intelligence creates efficiency in the investigations.

The TOG assisted in a criminal investigation, that dealt with a syndicate that was harvesting abalone illegally from the sea and transporting it to buyers. Through the TOG, meetings were held with the financial investigator, and officials of the Financial Intelligence Centre and the banks that had exposure to bank accounts of the suspects under investigations. The bank officials provided information on a bank account of a minor child of one of the suspects. This signatory of the bank account of the minor was one of the key suspects. This information was not known the investigator. An analysis of the bank account revealed that the transactions may be possibly connected with the illegal activities due to the suspicious nature of the transactions which could not have been conducted by the minor child. Further financial analysis was able to link a point-of-sale receipt traced at a guest house to an account of the key suspect. The investigator established that the key suspect had hired accommodation at a guest house for divers whose task was the illegal harvesting of the abalone. The bank official was able to link the receipt to the account of the key suspect. Lastly, the investigating officer received information that the key suspect had falsified documentation to apply for a loan to purchase a house. The bank official was able to confirm the purchase of the house and

provided information for criminal charges of fraud. The investigations are finalised and presented to a public prosecutor for a decision to prosecute for a host of criminal contraventions including money laundering.

31. Spain:

Desde hace ya varios años, en todos los delitos relacionados con el medioambiente, inclusivos del tráfico de especies, se realiza una investigación financiera que incluye, al menos, un catálogo de bienes de las personas físicas o jurídicas responsables de los delitos investigados. Además, se realizan informes de valoración del daño ambiental, de tal forma que se realizan en base a dichos informes propuestas de bloqueo de bienes para garantizar esta responsabilidad.

Por otra parte, se está impulsando la formación a todos los especialistas en protección del medio ambiente en materia de investigación financiera, de tal forma que tanto a nivel central como a nivel local se realice este tipo de investigación.

32. Sweden:

Information about a Swedish investigation concerning wildlife crime and financial crime

This is an investigation concerning illegal trade with mostly CITES B spiders. This person has had several companies but no permit to sell CITES-listed animals. The business has been ongoing at least since 2016.

Modus operandi has been going to reptile expos in Europe such as in Houten, the Netherlands, Hamm in Germany, Poland and Denmark to buy spiders. He then sells them on Swedish expos and on his website.

He has also taken orders from buyers and looked for animals when going to the expos. Animals as snakes (python, boa), geckos, frogs, monitor lizards (*Varanus*), birds and other pets such as rabbits, guinea pigs among others has been subjects of transportation without permits.

He has been the subject of many checks for several years regarding border crossings in Denmark and Sweden, and has been sent back due to lack of valid permits or of having too many animals in the vehicle. After being sent back he has always managed to return back home in again, he just chooses another entry point or entry time.

In the investigation there is evidence of trade without permits, a lot of adverts where he is buying and selling CITES B animals. In March this year there was a house search where the suspect lives and where he has his business. Around 300 spiders, *Brachypelma*, *Poecilotheria* and *Tliltocatl*, one gecko and one frog were seized. After the house search he has arranged breeder certificates for many spiders.

No accounting concerning his company were found. In total approximately 1 million Euros has not been accounted in his business. Something the financial investigation has showed. Also valuable in the investigation is PayPal. The suspect used PayPal as a paying method. In the message part of every transaction the buyers, in detail, explained what the transaction referred to concerning which animals, price and amount of animals purchased.

The suspect is charged for gross wildlife crime and gross accounting violations. He risks forfeiture of criminal proceeds, a company fine and imprisonment.

The adverts have been on Facebook, Instagram, websites and on his website connected to his company.

33. Thailand:

Office of the Attorney General: There is the case related to the major syndicate of wildlife trafficking in Thailand, the perpetrator name is B.B. and others who trafficking tigers, rhino horns, ivories, pangolin scale and others. AMLO conducted the financial investigation of this syndicate and eventually followed all his assets in Thailand and seized his assets value over 330 million Baht (approximately 10 million USD).

Department of National Parks, Wildlife and Plant Conservation: A good example would be the Rhino Horn case of B.B., the alleged ringleader of a major transnational wildlife trafficking organization, who was on trial for being suspected of smuggling 14 Rhino-Horns. The Anti-Money Laundering Office was involved and contributed greatly to the prosecution procedures by using financial investigation techniques to trace back the source of money. He was then punished for both environmental and money laundering crimes after a key witness recounted his testimony in court.

34. Türkiye:

Our country uses financial investigation techniques to prevent, investigate, prosecute and punish illegal trade in wildlife and works in cooperation with the Ministry of Finance. There is a unit in the Ministry of Finance on this subject.

35. United Kingdom:

Money laundering legislation has been used to recover assets identified as criminal property under the Proceeds of Crime Act 2002. In a recent case an individual had over £60,000 seized following a conviction for selling elephant ivory. Through increased cooperation with the financial sector, there is ongoing work to extend that into specific financial crime offences.

36. United States of America:

The United States can provide case studies on the trade and or possession of protected or prohibited species of fauna and flora in the FATF report on wildlife trafficking: <https://www.fatf-gafi.org/publications/environmentalcrime/environmental-crime.html>.

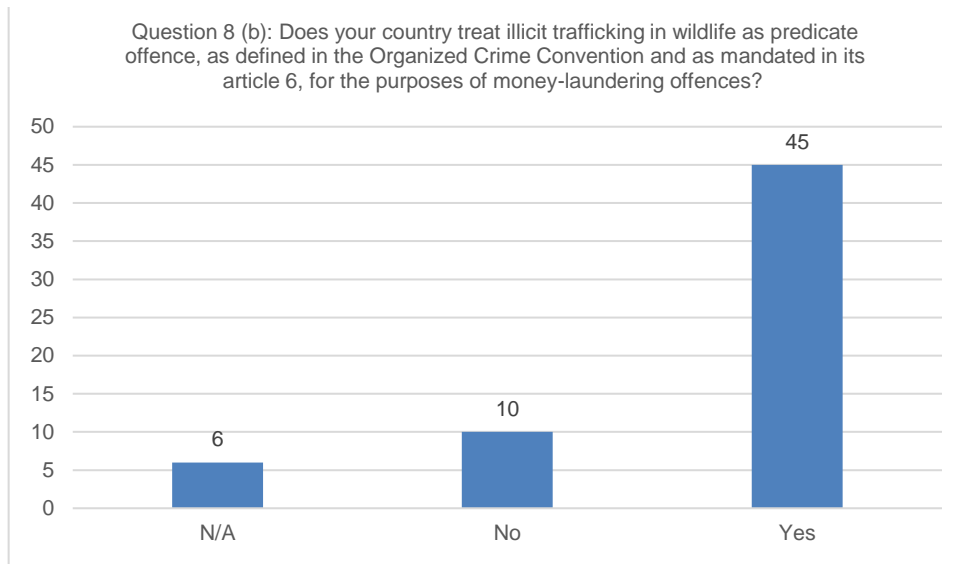
37. European Union:

The proposal for a new Environmental Crime Directive introduces Article 18 “Investigative tools”, which requires that Member States ensure that effective investigative tools, such as those which are used in organised crime or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4.

Question 8:

- b) Does your country treat illicit trafficking in wildlife as predicate offence, as defined in the Organized Crime Convention and as mandated in its article 6, for the purposes of money-laundering offences?

Please attach the relevant legislative provision(s).



The following Member States that are parties to the Organized Crime Convention do not treat illicit trafficking in wildlife as predicate offence, as defined in the Organized Crime Convention and as mandated in its article 6, for the purposes of money-laundering offences: Austria, Burkina Faso, Burundi, Denmark, Morocco, Myanmar, Russian Federation, Slovenia, Tunisia, Türkiye. No answer/N/A was received from: Gabon, Guatemala, Malawi, Republic of Moldova, Saudi Arabia, Switzerland. The following Member States that are parties to the Organized Crime Convention and the European Union confirmed to treat illicit trafficking in wildlife as predicate offences as per the Organized Crime Convention: Angola, Armenia, Belarus, Bolivia (Plurinational State of), Brazil, Canada, China, Colombia, Côte d'Ivoire, Croatia, Czechia, Finland, France, Germany, Hungary, Italy, Japan, Kenya, Kyrgyzstan, Latvia, Madagascar, Malaysia, Mexico, Netherlands, New Zealand, Nicaragua, Niger, Norway, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Senegal, Serbia, Slovakia, South Africa, Spain, Sweden, Thailand, United Kingdom, United States of America.

1. Angola:

Yes, as the legal norms applicable to money laundering allow the Angolan State to carry out investigations that culminate in seizures of goods acquired as a result of criminal actions.

2. Armenia:

Article 296 of the Criminal Code of the Republic of Armenia:

Money Laundering:

1. Converting or transferring property obtained in a criminal way (where it is known that the property has been derived from a criminal activity) which aimed to conceal or distort the criminal origin of that property or support any person to evade from liability for one's committed crime, or concealment or distortion of the true nature, origin, location, manner of disposition, movement, allocation, rights or ownership of property (where it is known that the property has been derived from a criminal activity) or acquiring or possessing or using or disposing of property (where it was known, at the time of receiving the property, that it has been derived from criminal activity) — shall be punished by imprisonment for a term of two to five years.

2. The act prescribed for in Part 1 of this Article, committed:

1) by a group of persons with a prior agreement;

2) in large amounts - shall be punished by imprisonment for a term of five to ten years.

3. The act prescribed for in Parts 1 or 2 of this Article, committed:

1) by a criminal organization;
 2) by use of official or service powers or influence conditioned thereof; 3)
 in particularly large amounts - shall be punished by imprisonment for a term of
 six to twelve years.

4. In this Article, large amount means the amount (value) exceeding 5 million
 Armenian drams, and particularly large-scale means the amount (value)
 exceeding 10 million Armenian drams.

5. Within the meaning of this Article, property obtained in a criminal way is
 considered as the property provided in Part 10 of Article 121 of this Code, which
 was received or emerged directly or indirectly as a result of the commission of
 crimes established in this Code.

3. Belarus:

Преступления, предусмотренные ст.ст. 281-282-1 УК, рассматриваются в
 качестве основных (предикатных) к отмыванию денежных средств.

4. Brazil:

Receita Federal (Customs):

https://www.planalto.gov.br/ccivil_03/leis/19613.html

Federal Prosecution Service (MPF); International Cooperation Unit (SCI): It is
 relevant to point out that Federal Law 12.683, from 2012
 (http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/112683.htm), has
 repealed the extensive list of predicate offences present in article 1 of Law 9.613,
 from 1998 (https://www.planalto.gov.br/ccivil_03/leis/19613.htm). Therefore,
 after the 2012 legislative modification, any crime can be consider a predicate for
 purposes of money-laundering criminal practices, including illicit trafficking in
 wildlife.

5. Canada:

The offence of laundering proceeds of crime in the Criminal Code (s. 462.31)
 applies to “designated offences” as set out in Part XII.2 of the Criminal Code.
 Wildlife offences, notably those set out in the Wild Animal and Plant Protection
 and Regulation of International and Interprovincial Trade Act fall within the
 definition of designated offences. The relevant Criminal Code provisions are
 below:

Laundering proceeds of crime

462.31 (1) Every one commits an offence who uses, transfers the possession of,
 sends or delivers to any person or place, transports, transmits, alters, disposes of
 or otherwise deals with, in any manner and by any means, any property or any
 proceeds of any property with intent to conceal or convert that property or those
 proceeds, knowing or believing that, or being reckless as to whether, all or a part
 of that property or of those proceeds was obtained or derived directly or indirectly
 as a result of

(a) the commission in Canada of a designated offence; or

(b) an act or omission anywhere that, if it had occurred in Canada, would have
 constituted a designated offence.

Designated offence means

(a) any offence that may be prosecuted as an indictable offence under this or any
 other Act of Parliament, other than an indictable offence prescribed by regulation,
 or

(b) a conspiracy or an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraph (a); (infraction désignée)

Punishment

(2) Every one who commits an offence under subsection (1)

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years; or

(b) is guilty of an offence punishable on summary conviction.

Exception

(3) A peace officer or a person acting under the direction of a peace officer is not guilty of an offence under subsection (1) if the peace officer or person does any of the things mentioned in that subsection for the purposes of an investigation or otherwise in the execution of the peace officer's duties.

6. China:

相关立法条款如下:

一是《中华人民共和国刑法》第一百五十一条第二款“走私国家禁止出口的文物、黄金、白银和其他贵金属或者国家禁止进出口的珍贵动物及其制品的，处五年以上十年以下有期徒刑，并处罚金；情节特别严重的，处十年以上有期徒刑或者无期徒刑，并处没收财产；情节较轻的，处五年以下有期徒刑，并处罚金。”第三款“走私珍稀植物及其制品等国家禁止进出口的其他货物、物品的，处五年以下有期徒刑或拘役，并处或者单处罚金；情节严重的，处五年以上有期徒刑，并处罚金。”和第三百一十二条“明知是犯罪所得及其产生的收益而予以窝藏、转移、收购、代为销售或者以其他方法掩饰、隐瞒的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；情节严重的，处三年以上七年以下有期徒刑，并处罚金。”

二是《中华人民共和国反洗钱法》第二条“本法所称反洗钱，是指为了预防通过各种方式掩饰、隐瞒毒品犯罪、黑社会性质的组织犯罪、恐怖活动犯罪、走私犯罪、贪污贿赂犯罪、破坏金融管理秩序犯罪、金融诈骗犯罪等犯罪所得及其收益的来源和性质的洗钱活动，依照本法规定采取相关措施的行为。”

三是中华人民共和国《最高人民法院、最高人民检察院关于办理破坏野生动物资源刑事案件适用法律若干问题的解释》第一条“具有下列情形之一的，应当认定为刑法第一百五十一条第二款规定的走私国家禁止进出口的珍贵动物及其制品：（一）未经批准擅自进出口列入经国家濒危物种进出口管理机构公布的《濒危野生动植物种国际贸易公约》附录一、附录二的野生动物及其制品；（二）未经批准擅自出口列入《国家重点保护野生动物名录》的野生动物及其制品。”和第二条“走私国家禁止进出口的珍贵动物及其制品，价值二十万元以上不满二百万元的，应当依照刑法第一百五十一条第二款的规定，以走私珍贵动物、珍贵动物制品罪处五年以上十年以下有期徒刑，并处罚金；价值二百万元以上的，应当认定为“情节特别严重”，处十年以上有期

徒刑或者无期徒刑，并处没收财产；价值二万元以上不满二十万元的，应当认定为“情节较轻”，处五年以下有期徒刑，并处罚金。”

7. Colombia:

Ley 17 de 1981 (enero 22) “por la cual se aprueba la “Convención sobre el Comercio Internacional de Especies Amenazadas de Fauna y flora Silvestres”, suscrita en Washington, D.C. el 3 de marzo de 1973

8. Côte d’Ivoire:

Aux fins du blanchiment d’argent, le trafic d’espèces sauvages est une infraction sous-jacente selon les normes du GAFI (Groupe d’Action Financière) et le FMI.

9. Croatia:

The Criminal Code (Official Gazette No. NN 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21, 114/22) prescribes as follows:
Money Laundering (Official Gazette No. 144/12, 118/18)
Article 265

(1) Whoever invests, takes over, converts, transfers or replaces a material gain derived from criminal activity for the purpose of concealing, disguising or misrepresenting its illicit origin or aiding and abetting the perpetrator or the participant of a criminal offence which obtained a material gain to evade criminal prosecution or confiscation of proceeds of crime

shall be punished to imprisonment from six months to five years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever conceals, disguises or misrepresents the true nature, source, location, disposition, movement, rights with respect to, or ownership of a proceeds of crime.

(3) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever acquires, possesses or uses the proceeds of crime.

(4) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever intentionally provides instructions or gives advice or removes obstructions or otherwise facilitates the commission of a criminal offence referred to in paragraph 1, 2 or 3 of this Article.

(5) Whoever commits the offence referred to in paragraph 1 or 2 of this Article in financial or other dealings or where the perpetrator engages professionally in money laundering or the material gain referred to in paragraph 1, 2 or 3 of this Article is of high value,

shall be punished by imprisonment from one to eight years.

(6) Whoever commits the offence referred to in paragraph 1, 2 or 5 of this Article by negligence with respect to the circumstance that the material gain is proceeds of crime.

Shall be punished by imprisonment not exceeding three years.

(7) If the material gain referred to in paragraphs 1 through 6 of this Article is derived from criminal activity carried out in a foreign country, the perpetrator

shall be punished when the activity is a criminal offence also under the domestic law of the country where it is committed.

(8) The perpetrator referred to in paragraphs 1 through 6 of this Article who contributes voluntarily to the discovery of the criminal activity from which a pecuniary advantage has been derived may have his or her punishment remitted.

(9) Proceeds, objects and resources incurred by the commission of a criminal offence referred to in paragraphs 1 to 5 of this Article, or destined for or used in a criminal offence shall be confiscated, and claims shall be determined null and void.

10. Czechia:

In line with the provisions on legalization of proceeds from criminal activity (money-laundering) attached in the annex, the all-crimes approach is used in which proceeds from any criminal activity are covered regardless of its type.

The Decision No. 3/2022 of the Collection of Judicial Decisions and Opinions may also be cited:

The perpetrator of the offence of laundering the proceeds of crime pursuant to Section 216(1)(1) of the Criminal Code, as in force until 31 January 2019, or pursuant to Section 216(2)(1) of the Criminal Code, as in force from 1 February 2019, may also be the perpetrator of the offence from which the item that was obtained as proceeds of this (predicate, source) offence originated and whose origin is concealed. Such an assessment does not contravene the prohibition against coercion. A final conviction of an offender for a criminal offence (e.g. against property) by which he obtained an item as proceeds of that offence does not constitute a bar to the prosecution, with *ne bis in idem* effect, of the same offender for the offence of laundering the proceeds of crime committed by concealing the origin of such an item obtained by that (predicate, source) offence, since they are distinct acts.

The above case-law decision also applies fully to cases where the predicate offence was the offence of unauthorised disposal of protected wild fauna and flora pursuant to Section 299 of the Criminal Code.

Other relevant legislation includes the Sections 216 - 217a of Act No. 40/2009, the Criminal Code, and the Communication No. 75/2013 Coll., from the Ministry of Foreign Affairs on the United Nations Convention against Transnational Organised Crime, which announces that the UNTOC forms a part of the legislative framework of the Czech Republic.

11. Finland:

In accordance with the money laundering provisions in the Criminal Code, Chapter 32, any offence can constitute a predicate offence, thus including the offences concerning illicit trafficking in wildlife.

The legislation is cited in Appendix 1. Finland provided in Appendix 1 the following legislative provisions: Nature Conservation Act (1096/1996), Section 44 (30.5.1997/492) International trade in endangered species, Section 58 Penalties; Section 59 (26.10.2001/878) Forfeiture, and the Criminal Code (39/1889) Chapter 9 (743/1995) Corporate criminal liability; Section 1-8, Section 10; Chapter 32 (769/1990), Receiving and money laundering offences (61/2003), Section 6 -14; Chapter 46 (769/1990) Offences connected to import and export (425/2009). Section 4 and 5; Section 13-16; Chapter 48 (578/1995)

Environmental offences. Section 5, 5a, 7, 9. The legislation will be uploaded in SHERLOC in due course.

12. France:

L'article 324-1 du code pénal définit le blanchiment comme le fait de :

- « Faciliter, par tout moyen, la justification mensongère de l'origine des biens ou des revenus de l'auteur d'un crime ou d'un délit ayant procuré à ce dernier un profit direct ou indirect », - « Apporter son concours à une opération de placement, de dissimulation ou de conversion du produit direct ou indirect d'un crime ou d'un délit ».

Il s'agit de deux modalités d'une même infraction, et non de deux délits distincts.

Les infractions relevant du droit commun permettent de poursuivre des agissements commis au préjudice d'espèces menacées dès lors que des faits de blanchiment y seraient associés.

Sont susceptibles d'être appliquées aux trafics d'espèces sauvages menacées des qualifications de droit commun relatives au blanchiment des délits prévus aux articles L.415-3 et suivants du code de l'environnement, lesquels répriment les atteintes au patrimoine naturel, et ce en conformité avec la Convention de Washington.

Depuis plusieurs années, la cour de cassation a consacré le caractère autonome du délit de blanchiment : l'infraction de blanchiment peut être caractérisée même en l'absence de poursuites ou de condamnation relative à l'infraction sous-jacente. Cette autonomisation emporte de nombreuses conséquences :

- Peu importe que l'auteur de l'infraction sous-jacente demeure inconnu, en fuite, décédé ou bénéficie d'une cause personnelle d'irresponsabilité pénale.
- La prescription du blanchiment ne suit pas celle de l'infraction sous-jacente, ce qui est particulièrement important dans la mesure où le blanchiment est par nature une infraction occulte pour partie dont le point de départ du délai de prescription est retardé.
- L'auteur de l'infraction sous-jacente peut également être poursuivi pour blanchiment (contrairement au recel). L'auto-blanchiment peut être retenu, sous condition de caractériser des faits distincts.
- Les conditions de la poursuite de l'infraction sous-jacente (notamment en matière fiscale – cf. le verrou de Bercy) ne s'étendent pas à la poursuite du blanchiment.
- Le blanchiment d'une infraction commise à l'étranger peut être poursuivi indépendamment des règles encadrant la poursuite des faits commis à l'étranger.

En outre, l'article 8 de la loi du 6 décembre 2013 relative à la lutte contre la fraude fiscale et la grande délinquance économique et financière a créé un nouvel article 324-1-1 du code pénal qui dispose que « pour l'application de l'article 324-1, les biens ou les revenus sont présumés être le produit direct ou indirect d'un crime ou d'un délit dès lors que les conditions matérielles, juridiques ou financières de l'opération de placement, de dissimulation ou de conversion ne peuvent avoir d'autre justification que de dissimuler l'origine ou le bénéficiaire effectif de ces biens ou revenus ».

La loi prévoit donc une présomption d'origine illicite de fonds, dès lors que les conditions de l'opération ne peuvent avoir d'autre justification que de dissimuler l'origine ou le bénéficiaire effectif des biens ou revenus. Le juge du fond n'a pas à rechercher l'infraction sous-jacente ou à en déterminer la nature.

Au visa de l'article 706-73-1 du code de procédure pénale, les enquêtes portant sur des faits de blanchiment aggravé permettent en outre l'application du régime procédural de la criminalité organisée, quelle que soit l'infraction sous-jacente, à l'exception de la garde à vue de 96 heures. C'est le même régime qui s'applique pour le blanchiment, même simple, des infractions visées aux articles 706-73-1, 706-1-1, 706-2-2 du CPP et 706-72 du CPP. Lorsque les faits de blanchiment font suite à la commission d'une des infractions listées à l'article 706-73 du CPP, l'ensemble des techniques d'enquête applicables en matière de criminalité organisée peuvent être mises en œuvre y compris la garde à vue de 96h.

Au niveau européen, le règlement UE 2018/1672 dit « cash control » comprend également des dispositions destinées à lutter contre le blanchiment de capitaux. Il prévoit l'obligation pour toute personne entrant ou sortant de l'UE avec un montant égal ou supérieur à 10.000 euros de déclarer cette somme auprès des autorités du pays concerné.

En droit interne, le manquement à l'obligation déclarative est constitutif d'une infraction (art. L. 152-4 du code monétaire et financier et art. 465 du code des douanes). L'obligation de déclaration d'argent liquide n'est pas réputée exécutée si les informations fournies sont incorrectes ou incomplètes ou si l'argent liquide n'est pas mis à disposition à des fins de contrôle. La tentative de MOD est punissable.

La recherche, la constatation et la poursuite des infractions s'effectuent dans les conditions fixées par le code des douanes. Les douanes disposent d'un droit de visite des marchandises et des moyens de transport de personnes ainsi que d'un droit de communication de documents ; la retenue douanière est en revanche exclue en cette matière, le MOD n'étant pas puni d'une peine d'emprisonnement.

Les investigations menées peuvent faire apparaître une infraction de blanchiment douanier (article 415 du code des douanes) : la retenue douanière sera alors possible. En cas de commission d'une infraction de droit commun, le parquet en sera alors informé pour déterminer les suites de la procédure.

13. Germany:

[convenience translation, translation provided by Prof. Dr Michael Bohlander. Translation completely revised and regularly updated by Ute Reusch, published on www.gesetze-im-Internet.de]

Section 261 Money laundering

(1) Whoever, in respect of an object derived from an unlawful act,
1. hides it
2. exchanges, transfers or takes it with the intent of preventing it being found, confiscated or its origin being investigated,
3. procures it for themselves or a third party or
4. keeps or uses it for themselves or a third party if they were aware of its origin at the time of obtaining possession of it

incurs a penalty of imprisonment for a term not exceeding five years or a fine. In the cases under sentence 1 nos. 3 and 4, this does not apply in relation to an object which a third party previously obtained possession of without thereby committing an unlawful act. Whoever, in the capacity as defence counsel, accepts a fee for their activity, acts with intent in the cases under sentence 1 nos. 3 and 4 only if they had reliable knowledge of its origin at the time of accepting the fee.

(2) Whoever hides or conceals facts which may be of relevance to an object as referred to in subsection (1) being found, confiscated or its origin being investigated incurs the same penalty.

(3) The attempt is punishable.

(4) Whoever commits an act under subsection (1) or (2) in their capacity as a person entrusted with public service functions pursuant to section 2 of the Money Laundering Act (Geldwäschegesetz) incurs a penalty of imprisonment for a term of between three months and five years.

(5) In especially serious cases, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender acts on a commercial basis or as a member of a gang whose purpose is the continued commission of money laundering.

(6) Whoever, in the cases under subsections (1) or (2), is recklessly unaware of the fact that the object is one as referred to in subsection (1) incurs a penalty of imprisonment for a term not exceeding two years or a fine. In the cases under subsection (1) sentence 1 nos. 3 and 4, sentence 1 does not apply to defence counsel who accepts a fee for their activities.

(7) Whoever is liable on account of participation in a prior offence incurs a penalty under subsections (1) to (6) only if they put the object into circulation and thereby hide its unlawful origin.

(8) Whoever

1. voluntarily reports the offence to the competent authority or voluntarily occasions such a report to be made, unless the act had already been discovered, in whole or in part, at the time and the offender knew this or, based on a reasonable assessment, should have expected this or

2. in the cases under subsections (1) or (2), under the conditions of no. 1 causes the object to be secured

does not incur a penalty under subsections (1) to (6).

(9) Objects derived from an act committed abroad are equal to an object within the meaning of subsection (1) if the act would be an unlawful act under German criminal law and

1. is a criminal offence at the place of commission or

2. is a criminal offence under one of the following provisions and conventions of the European Union:

- a) Article 2 or 3 of the Convention of 26 May 1997 drawn up on the basis of Article K.3 (2) (c) of the Treaty of the European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (Federal Law Gazette 2002 II, p. 2727, 2729),

- b) Article 1 of Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 1),

c) Article 2 or 3 of Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.7.2003, p. 54),

d) Article 2 or 3 of Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (OJ L 335, 11.11.2004, p. 8), as last amended by Commission Delegated Directive (EU) 2019/369 (OJ L 66, 7.3.2019, p. 3),

e) Article 2 (a) of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42),

f) Article 2 or 3 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1),

g) Articles 3 to 8 of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1; L 18, 21.1.2012, p. 7) or

h) Articles 4 to 9 (1) and (2) (b) or Articles 10 to 14 of Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

(10) Objects relating to the offence may be confiscated. Section 74a applies. Sections 73 to 73e remain unaffected and take precedence over confiscation under section 74 (2), also in conjunction with sections 74 and 74c.

14. Guatemala:

El Instituto Nacional de Bosques – INAB – carece de la competencia administrativa para conocer tales técnicas a lo cual no se puede dar respuesta a la pregunta anteriormente enunciada.

15. Hungary:

The relevant text of the Hungarian legislation (Act C of 2012 on the Criminal Code):

“Money Laundering

Section 399

(1) Any person who, in connection with an asset obtained from any punishable criminal offense committed by others:

a) converts or transfers the asset in question, or performs any financial transaction or receives any financial service in connection with the thing in order to:

aa) conceal or disguise the origin of the asset, or 1 Resolution 10/6 paragraph 9 urges State parties to investigate and prosecute the laundering of proceeds of crime derived from transnational organized crimes that affect the environment, including by using financial investigation techniques.

ab) frustrate the criminal proceedings conducted against the perpetrator of a punishable criminal offense committed by others;

b) conceals or disguises the origin of the asset and any right attached to the asset or any changes in this right, or conceals or suppresses the place where the asset can be found;
is guilty of a felony punishable by imprisonment between one to five years.”

16. Italy:

Article 648-bis (Money Laundering)

Except for the cases of complicity in the offence, any person who replaces or transfers money, assets or other economic advantage that is the proceeds of a criminal offence, or conducts any other transaction that involves the said proceeds with the intent to hinder the identification of their criminal provenance, shall be punished by imprisonment from four to twelve years and by a fine of from 5,000 euro to 25,000 euro. The sentence shall be of imprisonment from two to six years and the fine of from 2 500 euro to 12 500 euro when the act concerns money or things resulting from a minor offence punished by a maximum term of imprisonment of one year or a minimum term of at least six months.*.

The sentence shall be increased when the act is committed in the exercise of a professional activity.

The sentence shall be reduced when the money, assets or other economic advantage are generated by a criminal offence punished by a maximum term of imprisonment of five years.

The last paragraph of Article 648 shall apply **.

NOTES:

* The offences envisaged by Articles 1, 2 and 3 of Law no. 150 of 7 February 1992 fall within the scope of application of this paragraph.

** Article 648, last paragraph, reads: The provisions of this article shall also apply when the author of the criminal offence generating the money or assets cannot be charged or is not punishable or when one of the conditions for prosecution of such an offence has not been met.

17. Japan:

Please refer to the answer to Question 6. Japan provided as attachments the following legislative provisions: relevant provisions of the Act on Conservation of Endangered Species of Wild Fauna and Flora (Act No. 75 of June 5, 1992) and Foreign Exchange and Foreign Trade Act (Tentative translation) (Act No. 228 of December 1, 1949), Customs Act). The legislation will be uploaded in SHERLOC in due course.

18. Kyrgyzstan:

Статья 231. Экономическая контрабанда

1. Контрабанда, то есть перемещение через таможенную границу Евразийского экономического союза товаров или иных предметов в значительном размере, совершенное помимо или с сокрытием от таможенного контроля либо с обманным использованием документов или средств таможенной идентификации либо сопряженное с недекларированием или недостоверным декларированием, –

наказывается исправительными работами на срок от двух месяцев до одного года или штрафом от 1000 до 1200 расчетных показателей с лишением права

занимать определенные должности либо заниматься определенной деятельностью на срок до одного года.

2. Те же деяния, совершенные в крупном размере, –

наказываются исправительными работами на срок от двух до трех лет или штрафом от 1200 до 1500 расчетных показателей, или лишением свободы на срок до двух лет с лишением права занимать определенные должности либо заниматься определенной деятельностью на срок до двух лет.

3. Те же деяния, совершенные:

1) в особо крупном размере;

2) должностным лицом с использованием своего служебного положения;

3) с применением насилия, не опасного для жизни и здоровья, к лицу, осуществляющему таможенный контроль;

4) группой лиц;

5) группой лиц по предварительному сговору, –

наказываются штрафом от 1500 до 2000 расчетных показателей или лишением свободы на срок от двух до пяти лет с лишением права занимать определенные должности либо заниматься определенной деятельностью на срок до трех лет.

4. Деяния, предусмотренные частями 1, 2 или 3 настоящей статьи, совершенные организованной (трансграничной) группой или в составе преступного сообщества, –

наказываются лишением свободы на срок от пяти до десяти лет с конфискацией имущества.

Примечание. Деяния, предусмотренные настоящей статьей, признаются совершенными:

– в значительном размере, если стоимость перемещенных товаров составляет от 5000 до 50000 расчетных показателей, установленных законодательством Кыргызской Республики на момент совершения преступления;

– в крупном размере, – превышает расчетный показатель в пятьдесят тысяч раз;

– в особо крупном размере, – превышает расчетный показатель в сто тысяч раз.

Лицо освобождается от уголовной ответственности и наказания за совершение деяния, предусмотренного частями 1 и 2 настоящей статьи, если оно добровольно уплатило причитающиеся таможенные платежи в двукратном размере, включая пени, с оформлением в таможенном отношении товаров и иных предметов, являющихся предметом контрабанды, за исключением перемещения товаров или иных предметов помимо таможенного контроля.

Подлежат конфискации товары и иные предметы, перемещенные помимо таможенного контроля, а также транспортные средства (в том числе другие перевозочные средства), использованные для их перевозки.

19. Latvia:

Yes. In this regard we would like to point out that in Latvia every criminal offence is considered a predicate offence. That is to say, if, as a result of a criminal offence such as illicit trafficking in wildlife, any economic benefit has directly or indirectly come into the possession or ownership of a person, then the criminal offence is considered predicate.

20. Madagascar:

Enquête au niveau des bianco et Samifin

21. Malaysia:

In Malaysia, Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 [Act 613] is a general law which provides for the offence of money laundering that also extends to the proceeds of an unlawful activity that affects the environment. Further perusal of Act 613, money laundering offences are treated as the predicate offence under the Organized Crime Convention.

Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 [Act 613]

Offence of money laundering

4. (1) Any person who—

(a) engages, directly or indirectly, in a transaction that involves proceeds of an unlawful activity or instrumentalities of an offence;

(b) acquires, receives, possesses, disguises, transfers, converts, exchanges, carries, disposes of or uses proceeds of an unlawful activity or instrumentalities of an offence;

(c) removes from or brings into Malaysia, proceeds of an unlawful activity or instrumentalities of an offence; or

(d) conceals, disguises or impedes the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of an unlawful activity or instrumentalities of an offence,

commits a money laundering offence and shall on conviction be liable to imprisonment for a term not exceeding fifteen years and shall also be liable to a fine of not less than five times the sum or value of the proceeds of an unlawful activity or instrumentalities of an offence at the time the offence was committed or five million ringgit, whichever is the higher.

22. Mexico:

- Artículo 2, Fracción I de la Ley Federal Contra la Delincuencia Organizada.

Artículo 2o.- Cuando tres o más personas se organicen de hecho para realizar, en forma permanente o reiterada, conductas que por sí o unidas a otras, tienen como fin o resultado cometer alguno o algunos de los delitos siguientes, serán sancionadas por ese solo hecho, como miembros de la delincuencia organizada:

I. Terrorismo, previsto en los artículos 139 al 139 Ter, financiamiento al terrorismo previsto en los artículos 139 Quáter y 139 Quinquies y terrorismo internacional previsto en los artículos 148 Bis al 148 Quáter; contra la salud,

previsto en los artículos 194, 195, párrafo primero y 196 Ter; falsificación, uso de moneda falsificada a sabiendas y alteración de moneda, previstos en los artículos 234, 236 y 237; operaciones con recursos de procedencia ilícita, previsto en el artículo 400 Bis; y en materia de derechos de autor previsto en el artículo 424 Bis, todos del Código Penal Federal;

- Artículos 400 bis y 400 bis 1 del Código Penal Federal.

Artículo 400 Bis.

Se impondrá de cinco a quince años de prisión y de mil a cinco mil días multa al que, por sí o por interpósita persona realice cualquiera de las siguientes conductas:

I. Adquiera, enajene, administre, custodie, posea, cambie, convierta, deposite, retire, dé o reciba por cualquier motivo, invierta, traspase, transporte o transfiera, dentro del territorio nacional, de éste hacia el extranjero o a la inversa, recursos, derechos o bienes de cualquier naturaleza, cuando tenga conocimiento de que proceden o representan el producto de una actividad ilícita, o

II. Oculte, encubra o pretenda ocultar o encubrir la naturaleza, origen, ubicación, destino, movimiento, propiedad o titularidad de recursos, derechos o bienes, cuando tenga conocimiento de que proceden o representan el producto de una actividad ilícita.

Para efectos de este Capítulo, se entenderá que son producto de una actividad ilícita, los recursos, derechos o bienes de cualquier naturaleza, cuando existan indicios fundados o certeza de que provienen directa o indirectamente, o representan las ganancias derivadas de la comisión de algún delito y no pueda acreditarse su legítima procedencia.

En caso de conductas previstas en este Capítulo, en las que se utilicen servicios de instituciones que integran el sistema financiero, para proceder penalmente se requerirá la denuncia previa de la Secretaría de Hacienda y Crédito Público.

Cuando la Secretaría de Hacienda y Crédito Público, en ejercicio de sus facultades de fiscalización, encuentre elementos que permitan presumir la comisión de alguno de los delitos referidos en este Capítulo, deberá ejercer respecto de los mismos las facultades de comprobación que le confieren las leyes y denunciar los hechos que probablemente puedan constituir dichos ilícitos.

Artículo 400 Bis 1.

Las penas previstas en este Capítulo se aumentarán desde un tercio hasta en una mitad, cuando el que realice cualquiera de las conductas previstas en el artículo 400 Bis de este Código tiene el carácter de consejero, administrador, funcionario, empleado, apoderado o prestador de servicios de cualquier persona sujeta al régimen de prevención de operaciones con recursos de procedencia ilícita, o las realice dentro de los dos años siguientes de haberse separado de alguno de dichos cargos.

Además, se les impondrá inhabilitación para desempeñar empleo, cargo o comisión en personas morales sujetas al régimen de prevención hasta por un tiempo igual al de la pena de prisión impuesta. La inhabilitación comenzará a correr a partir de que se haya cumplido la pena de prisión.

Las penas previstas en este Capítulo se duplicarán, si la conducta es cometida por servidores públicos encargados de prevenir, detectar, denunciar, investigar o juzgar la comisión de delitos o ejecutar las sanciones penales, así como a los

exservidores públicos encargados de tales funciones que cometan dicha conducta en los dos años posteriores a su terminación. Además, se les impondrá inhabilitación para desempeñar empleo, cargo o comisión hasta por un tiempo igual al de la pena de prisión impuesta. La inhabilitación comenzará a correr a partir de que se haya cumplido la pena de prisión.

Asimismo, las penas previstas en este Capítulo se aumentarán hasta en una mitad si quien realice cualquiera de las conductas previstas en el artículo 400 Bis, fracciones I y II, utiliza a personas menores de dieciocho años de edad o personas que no tienen capacidad para comprender el significado del hecho o que no tiene capacidad para resistirlo.

En este sentido, todo tipo de delitos que cumpla con las características antes mencionadas, se consideran delitos determinantes de lavado de dinero, lo que incluye el tráfico ilícito de fauna y flora silvestres.

Asimismo, los delitos contra el ambiente y la gestión ambiental, están tipificados en el Título Vigésimo Quinto también del Código Penal Federal, el cual puede ser consultado en la siguiente liga: <https://www.diputados.gob.mx/LeyesBiblio/pdf/CPF.pdf>

23. Myanmar:

The Forest Department has no legislative provisions to tackle money-laundering offences.

24. Netherlands:

In the Netherlands all crimes are predicate offences for ML:

Paragraph 420bis Criminal Code

1 If guilty of money laundering is punishable by imprisonment not exceeding six years or a fine of the fifth category:

A .he who hides or disguises the real nature, origin, location, alienation or displacement of an object, or conceals or disguises who is the owner of an object or has it in his possession, while he knows that the object - directly or indirectly – originates from any crime;

b. he who acquires, possesses, transfers or converts an object or makes use of an object, knowing that the object - directly or indirectly - originates from any crime.

2 Objects are understood to mean all things and all property rights.

25. Niger:

Loi N° 98-07 du 29 avril 1998 fixant le Régime de la Chasse et de la Protection de la Faune

26. Norway:

Please find attached an unofficial translation of The Penal Code Section 337 to 341.

LOV-2005-05-20-28 The Penal Code

This is an unofficial translation of the Norwegian version of the Act and is provided for information purposes only. Legal authenticity remains with the

Norwegian version as published in Norsk Lovtidend. In the event of any inconsistency, the Norwegian version shall prevail.

Section 27. Penalties for enterprises

When a penal provision is violated by a person who has acted on behalf of an enterprise, the enterprise is liable to punishment. This applies even if no single person meets the culpability or the accountability requirement, see section 20.

«Enterprise» means a company, co-operative society, association or other organisation, sole proprietorship, foundation, estate or public body.

The penalty is a fine. The enterprise may also be sentenced to lose the right to operate, or may be prohibited from operating in certain forms, see section 56, and be subject to confiscation, see chapter 13

Section 337. Money laundering

The penalty for money laundering shall be applied to any person who provides assistance in safeguarding the proceeds of a criminal act for another person by, for example, collecting, storing, concealing, transporting, sending, transferring, converting, disposing of, pawning or investing them, or by converting or transferring assets or by other means conceals or obscures where the proceeds of a criminal act he/she has personally committed are located or originate from, who controls them, their movements or rights associated with them.

Objects, claims or services also represent proceeds.

Money laundering is punishable even if no one is liable to punishment for the act from which the proceeds originate due to unaccountability, see section 20.

The penalty for money laundering is a fine or imprisonment for a term not exceeding two years.

Section 338. Aggravated money laundering

Aggravated money laundering is punishable by imprisonment for a term not exceeding six years. In determining whether the money laundering is aggravated, particular weight shall be given to the sort of act the proceeds originate from, whether the proceeds the money launderer has dealt with are of considerable value, and whether the offender has laundered money on a regular basis. In the case of proceeds originating from a narcotic drugs offence, weight shall also be given to the nature and quantity of the substance with which the proceeds are connected.

If the proceeds originate from aggravated robbery, aggravated human trafficking or an especially aggravated narcotic drugs offence, the penalty is imprisonment for a term not exceeding 15 years.

Section 339. Minor money laundering

A penalty of a fine shall be applied to any person who is guilty of money laundering when culpability is low because the act from which the proceeds originate, the value of the proceeds the money launderer has dealt with and circumstances in general suggest it.

Section 340. Negligent money laundering

Negligent money laundering as specified in sections 337 and 338 is punishable by a fine or imprisonment for a term not exceeding two years.

Section 341. Conspiracy to commit money laundering

Any person who enters into a conspiracy with another person to commit money laundering as specified in section 337 or section 338 shall be subject to a fine or imprisonment for a term not exceeding two years

27. Panamá:

Código Penal de la República de Panamá.
 Título IX
 Delitos Contra la Seguridad Colectiva.
 Capítulo VII
 Delincuencia Organizada

Artículo 328-A. Quien pertenezca a un grupo delictivo organizado que por sí o unido a otros tengan como propósito cometer cualquiera de los delitos

de blanqueo de capitales, delitos relacionados con drogas, precursores y sustancias químicas, trata de personas, tráfico de personas y tráfico de órganos, tráfico ilegal de armas, municiones y explosivos, terrorismo y financiamiento del terrorismo, explotación sexual comercial y pornografía con personas menores de edad, secuestro y extorsión, homicidio y lesiones graves físicas o psíquicas, hurto y robo de vehículos, sus piezas o componentes, manipulación genética, piratería, delitos financieros, delitos contra la Administración Pública, delitos contra la propiedad

intelectual, delitos contra la seguridad informática, delitos contra el ambiente, asociación ilícita, delitos contra el Patrimonio Histórico de la Nación, falsificación de moneda y otros valores será sancionado por ese solo hecho con prisión de quince a treinta años. La sanción se incrementará hasta la mitad cuando concurra alguna de las siguientes circunstancias:

1. El autor tenga funciones de administración, dirección, jefatura o supervisión dentro del grupo delictivo organizado.
2. Se trate de cualquier servidor público. Además, se le impondrá la inhabilitación para ejercer funciones públicas por el doble del tiempo de la prisión.
3. Se utilice a personas menores de edad o personas con discapacidad.

Código Penal de la República de Panamá.
 Título VII
 Delitos contra el Orden Económico
 Capítulo IV

Delitos de Blanqueo de Capitales

Artículo 254. Quien, personalmente o por interpuesta persona, reciba, deposite, negocie, transfiera o convierta dineros, títulos, valores, bienes u otros recurso financiero previendo razonablemente que proceden de actividades relacionadas con el soborno internacional, los delitos contra el Derecho de Autor y Derechos Conexos, delitos contra los Derechos de autor y la Propiedad Industrial, Tráfico Ilícito de Migrantes, Trata de Personas, tráfico de órganos, delitos contra el Ambiente, delitos de Explotación Sexual Comercial, delitos contra la Personalidad Jurídica del Estado, delitos contra la Seguridad Jurídica de los Medios Electrónicos, estafa calificada, Robo, Delitos Financieros, secuestro, extorsión, homicidio por precio o recompensa, Peculado, Corrupción de Servidores Públicos, Enriquecimiento Injustificado, pornografía y Corrupción de Personas Menores de Edad, robo o tráfico internacional de vehículos, sus piezas y componentes, Falsificación de Documentos en General, omisión o falsedad de la declaración aduanera del viajero respecto a dineros, valores o documento negociables, falsificación de moneda y otros valores, delitos contra el Patrimonio Histórico de la Nación, delitos contra la Seguridad Colectiva, Terrorismo y Financiamiento del Terrorismo, Delitos Relacionados con Drogas, Piratería,

Delincuencia Organizada, Asociación Ilícita, Pandillerismo, Posesión y Tráfico de Armas y Explosivos y Apropiación y Sustracción Violenta de Material Ilícito, tráfico y receptación de cosas provenientes del delito, delitos de contrabando, defraudación aduanera, con el objeto de ocultar, encubrir o disimular su origen ilícito, o ayude a eludir las consecuencias jurídicas de tales hechos punibles, será sancionado con pena de cinco a doce años de prisión.

28. Peru:

En relación en presente literal, no existe una regulación directa relacionando al tráfico de fauna y flora silvestre con los delitos de blanqueo de dinero, sin embargo, nuestra legislación proscribire lo siguiente en el Decreto Legislativo N° 1106 de la lucha eficaz contra el lavado de activos y otros delitos relacionados a la minería ilegal y crimen organizado:

Artículo 10.- Autonomía del delito y prueba indiciaria	
Conducta sancionada	Pena
<p>El lavado de activos es un delito autónomo por lo que para su investigación, procesamiento y sanción no es necesario que las actividades criminales que produjeron el dinero, los bienes, efectos o ganancias, hayan sido descubiertas, se encuentren sometidas a investigación, proceso judicial o hayan sido previamente objeto de prueba o condena.</p> <p><u>El conocimiento del origen ilícito que tiene o que debía presumir el agente de los delitos que contempla el presente Decreto Legislativo, corresponde a actividades criminales como los delitos de minería ilegal, el tráfico ilícito de drogas, el terrorismo, el financiamiento del terrorismo, los delitos contra la administración pública, el secuestro, el proxenetismo, la trata de personas, el tráfico ilícito de armas, tráfico ilícito de migrantes, los delitos tributarios, la extorsión, el robo, los delitos aduaneros o cualquier otro con capacidad de generar ganancias ilegales, con excepción de los actos contemplados en el artículo 194 del Código Penal. El origen ilícito que conoce o debía presumir el agente del delito podrá inferirse de los indicios concurrentes en cada caso."</u></p> <p>También podrá ser considerado autor del delito y por tanto sujeto de investigación y juzgamiento por lavado de activos, quien ejecutó o participó en las actividades criminales generadoras del dinero, bienes, efectos o ganancias.</p>	<p>Pena privativa de la libertad no menor de ocho ni mayor de quince años y con ciento veinte a trescientos cincuenta días multa e inhabilitación de cinco a veinte años de conformidad con los incisos 1, 2 y 8 del artículo 36 del Código Penal.</p>

29. Poland:

The criminal procedure in Poland is applied to all types of cases to the same extent. If it is found in the conducted proceedings regarding the infringement of provisions against the natural environment that the features of Art. 299 the Penal code the prosecutor decides to extend the charges against the perpetrator.

30. Portugal:

(non-official translations)

I) Criminal Code

- Crimes against the course of justice - article 368-A (Money laundering).

Article 368-A (Penal Code)

Laundering

1 - For the purposes of the following paragraphs, assets are deemed to be those that derive from the commission, in any form of participation, of typical illegal acts punishable by a prison sentence of a minimum of more than six months or a maximum of more than five years or, irrespective of the applicable penalties, of typical illegal acts of

(...)

d) Criminal association;

(...)

i) Damage to nature, pollution, activities dangerous to the environment, or danger to animals or plants;

(...)

2 - Goods obtained through the assets referred to in the previous sub-paragraph shall also be considered as advantages.

3 - Whoever converts, transfers, aids or facilitates any conversion or transfer operation of advantages, obtained by himself or a third party, directly or indirectly, for the purpose of disguising their illicit origin or to prevent the author or participant of such offences from being criminally prosecuted or subjected to a criminal reaction, is punished with a prison sentence of up to 12 years.

4 - The same penalty shall be incurred by whoever conceals or disguises the true nature, origin, location, disposition, movement or ownership of advantages, or the rights thereto.

5 - The same penalty shall also be imposed on any person who, not being the author of the illegal act from which the advantages originate, acquires, holds or uses them with knowledge of that fact at the moment of acquisition or at the initial moment of holding or use.

6 - Punishment for the crimes under paragraphs 3 to 5 takes place even if the place of commission of the typical illegal acts from which the advantages originate or the identity of the authors thereof is unknown, or even if such acts have been committed outside national territory, unless they are lawful acts under the law of

the place where they were committed and to which Portuguese law is not applicable under the terms of Article 5.

7 - The fact is punishable even if the criminal procedure regarding the typical illicit facts from which the advantages derive depends on a complaint and the latter has not been filed.

8 - The penalty provided for in paragraphs 3 to 5 is aggravated by one third if the agent carries out the conduct habitually or if he is one of the entities referred to in article 3 or in article 4 of Law 83/2017, of 18 August, and the offence was committed in the exercise of his professional activities.

9 - When full reparation of the damage caused to the victim by the typical illicit fact from which the advantages derive is made, without illegitimate damage of a third party, until the beginning of the trial hearing in the first instance, the penalty is specially mitigated.

10 - Once the requirements provided for in the previous paragraph have been verified, the penalty may be specially mitigated if the reparation is partial.

11 - The penalty may be specially reduced if the perpetrator concretely assists in the collection of decisive evidence for the identification or capture of those responsible for the commission of the typical illegal acts from which the advantages derive.

31. Qatar:

عم / يتعبر الاتجار بالأحياء البرية جريمة أصلية إلا أن وصفه يختلف عما ذكر بالمادة (6) المشار إليها

32. Romania:

Law no. 129 of July 11, 2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts:

(...)

Art. 2:

For the purposes of this law, the terms and expressions below have the following meanings:

c) goods are meant to be assets of any kind, corporal or noncorporal, movable or immovable, tangible or intangible, as well as legal documents or instruments in any form, including electronic or digital, that attest to a title or a right or interests regarding them;

(...)

Art. 49

(1) It constitutes the crime of money laundering and is punishable by imprisonment from 3 to 10 years: a) the exchange or transfer of goods, knowing that they come from the commission of crimes, for the purpose of hiding or dissimulating the illicit origin of these goods or with the purpose of helping the person who committed the crime from which the goods originate to evade prosecution, judgment or the execution of the punishment; b) hiding or disguising the true nature, origin, location, disposition, circulation or ownership of the goods or the rights over them, knowing that the goods come from the commission of

crimes; c) the acquisition, possession or use of goods by a person other than the active subject of the crime from which the goods come, knowing that they come from the commission of crimes. (2) Attempt shall be punished. (3) If the act was committed by a legal person, in addition to the penalty of the fine, the court applies, as the case may be, one or more re the complementary penalties provided for in art. 136 para. (3) lit. a)-c) from Law no. 286/2009, with subsequent amendments and additions. (4) The knowledge of the origin of the goods or the intended purpose must be established/established from the objective factual circumstances. (5) The provisions of para. (1)-(4) apply regardless of whether the crime from which the asset originates was committed on the territory of Romania or in other member states or third countries. (...)

33. Senegal:

La loi 2018-03 du 23 février 2018 relative à la lutte contre le blanchiment de capitaux et le financement du terrorisme prévoit à son article 1-16 que les infractions contre l'environnement son sous-jacentes au blanchiment de capitaux.

34. Serbia:

Illicit trafficking in wildlife was treated as predicate criminal offence during conducting National Risk Assessment on Money Laundering in 2021 and it is considered as growing threat.

35. Slovakia:

Ministry of Justice: The Slovak Criminal Code does not establish specific predicate offences, therefore any criminal activity may be considered as predicative offence, including the illicit trafficking in wildlife.

Ministry of Interior: According to the established practice, a predicate offence is deemed to be any offence consequently creating incomes. The offence of breach of plant and animal species protection, in accordance with Section 305 of the Criminal Code when illegal income is proved, or alternatively the intention, falls under this category.

36. South Africa:

Prevention of Organised Crime Act 121 Of 1998 (POCA)

In terms of Schedule, 1, item 25 the dealing in, being in possession of or conveying endangered, scarce, and protected game or plants or parts or remains thereof in contravention of a statute or provincial ordinance falls within the ambit of POCA.

South Africa follows an all-crime approach in terms of POCA.

37. Spain:

En España, el blanqueo de capitales se encuentra previsto para todas las tipologías delictivas en las que pueda haber una ganancia económica. Dicho delito se encuentra recogido en el Artículo 301 de la L.O. 10/1995, del Código Penal:

“1. El que adquiera, posea, utilice, convierta, o transmita bienes, sabiendo que éstos tienen su origen en una actividad delictiva, cometida por él o por cualquiera tercera persona, o realice cualquier otro acto para ocultar o encubrir su origen ilícito, o para ayudar a la persona que haya participado en la infracción o infracciones a eludir las consecuencias legales de sus actos, será castigado con la pena de prisión de seis meses a seis años y multa del tanto al triple del valor de

los bienes. En estos casos, los jueces o tribunales, atendiendo a la gravedad del hecho y a las circunstancias personales del delincuente, podrán imponer también a éste la pena de inhabilitación especial para el ejercicio de su profesión o industria por tiempo de uno a tres años, y acordar la medida de clausura temporal o definitiva del establecimiento o local. Si la clausura fuese temporal, su duración no podrá exceder de cinco años. (...)"

38. Sweden:

Yes, it can be a predicate offence but normally we treat wildlife trafficking as a separate crime. Additionally, we often charge the offender with accounting violations or tax crime. The opportunity to charge for money laundering exist but has yet never been brought to trial in any of our illicit wildlife cases.

About money laundering

§ 3 The crime of money laundering is convicted if the action is aimed at concealing that money or other property derives from crime or criminal activity or to promote the opportunities for someone to appropriate the property or its value, the person who

1. transfers, acquires, sells, stores or takes other such action with the property, or
2. provides, acquires or draws up a document that can provide an apparent explanation for the possession of the property, participates in transactions carried out for the sake of appearance, acts as the bull or takes other such action.

The penalty is imprisonment for a maximum of two years.

Section 4 Anyone who, without the measure having such a purpose as stated in Section 3, improperly promotes the opportunities for someone to transfer money or other property derived from crime or criminal activity is also convicted of money laundering.

§ 5 If the crime referred to in § 3 or 4 is serious, the serious crime of money laundering is sentenced to imprisonment for a minimum of six months and a maximum of six years.

When assessing whether the crime is serious, it must be taken into account in particular if the act was intended for significant value, if the criminal measures were part of a crime which was carried out systematically or on a larger scale or otherwise was of a particularly dangerous nature.

39. Thailand:

Office of the Attorney General: We will submit the anti-money laundering law to the secretariat.

The legislation will be uploaded in [SHERLOC](#) in due course.

40. United Kingdom:

Proceeds of Crime Act 2002 (POCA)

41. United States of America:

Predicate offenses for 18 U.S.C. 1956, Laundering of Monetary Instruments, include:

"...(G) any act that is a criminal violation of subparagraph (A), (B), (C), (D), (E), or (F) of paragraph (1) of section 9(a) of the Endangered Species Act of 1973 (16

U.S.C. 1538(a)(1)), section 2203 of the African Elephant Conservation Act (16 U.S.C. 4223), or section 7(a) of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5305a(a)), if the endangered or threatened species of fish or wildlife, products, items, or substances involved in the violation and relevant conduct, as applicable, have a total value of more than \$10,000...” - [(18 U.S.C. 1956(c)(7)(G))]

42. European Union:

Yes.

Directive (EU) 2018/1673 of the European Parliament and of the Council¹⁶ on combating money laundering by criminal law: Where a category of offences, such as, inter alia, environmental offences, includes offences set out in legal acts of the Union, the Directive refers to those legal acts. Member States should, however consider any offence set out in those legal acts as constituting a predicate offence for money laundering. Article 2 (1) defines criminal activity and provides that offences such as environmental crime, including any offence set out in Directives 2008/99/EC or 2009/123/EC s are considered a criminal activity.

Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (Text with EEA relevance), amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018. This Directive aims to combat money laundering, its predicate offences and terrorist financing by laying down measures applicable to private operators that aim to prevent the misuse of the financial system for these purposes. Environmental crime is not explicitly mentioned in the definition of ‘criminal activity’ in Article 3 of the Directive, although such a crime could be covered by the horizontal category of criminal offences punishable under Member States law by deprivation of liberty or a detention order for a maximum of one year (or, for Member States that apply a minimum threshold, a minimum of more than 6 months). Whether environmental crime is explicitly mentioned or not is however immaterial, as the Directive only lays down minimum harmonization rules and the private sector would need to apply the measures transposing such directive in relation to the specific approach taken by the Member State to predicate offences.

The proposal for a new Anti-money Laundering Regulation, proposed in July 2021 as part of the new EU anti-money laundering package (also including a proposal for a Regulation establishing a new Anti-money Laundering Authority, proposals for a new Directive, a new Regulation and a recast of the Transfer of Funds Regulation) aligns the definition of criminal activity with the one of Directive (EU) 2018/1673, thus clearly encompassing environmental crime. The proposed Regulation is currently under negotiations, hence may be subject to amendments.

Question 8:

- c) Please describe measures taken by your country to prevent the abuse of national, regional and global financial systems for the purposes of money-laundering related to illicit trafficking in wildlife?

1. Angola:

Angola, within the scope of the reform of Justice and Law and in compliance with international commitments, proceeded to criminalize offenses related to Money

¹⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L1673&from=fr>

Laundrying, Financing of Terrorism and the Proliferation of Weapons of Mass Destruction, under Law no. 20 of the 27th of January.

In this sense, criminal practices related to illicit wildlife trafficking that constitute money laundering are resolved by the competent authorities, based on the aforementioned legal diploma.

2. Belarus:

Республика Беларусь является членом Евразийской группы по противодействию легализации преступных доходов финансированию терроризма, в связи с чем в стране на законодательном уровне комплексно реализованы международные стандарты (Рекомендации ФАТФ) в сфере противодействия отмыванию денег.

3. Brazil:

Receita Federal (Customs): Not known

Federal Prosecution Service (MPF); International Cooperation Unit (SCI): In 2018, the most notorious Brazilian wildlife dealer, V.H., was convicted to 12 years in prison, due to four money-laundering accusations. The defendant has illicitly acquired more than R\$ 1.3 million in two decades of animal trafficking schemes, and used the money to buy assets in straw persons' names. Besides the penal sanction of imprisonment, the offender was also sentenced to a fine and has been temporarily prohibited on occupying public positions for a period of 24 years (<https://www.mpf.mp.br/pb/sala-de-imprensa/noticias-pb/apos-denuncia-do-mpf-maior-trafficante-de-animais-do-brasil-e-condenado-a-12-anos-de-reclusao>).

Another example is the Brazilian Financial Intelligence Council (Conselho de Controle de Atividades Financeiras – COAF, in its Portuguese acronym) valuable participation in Financial Action Task-Force (FATF) discussions concerning illicit trafficking in wildlife.

4. Burundi:

Loi 1/02 Du 04fevrier 2008 Portant Lutte Contre le Blanchiment de Capitaux et le Financement du Terrorisme.

5. Canada:

Canada's financial intelligence unit, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), recently published an Operational Alert with money laundering indicators related to illegal wildlife trade, meant to assist businesses in identifying and reporting financial transactions related to the laundering of proceeds of crime from this appalling and cruel crime. This, in turn, will facilitate the production of actionable financial intelligence in support of law enforcement investigations in Canada and abroad.

FINTRAC's Operational Alert was developed in support of Project Anton, a new international public-private partnership aimed at improving awareness and understanding of the global threat posed by illegal wildlife trade, and targeting the laundering of proceeds from this despicable crime domestically and internationally. This initiative was named in honour of A. M., Head of Security at the Timbavati Private Nature Reserve and a Global Conservation Technical Advisor, who was murdered in 2022 for his passionate commitment to protecting and conserving wildlife. In his memory, Project Anton aims to improve the collective understanding of illegal wildlife trade and to improve the detection of the laundering of proceeds from this crime.

Project Anton is led by Scotiabank in Canada and supported by The Royal Foundation's United for Wildlife network, which was founded by Prince William, FINTRAC, AUSTRAC's Fintel Alliance in Australia, the South African Anti-Money Laundering Integrated Task Force, the United Kingdom Financial Intelligence Unit, Western Union and numerous other government, law enforcement and non-governmental organizations in Canada and around the world with unique knowledge, expertise and tools in combatting illegal wildlife trade.

With the reporting that FINTRAC has received to date, the Centre has already disclosed actionable financial intelligence to law enforcement under the umbrella of Project Anton.

In addition to providing money laundering indicators, FINTRAC's Operational Alert also describes the general money laundering methods associated with illegal wildlife trade, including the use of nominees, front companies and the layering of funds between accounts, as well as the types of transactions suspected of being related to the illegal importation of wildlife into Canada and exportation from Canada.

The Government of Canada is committed to working collaboratively with its domestic and international partners to combat illegal wildlife trade, an appalling and cruel crime that poses a serious environmental, economic, security and public health threat in Canada and around the world.

Project Anton will facilitate the ongoing engagement and sharing of information between partners domestically and internationally, where authorities permit, and enhance collective knowledge of money laundering methods, typologies and indicators as more information and intelligence is gathered from the reporting from businesses.

By following the money across jurisdictions and generating actionable financial intelligence for law enforcement in Canada and around the world, Project Anton will assist in identifying, pursuing and prosecuting perpetrators – and broader networks – linked to illegal wildlife trade.

6. China:

一是中国于 2006 年 10 月 31 日颁布《中华人民共和国反洗钱法》，遵照 FATF 国际标准，要求金融机构依法开展反洗钱工作，其中包括与非法贩运野生动植物有关的反洗钱工作。

二是在 2019 年 7 月至 2020 年 6 月中国任 FATF 主席期间，中国与英国、博茨瓦纳共同牵头，对非法贩卖野生动物及相关洗钱活动进行研究，得到了联合国毒品犯罪问题办公室等国际组织以及 20 多个国家和地区的支持和参与，并完成《非法贩卖野生动物与洗钱》研究报告。2020 年 6 月，FATF 全会审议通过该研究报告，并决定开展系列宣传活动，提升国际社会对非法贩卖野生动物及相关洗钱活动的理解和认识，增强预防和打击能力。

三是中国人民银行及时在官网通报 FATF《非法贩卖野生动物与洗钱》报告，并向金融机构发布与贩卖野生动物相关洗钱活动的风险提示，反洗钱监测分析部门也开展了专项可疑交易监测。同时，中国人民银行还联合建设银行、渣打银行等国内外金融机构召开非法贩卖野生动物洗钱专题研讨会，面向金融机构发放防范野生动物犯罪洗钱宣传手册，着力提升中国金融机构对野生动物犯罪的理解和认识水平，增强防范能力。

7. Colombia:

Se persigue a través del artículo 323 de la ley 599 del 2000

Artículo 323 Lavado de Activos: el que adquiera, resguarde, invierta, transporte, transforme, almacene conserve, custodie o administre bienes que tengan su origen mediato o inmediato en actividades de tráfico de migrantes, trata de personas, extorsión enriquecimiento ilícito, secuestro extorsivo, rebelión, tráfico de armas, tráfico de menores de edad, financiación del terrorismo y administración de recursos relacionados con actividades terroristas, tráfico de drogas tóxicas, estupefacientes o sustancias psicotrópicas, delitos contra el sistema financiero, delitos contra la administración pública, o vinculados con el productos de delitos ejecutados bajo concierto para delinquir, o les dé a los bienes provenientes de dichas actividades apariencia de legalidad

o los legalice, oculte o encubra la verdadera naturaleza, origen, ubicación, destino, movimiento o derecho sobre tales bienes o realice cualquier otro acto para ocultar o encubrir su origen ilícito, incurrirá por esa sola conducta, en prisión de diez (10) a treinta (30) años y multa de seiscientos cincuenta (650) a cincuenta mil (50.000) salarios mínimos legales mensuales vigentes.

8. Czechia:

This includes the Action Plan to Combat Organised Crime for 2022 and 2023, as well as the National Action Plan to Combat Illegal Activities in the Field of Wildlife Crime.

Also, the Act No. 253/2008 Coll., the Act on Certain Measures against the Legalization of the Proceeds of Crime and the Financing of Terrorism, has established the Financial Analytical Office (now Financial and Analytical Unit – the FIU).

9. Finland:

Money laundering offences are punishable in accordance with Criminal Code, Chapter 32.

The Act on Preventing Money Laundering and Terrorist Financing (444/2017) is also relevant in this area. See unofficial English translation:

<https://www.finlex.fi/en/laki/kaannokset/2017/en20170444.pdf>

10. France:

Le cadre de la lutte contre le blanchiment en droit français ne vise pas spécifiquement le trafic d'espèces sauvages, l'infraction de blanchiment étant générale et pouvant être adossée à tout crime ou délit.

La France a adapté l'organisation et les moyens des autorités répressives afin de développer une action plus efficace contre le blanchiment. La priorité stratégique a été donnée au développement et au renforcement d'un réseau d'autorités spécialisées, disposant des compétences et des ressources nécessaires pour combattre le haut du spectre du blanchiment.

Cette professionnalisation du dispositif institutionnel s'est notamment traduite par :

- Le renforcement de TRACFIN, cellule de renseignement financier française ;
- La modernisation des méthodes de détection de l'administration fiscale ;
- L'adaptation de l'organisation de la douane et le renforcement continu des effectifs de son service d'enquêtes judiciaires, le service national de douane judiciaire (SNDJ), transformé en 2019 en un nouveau service à compétence nationale, rattaché conjointement à la DGFIP, le service d'enquêtes judiciaires des finances (SEJF), qui comprend en plus des officiers de douane judiciaire (ODJ), des officiers fiscaux judiciaires (OFJ) issus de l'administration fiscale ;
- La création en 2019 d'une sous-direction spécialisée au ministère de l'intérieur chargée du pilotage national de la lutte contre grande la délinquance financière et le renforcement de ses effectifs ;
- La création en 2013 de l'Office central contre la corruption et les infractions financières et fiscales ;
- La création en 2011 de l'AGRASC, agence spécialisée dans la gestion et le recouvrement des avoirs, en France et à l'étranger et l'augmentation de ses effectifs. Le soutien apporté aux juridictions dans la gestion des scellés et biens saisis, via l'action de l'AGRASC et notamment de ses deux antennes régionales situées à Lyon et Marseille et opérationnelles depuis mars 2021, va être renforcé avec la création de deux nouvelles antennes situées à Rennes et Lille et dont l'ouverture est prévue au début de l'année 2022.

Au plan judiciaire, il faut souligner la création en 2013 d'un parquet national spécialisé en matière de grande délinquance économique et financière et l'accroissement de ses

effectifs, et la création en 2019 d'une JIRS nationale destinée à renforcer l'action contre la criminalité organisée, y compris financière et son blanchiment.

L'ensemble de ces mesures s'inscrivent dans des priorités plus transversales : renforcement de la lutte contre la grande délinquance économique et financière, politique générale de saisie et confiscation du produit du crime, amélioration de la coordination des autorités. L'expérience acquise par les autorités spécialisées vient nourrir le développement de l'action des services territoriaux et de droit commun en matière de blanchiment de capitaux.

L'ensemble des juridictions, et non uniquement spécialisées, doit s'emparer de l'ensemble des outils à disposition pour apporter une réponse pénale, l'adapter et la rendre efficace face aux profits que génère le crime organisé.

Les juridictions se mobilisent pour répondre à ces menaces structurelles, par le biais d'une politique pénale dynamique, les condamnations du chef de blanchiment ayant été multipliées par cinq entre 2010 et 2018.

Le ministère de la justice, et notamment la DACG, est elle-même particulièrement active en la matière, par le biais de la diffusion d'outils de politique pénale en matière de lutte contre le blanchiment :

- Une dépêche de politique pénale relative à la lutte contre le blanchiment de fonds du 11 décembre 2020, qui incite les parquets à articuler leur action autour de cinq objectifs :
 - Un recours plus systématique à l'infraction de blanchiment concernant les infractions ayant généré un profit élevé, - Une vigilance accrue sur certaines typologies de blanchiment,
 - Une stratégie d'enquête cadrée et adaptée à la complexité des faits,
 - Une meilleure coordination avec les partenaires,
 - Une meilleure mobilisation du dispositif de saisies et confiscations.
- Des dépêches relatives aux relations entre TRACFIN et l'autorité judiciaire (dépêche du 22 novembre 2019, qui rappelle le cadre légal des échanges et encourage l'amélioration de leur fluidité, dépêche du 4 mars 2021 relative au déploiement de l'applicatif TRAJET portant sur l'envoi par TRACFIN de transmissions aux juridictions et au retour fait à TRACFIN sur les suites données).

La DACG a également publié un véritable corpus documentaire à disposition des juridictions, sur le site Intranet de la direction, et notamment :

- un focus relatif à la mise en œuvre du délit pénal de blanchiment, mis à jour en juillet 2020 ;
- un focus relatif à TRACFIN, mis à jour en septembre 2020 ;
- un guide des saisies et confiscations¹⁷

11. Germany:

Germany is stepping up the fight against environmental crimes such as IWT. The 2021 FATF report on environmental crimes initiated under the German Presidency has highlighted the need to include environmental crimes into national risk assessments and Germany will do this in its next NRA. Also, it is being considered to improve interinstitutional coordination and cooperation bundling core competencies under the umbrella of a new authority called the Higher Federal Authority for Combating Financial Crime. The new authority is envisaged to focus on investigating complex cases of money laundering, target big networks and cartels and work closely with the

¹⁷ Un guide des saisies et confiscations en matière de cryptoactifs doit également être diffusé courant 2022

FIU. This would in future help us to follow the money from organised crime including, as applicable, such as IWT.

German FIU has undertaken and recently finalized an analysis project on the topic of environmental crime, including IWT. It became quite clear that the FIU has a range of connection points with this issue and that environmental crimes are very complex and sophisticated in their analysis.

In addition, Germany supports the fight against IWT in numerous projects around the world and with great financial contributions

12. Guatemala:

El Instituto Nacional de Bosques – INAB – carece de la competencia administrativa para conocer tales técnicas a lo cual no se puede dar respuesta a la pregunta anteriormente enunciada.

13. Hungary:

Financial institutions and service providers operated in Hungary are legally obligated to monitor financial transactions. Also the Hungarian Financial Intelligence Unit (FIU) as an administrative authority monitors financial transactions. If money laundering is suspected, the competent law enforcement authority will launch a criminal investigation.

14. Japan:

In the “National Strategy and Policy for AML/CFT/CPF”, the recognized risks for environmental crimes, including illegal wildlife trade, were described and those risks were shared among the relevant ministries and agencies.

We raised awareness among the business operators regarding the recognized risks on the money laundering related to illegal wildlife trade, which has drawn international attentions, by introducing the international circumstances and current domestic situations (referring to FATF reports, etc.) in the "National Risk Assessment-Follow-up Report 2021".

15. Latvia:

The Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing

Section 4. Proceeds of Crime

(1) Funds shall be considered as the proceeds of crime:

1) if they have come into the ownership or possession of a person as a direct or indirect result of a criminal offence;

2) in other cases laid down in the Criminal Law. “(2) The term "proceeds of crime" shall be used in the meaning of the term "criminally acquired property" used in the Criminal Law.

(3) In addition to that laid down in the Criminal Law, funds which belong to the following person or are directly or indirectly controlled by the following person shall also be considered proceeds of crime:

1) who is included on any list of those persons suspected of being involved in terrorist activity or production, possession, transportation, use or distribution of weapons of mass destruction compiled by the countries or international organisations stipulated by the Cabinet;

2) who is included on the list of subjects of sanctions drawn up by the Cabinet on the basis of the Law on International Sanctions and National Sanctions of the Republic of Latvia with the view to combat the involvement in terrorist activity or production, possession, transportation, use, or distribution of weapons of mass destruction;

3) on whom bodies performing operational activities, investigating institutions, the Office of the Prosecutor, or a court have information which forms sufficient basis for suspecting such person of committing a criminal offence related to terrorism or participation therein.

(4) The Financial Intelligence Unit of Latvia shall maintain information on the persons referred to in Paragraph three, Clauses 1 and 2 of this Section on its website by making it accessible to the subjects of the Law and their supervisory and control authorities.

(5) Funds shall be declared to be proceeds of crime in accordance with the procedures laid down in the Criminal Procedure Law.

The Criminal Law

Section 195. Laundering of the Proceeds from Crime

(1) For a person who commits laundering of criminally acquired financial resources or other property,

the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property.

(2) For the commission of the same acts, if they have been committed by a group of persons according to a prior agreement,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property.

(3) For a person who commits the acts provided for by Paragraph one of this Section, if they have been committed on a large scale, or if they have been committed by an organised group,

the applicable punishment is the deprivation of liberty for a period of three years and up to twelve years, with or without confiscation of property and with or without probationary supervision for a period of up to three years.

16. Madagascar:

En cours d'élaboration.

17. Malaysia:

1. The Department of Wildlife and National Parks (PERHILITAN) is currently in the process of establishing an Anti-Money Laundering Division (AML) as part of its responsibilities under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 [Act 613]. Investigating officers from PERHILITAN has undergone specialized training on money-laundering investigation techniques conducted by the Central Bank of Malaysia, in order to ensure that they are equipped with the necessary skills.

2. PERHILITAN is also responsible for collaborating with other Law Enforcement Agencies (LEA) inside and outside the country to facilitate investigations because investigations into money laundering cases are increasingly complex and involve actions outside the country's borders.

18. Mexico:

La UIF es el organismo central nacional para:

- 1) Recibir reportes de las Instituciones Financieras (IF) y avisos de quienes realizan Actividades y Profesiones No Financieras Designadas (APNFD);
- 2) Analizar las operaciones económicas y financieras y demás información relacionada; y
- 3) Diseminar informes de inteligencia y otros documentos útiles para detectar operaciones probablemente relacionadas con lavado de dinero (LD) o

financiamiento al terrorismo (FT) y sus delitos determinantes, y, en su caso, presentar las correspondientes denuncias ante la autoridad competente.

Partiendo de la utilidad e importancia que representa el uso de inteligencia financiera en la identificación de redes criminales y empresas fachada o fantasma que pudieran estar involucradas en operaciones con recursos de procedencia ilícita, teniendo como delitos predicados o subyacentes los ambientales, la UIF desarrolló un modelo de riesgo.

A través de este modelo se analizan los Reportes de Operaciones Sospechosas (ROS) que pudieran estar relacionados con el tráfico ilícito de especies de fauna y flora protegidas o en peligro de extinción. Los temas se buscan con palabras clave que describen delitos, actividades y las especies más comunes:

- Delitos: contrabando, tráfico, hurto, delito medioambiental, furtivismo.
- Actividad ilícita: extracción, compra, venta, acopio, comercio, productos, mercado, caza, tala, pesca, captura.
- Marítimo: pez, totoaba, ballena, coral, delfín, foca, dugongo, esturión, tiburón, tortuga, caballito de mar, manatí, vaquita marina.
- Aves: periquito, loro, tucán, águila, guacamayo, mariposa, quetzal.
- Terrestres: iguana, jaguar, lobo, monos, ocelote, marfil, reptiles.
- Plantas: orquídeas, cactus, bosques.
- Genéricos: especies, animales, fauna, flora, aves.

Estos reportes fueron identificados por esquemas de operación inconsistentes con actividades económicas aparentemente legales para la comercialización de especies y actividades de asociaciones civiles aparentemente para la conservación de especies.

Finalmente, la UIF comparte con las autoridades mexicanas competentes, documentos públicos e informes de mejores prácticas y tipologías del GAFI, Grupo Egmont, GAFILAT, UNODC, entre otros.

19. Morocco:

Il n'y a pas de mesures spécifiques pour prévenir le blanchiment d'argent lié au trafic d'espèces sauvages. Toutefois, la lutte contre le blanchiment des capitaux au niveau du marché des capitaux marocain est régie par un certain nombre de textes législatifs, dont les principaux sont :

- La loi no 43-05, relative au blanchiment des capitaux, telle qu'elle a été modifiée et complétée. Cette loi prévoit les mesures qui doivent être observées par les personnes assujetties dans le cadre de la lutte contre le blanchiment de capitaux et le financement du terrorisme, notamment la mise en place des politiques et des règles de contrôle interne, les obligations de vigilance et de veille, la déclaration à l'Unité de Traitement du Renseignement Financier (UTRF) d'opérations suspectes, l'exécution des décisions d'opposition de l'UTRF ainsi que le gel des avoirs ;
- Le code de commerce notamment les articles 574-1 à 574-7 pour la définition de l'infraction de blanchiment des capitaux et les peines prévues à cet égard ;
- La circulaire de l'Autorité Marocaine du Marché de Capitaux (AMMC) no 1/18 relative aux obligations de vigilance et de veille interne définissant les modalités d'application des mesures et des procédures imposées par la loi 43-05 et les recommandations du Groupe d'Action Financier (GAFI)

20. Myanmar:

Other line departments and ministries may have rules, regulations and procedures to handle such issues.

21. Netherlands:

[Financial Intelligence Unit - Nederland | FIU-Nederland](#)

De rol van de Nederlandse financiële sector in de bestrijding van illegale handel in wilde dieren - Compliance, Ethics & Sustainability - Uitgeverij Den Hollander

22. New Zealand:

New Zealand takes the issue of money laundering related to environmental crimes, including illicit trafficking in wildlife seriously, and has implemented some measures to prevent and combat this illegal activity. The New Zealand Police, as the home of the Financial Intelligence Unit (FIU), would play a key role in this effort, by supporting coordination with other relevant agencies to gather and share intelligence if there were suspected cases of wildlife trafficking and associated financial crimes.

In addition to the FIU, New Zealand has other agencies responsible for conservation and biosecurity that are also involved in efforts to prevent wildlife trafficking. Section 140 of New Zealand's Anti-money Laundering and Counter Financing of Terrorism Act allows other agencies to identify and report to the FIU any information that may be linked to this activity. The FIU may collect and collate further information and where appropriate refer to a suitable agency for investigation.

23. Nicaragua:

Ley de la Unidad de Análisis Financiero, Ley No. 976, aprobada el 16 de julio de 2018, Publicada en La Gaceta, Diario Oficial No. 138 del 20 de julio de 2018.

La UAF tiene como función principal trabajar en que las actividades económicas no sean utilizadas para el lavado de dinero, bienes y activos provenientes de actividades ilícitas y financiamiento al terrorismo.

24. Norway:

Enhet for finansiell etterretning (EFE) at Økokrim is Norway's Financial Intelligence Unit (FIU). In 2022 the unit received nearly 20 000 reports on suspicious transactions, most of them from banks. The reports were analysed and followed up based on risk assessments and crime-fighting priorities. We have not found cases where money-laundering has been related to illicit trafficking in wildlife.

25. Panama:

Las medidas adoptadas por Panamá para prevenir el abuso de los sistemas financieros a los fines del blanqueo de dinero, no solo se aplican para el delito específico relacionado al tráfico ilícito de fauna y flora silvestres, sino a todos los delitos precedentes, cuya comisión permiten el lavado de activo.

Con la Ley 23 de 27 de abril de 2015, se adoptan medidas para prevenir el Blanqueo de Capitales, el financiamiento del terrorismo y la proliferación de armas de destrucción masiva. Esta ley, establece las medidas básicas para la identificación del cliente y el beneficiario final a través de la verificación de información y documentación, que dependerá del perfil de riesgo de los sujetos obligados financieros, sujetos obligados no financieros y actividades realizadas por profesionales sujetas a supervisión, considerando los tipos de cliente, productos y servicios que ofrece, los canales de distribución o comercialización que utilice y la ubicación geográfica de sus instalaciones, la de sus clientes y beneficiarios finales.

Es destacable, que en el año 2020 se aprobó Ley 129 de 17 de marzo de 2020, que crea el sistema privado y único de registro de beneficiarios finales de personas jurídicas, en el que establece requisitos específicos que debe mantener el agente residente con respecto al Beneficiario Final, como lo es el nombre completo, número de cédula, pasaporte o documento de identidad, fecha de nacimiento, nacionalidad, dirección y la fecha en la que se adquiere la condición de beneficiario final.

Asimismo, se le presta la más amplia colaboración a las solicitudes de cooperación internacional, como establece la Ley 11 de 31 de marzo de 2015, en virtud de los tratados internacionales en la materia y en su defecto el principio de reciprocidad.

Por otro lado, la Superintendencia de Bancos de Panamá emitió el Acuerdo 2-2019 que modifica el Acuerdo No. 010-2015 sobre prevención del uso indebido de los servicios

bancarios y fiduciario, el banco y la empresa fiduciaria, deberá asegurarse de contar con la información del país y con el número de identificación tributaria del país o países donde es contribuyente, a fin de mantener actualizada la información relacionada con su identificación tributaria.

A manera de persecución, en lo que respecta al plano penal e investigativo, a través de la Resolución No. 28, de 12 de diciembre de 2019 de la Procuraduría General de la Nación, se adopta la Guía de Investigación en materia de Delitos de Blanqueo de Capitales para la República de Panamá, siendo esta una herramienta o guía práctica para orientar el desarrollo de investigaciones relacionadas con el delito de blanqueo de capitales.

Además, el Ministerio Público adoptó la Guía de Investigaciones Financieras Paralelas para que los fiscales encargados de la investigación de los delitos precedentes establecidos en el artículo 254 del Código Penal con el objetivo de desarticular financieramente las organizaciones criminales y se cuenta con La Unidad Especializada en Lavado de Activos y Financiación del Terrorismo del Ministerio Público, que es la oficina encargada de orientar y asesorar a los fiscales en las estrategias de investigación de estos delitos.

26. Peru:

En el caso peruano, es aún más difícil de determinar o explicar ya que el desarrollo ha sido muy acelerado en los últimos 50 años. Ante la demanda de protección de nuestro ecosistema, uno de los más biodiversos del mundo, se han promulgado leyes de protección y favorecimiento de la conservación y sostenibilidad del mismo. Sin embargo, es la fauna silvestre la que en nuestro país no ha tenido un avance significativo. Así, en el último cuarto del siglo pasado, se empezó a darle importancia tanto en su reconocimiento como en materia de protección frente a vulneraciones.

En razón a esto y siendo conscientes de la peligrosa problemática, hemos pensado que una posible solución podría ser incluir tal delito como uno de crimen organizado. Sin embargo, existen propuestas normativas que no fueron aprobadas o aún pendientes de emitir dictamen en nuestro poder legislativo.

27. Poland:

1. The Republic of Poland acceded to the Washington Convention on 12 December 1989. It entered into force in relation to Poland on 12 March 1990. In addition, the European Union, despite the fact that it cannot be a party to the Convention (international organizations cannot participate in the mechanism) de facto accepted its provisions through the introduction of Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law.

2. Illegal trade of flora and fauna and their products is illegal, under the penal provisions of the Act of 16 April 2004 on nature conservation (articles 127-132).

3. In Poland, there are no separate investigation or judicial procedures regarding illegal trade of CITES fauna and flora. Proceedings are conducted according to general rules for all prohibited acts divided in categories of crimes and offences. Prosecution is the responsibility of the public prosecutor's office and the police, with the police investigating under the supervision of the public prosecutor's office. In the event that the offense is related to tax or customs law – the Tax and Customs Service (within the National Revenue Administration) is responsible for conducting the investigation (in practice most of those cases is about smuggling or illegal transport through the border). There are no specialised police officers or prosecutors dealing only with this type of crime. The Economic Crime Departments of Police are responsible for prosecuting this criminal practice. There are designated coordinators for this type of crime in the regional Police headquarters.

4. The Polish National Assessment of the Risk of Money Laundering and Financing of Terrorism noted the possibility of using the smuggling of live organisms and products derived from them as a predicate crime of money laundering and financing of terrorism.

In line with the Communication from the Commission to the European Parliament and the Council on an Action Plan for strengthening the fight against terrorist financing, crimes related to illegal wildlife trade are considered a source of funding for terrorism and related activities. According to data contained in this EU Action Plan, illegal wildlife trade has now become one of the most lucrative types of organised crime in the world thus Polish Financial Intelligence Unit (General Inspector of Financial Information) is aware of that kind of practice.

5. In addition, within the framework of applying good practices, it is worth pointing out that in 2021 Polish Financial Intelligence Unit answered to the call for inputs to the Financial Action Task Force (FATF) post-Report Feedback on Money Laundering and Wildlife Trafficking, by providing the case study on illegal trade of glass eels. The aim of this project was to provide a feedback to FATF Money Laundering and the Illegal Wildlife Trade report, published in June 2020, which showed a need for more countries to consider their exposure to financial flows from the illegal wildlife trade. The post-Report Feedback was also intended to enable FATF to better understand the impact of its work and respond to G7 and G20 calls for action on this issue. Similarly, high-level findings from the inputs received to this report were used to inform broader discussions at the FATF High-Level Conference on Environmental Crime in December 2021.

28. Portugal:

All procedural measures of this nature provided for in the Code of Criminal Procedure and also in separate legislation, namely the legislation on the Prevention of Money Laundering and Terrorist Financing, are permitted.

The sanctions regime is divided into:

1 - Criminal Liability

Article 11 of the Criminal Code applies.

2 – Administrative offence liability

Individuals, corporate bodies, even if irregularly constituted, and associations without legal personality may be held jointly or severally liable. Any person who, by action or omission, contributes causally to the production of the administrative offences provided for in the Law on the Prevention of Money Laundering and Terrorist Financing is liable as a perpetrator of the administrative offences. Attempt and negligence are always punishable. And;

3 - Disciplinary Responsibility

The breach, by a certified accountant, lawyer, solicitor or notary, of the duties set out in Law 83/2017, of 18 August, or in the respective regulations, constitutes an infraction of a disciplinary nature, punishable in accordance with the statute of the respective professional association and other applicable legislation and regulations.

When under the terms of the statute the offence is punishable by a fine, the maximum limit of the fine is doubled if the amount corresponding to the economic benefit resulting from the commission of the offence is determinable and exceeds (euro) 500,000.

II) Law 83/2017, of 18 August - measures to combat money laundering and terrorism financing

Administrative offence liability

Article 172

Additional penalties

1 - Together with the fines provided for in Article 170, the following accessory sanctions may be applied

- a) Forfeiture, in favour of the State, of the object of the offence and the economic benefit obtained by the agent through its commission;
- b) Foreclosure, for a period of up to two years, of the establishment where the agent exercises the profession or activity to which the administrative offence relates
- c) Prohibition, for a period of up to three years, from exercising the profession or activity to which the administrative offence relates;
- d) Prohibition, for a period of up to three years, from exercising functions of administration, direction, leadership, holding corporate bodies, representation, mandate and supervision in entities subject to the supervision or oversight of the competent sectorial authority and in entities with which they are in a controlling or group relationship;
- e) Publication of the final or res judicata decision.

2 - The publication referred to in sub-paragraph e) of the preceding paragraph shall be made, either in full or in extracts, at the expense of the infringer, in a suitable place for the purposes of general prevention of the legal system, namely in a national, regional or local newspaper, depending on which, in the case in question, is more appropriate.

In the Portuguese legal system, it is possible to conclude that there is a strong indication of a lack of conformity between what was lawfully received and declared by the defendants and what they possess, through the liquidation of the value of the advantages arising from the illicit activities carried out by the defendants. Extended asset forfeiture is one of the measures created by the legislator to combat organised and economic-financial crime in order to give a destination to the assets of the accused that are not congruent with their licit income (Law 5/2002).

According to Law 5/2002 (article 7) the incongruent amount of assets may be seized and confiscated to the State in situations where the defendant is convicted by final and unappealable judgment of committing a crime from the catalogue (i.e. criminal association, terrorism, corruption, money laundering, smuggling, etc.), since the illicit origin of this amount cannot be demonstrated by the sentenced person.

Portugal approved the National Strategy against ML/TF and the Financing of Weapons of Mass Destruction through Resolution of the council of ministers 69/2022, of 9 August.

In addition, criminal policy priorities were defined, to be in force in the biennium 2020-2022, instituted through Law no. 55/2020, of 27 August, which defined the objectives, priorities and guidelines of criminal policy for that period of time, in order to prevent, prosecute and reduce serious crime.

Under Article 5 of the said law, the following offences were defined as priority investigation crimes: - terrorism and crimes provided for in Law No. 52/2003 of 22 August, crimes against especially vulnerable victims, violent crimes, as well as those committed in an organised or group manner, trafficking in human beings, corruption and related crimes, economic and financial crimes, in particular the crime of money laundering, tax crimes and crimes against social security, the crime of forest fire and crimes against the environment and the trafficking of protected species.

In addition to crime prevention and repression, the objectives, priorities and guidelines designed aim to promote the protection of victims in general and especially vulnerable victims in particular, namely children and young people, pregnant and elderly women, the sick, the disabled and immigrants.

29. Qatar:

لدى جناب العديد من المعاهدات الدولية التي انضمت لها دولة قطر لغسل الأموال بشكل عام ، فإنه توجد

: العديد من التشريعات التي تهدف لمكافحة جرائم غسل الأموال ومنها

- قانون رقم (20) لسنة 2019 بإصدار قانون مكافحة غسل الأموال وتمويل الإرهاب .

- قرار مجلس الوزراء رقم (41) لسنة 2019 بإصدار اللائحة التنفيذية لقانون مكافحة غسل الأموال .

وتمويل الإرهاب .

30. Romania:

The "Carpathos" case, investigated in 2018 by prosecutors of the Prosecutor's Office attached to the Court of Appeal of Constanța, in cooperation with IGPR [General Inspectorate of the Romanian Police] officers, as well as judicial bodies from Italy, Spain, France and Hungary. The object of the investigations was the commission by an organised crime group of offences of trafficking in illegally caught fish species (on the territory of Italy, Spain and France), tax evasion, sale of adulterated products and forgery of documents.

Whenever the offence of illicit trafficking in wildlife generates some form of illicit gain, the prosecutors also investigate the flow of this gain, including from the perspective of possible money laundering offences.

Separately, Article 127 (5) of Law No. 304/2022 on the organisation of the judiciary regulates the functioning of financial specialists within prosecutor's offices who provide support to investigating prosecutors, where appropriate, including in relation to the traceability of criminal proceeds.

The Public Ministry has consistently investigated and continues to investigate money laundering offences in accordance with the powers conferred by law.

Separately, in terms of measures of an administrative nature, Article 8 of Law No. 129/2019 regulates the role of the Prosecutor's Office attached to the High Court of Cassation and Justice in supporting (by extension) the administrative decision to postpone the execution of suspicious transactions.

31. Russian Federation:

неправомерного использования национальных, региональных и глобальных финансовых систем для отмывания денежных средств, связанного с незаконным оборотом объектов дикой природы.

32. Slovakia:

Ministry of Interior: As part of fight against legalization of proceeds from crime of illicit trafficking in wildlife, no specific measures have been taken in the Slovak Republic. Fight against this crime is regulated within the criminal law and other subsequent legal provisions.

33. South Africa:

The Financial Intelligence Centre is engaged in several initiatives to combat illicit financial flows linked to illicit trafficking in wildlife. Already engagements are taking place with the Eastern and Southern Africa Anti-Money Laundering Group in the Africa region, FINTRAC in Canada and FINCEN in USA. During December 2022, the delegation of SAMLIT also was invited to Vietnam to consult with a range State and public representatives dealing with the illicit wildlife trade that emanates from South Africa.

A work group is in the process to be formed with Financial Intelligence Centre and FINCEN to enhance further collaboration to combat illicit financial flows.

South Africa also initiated collaborations with IWT Safety and Security Working Group (SSWG) in the KAZA region (ZAMBIA, ZIMBABWE, MOZAMBIQUE, NAMIBIA and ANGOLA) whereby FIC presented the potential of utilising the FIU's information sharing platform to deal with IWT issues or matters.

34. Spain:

Como norma principal que establece el marco jurídico para la prevención del blanqueo de capitales, en España se encuentra en vigor la Ley 10/2010, de 28 de abril, de prevención del blanqueo de capitales y de la financiación del terrorismo. En esta se incluyen medidas de prevención para el blanqueo de capitales con origen en cualquier tipología delictiva.

35. Sweden:

Act (2017:630) on measures against money laundering and financing of terrorism

1 ch. Scope and definitions

Purpose of the Act

§ 1 This act aims to prevent financial activities and other business activities from being used for money laundering or the financing of terrorism.

Scope of the Act

§ 2 This Act applies to natural and legal persons who operate

1. banking or financing operations according to the Act (2004:297) on banking and financing operations,

2. life insurance business, however not

a) those run by insurance associations that have been granted an exemption according to ch. 1 Section 19 d of the Insurance Operations Act (2010:2043), or

b) occupational pension operations according to the Act (2019:742) on occupational pension companies,

3. securities movement according to ch. 2 Section 1 of the Act (2007:528) on the securities market,

4. activities that require an application to the Financial Supervisory Authority according to the Act (1996:1006) on currency exchange and other financial activities,

5. insurance distribution according to the Act (2018:1219) on insurance distribution, in the case of such activities concerning life insurance, carried out by such insurance intermediaries who have permission according to ch. 2. § 1 of that Act or conducts business according to ch. 3 Section 1, second paragraph, Section 2 or Section 3 of that Act,

6. activities for issuing electronic money according to the Act (2011:755) on electronic money,

7. fund operations according to the act (2004:46) on securities funds,

8. business of providing payment services as a payment institution in accordance with the Act (2010:751) on payment services,

9. activity of providing payment services according to the Act on Payment Services without being a payment institution, however not if the activity exclusively concerns account information services,

10. activities as managers of alternative investment funds according to the Act (2013:561) on managers of alternative investment funds,

11. activities with consumer credits according to the Act (2014:275) on certain activities with consumer credits,

12. operations with housing credits according to the Act (2016:1024) on operations with housing credits,

13. activities as a provider of crowdfunding services according to Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European providers of crowdfunding services for businesses and amending Regulation

(EU) 2017/1129 and Directive (EU) 2019/1937, if the company is a legal person established in Sweden,

14. activity as a real estate agent or real estate agency company with special registration for rental brokerage or full registration according to the Real Estate Agents Act (2021:516),

15. gambling activities conducted with a license or registration according to the Gambling Act (2018:1138),

16. professional trade in goods, if it can be assumed that in the business or in a part of the business transactions are or will be carried out, single or those that can be assumed to be related, which means that an amount paid or received in cash amounts to the corresponding 5,000 euros or more,

17. activities according to the pawnshop act (1995:1000),

18. activity as an authorized or approved auditor or registered audit firm,

19. professional activities relating to accounting services or audit services not covered by 18,

20. professional advice regarding taxes and fees (tax adviser),

21. activity as a lawyer or law firm, to the extent that the activity refers to services specified in section 4, first paragraph,

22. professional activity as an independent lawyer other than that referred to in 21, to the extent that the activity refers to services specified in section 4, first paragraph,

23. professional activity to the extent that the activity refers to services specified in section 4, second paragraph and the operator is not such a person as referred to in 18-22, or

24. professional activity that refers to the mediation, storage or trade of works of art, if it can be assumed that in the business or in a part of the business, transactions are or will be carried out, single or those that can be assumed to be related, which means that a paid or the amount received amounts to the equivalent of 10,000 euros or more.

Certain gambling services may be exempted from the application of the law or its provisions in accordance with regulations issued pursuant to ch. 8. 1 § 1. Act (2021:903).

36. Thailand:

Department of National Parks, Wildlife and Plant Conservation: Specific measures, specified in the Anti-Money Laundering Prevention and Suppression Act B.E. 2542, are in place to monitor the financial flow and inspect any suspicious transnational financial movement. Offenses related to natural resources and the environment are treated as predicate offenses, thus, anyone being charged with illegal exploitation of natural resources will end up with multiple offenses, including the money laundering offense.

37. Türkiye:

In order to prevent the misuse of our country's national, regional and global financial systems for money laundering related to illegal wildlife smuggling, we work in cooperation with the Ministry of Finance and the Ministry of Trade. The Ministry of Finance has a unit on this subject. In addition, inspections are carried out both on denunciation and on a routine basis. CITES Illegal Trade Report is sent regularly and our country participates in Interpol operations.

38. United Kingdom:

Sec 340 (3) of POCA defines "criminal property" as benefit made from criminal conduct and extends to offences committed under relevant wildlife legislation such as COTES and CEMA. POCA does not restrict the offence to the UK so if the predicate offence is abroad, money laundering can still be investigated under the Act.

In addition, there is increased cooperation with the UKFIU and through work done by Interpol Wildlife Crime Working Group that has led to strong cooperation between NWCU and the global financial sector.

39. United States of America:

The Currency and Foreign Transactions Reporting Act of 1970, commonly referred to as the Bank Secrecy Act (BSA) and sometimes referred to as an “anti-money laundering law” or AML, requires U.S. financial institutions to assist U.S. government agencies to detect and prevent money laundering. Specifically, the act requires financial institutions to keep records of cash purchases of negotiable instruments, file reports of cash transactions exceeding \$10,000 (daily aggregate amount), and to report suspicious activity that might signify money laundering, tax evasion, or other criminal activities. Title III of the USA PATRIOT Act, passed in 2001, amended the BSA to strengthen banking rules against money laundering, expand communications between law enforcement agencies and financial institutions, and among institutions, and increased record keeping and reporting requirements of financial institutions. The Anti-Money Laundering Act of 2020 (AMLA) is a part of the National Defense Authorization Act for Fiscal Year 2020 that introduces major reforms to the US anti-money laundering (AML) laws and regulations aimed to strengthen, modernize, and streamline the existing AML laws. Some key provisions of the AMLA include creating a national registry of beneficial ownership information of certain entities, updating AML whistle-blower provisions and penalty enhancements, modernizing statutory language to address the rise in cryptocurrency transactions and the trade of antiquities, among others.

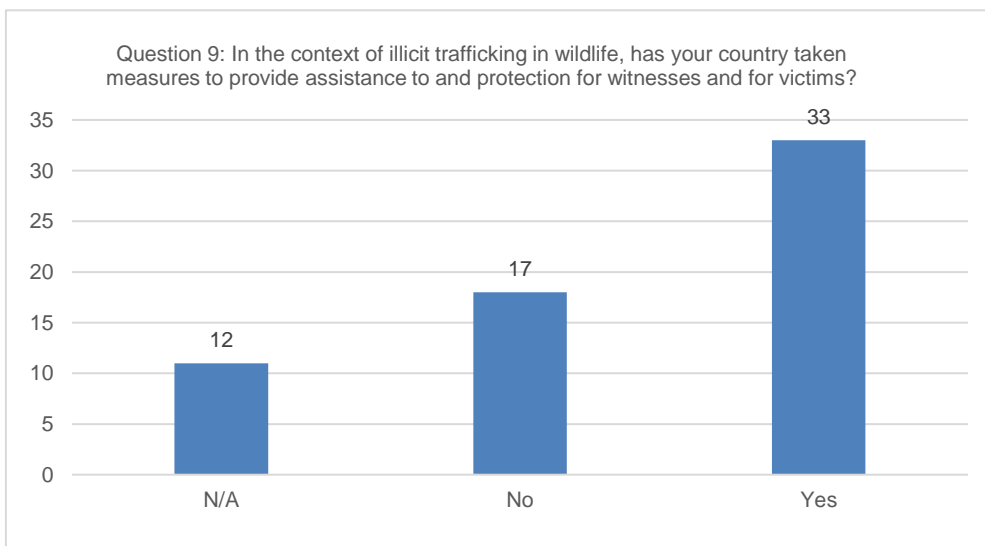
40. European Union:

See above. In addition to what is explained above, in 2020 the European Commission participated actively in the Financial Action Task Force’s project on money laundering and the illegal wildlife trade.¹⁸ The project identifies methods that criminals use to launder the proceeds of illegal wildlife trade and proposes actions that countries and private sector entities should take in order to combat this criminal phenomenon.

Question 9:

In the context of illicit trafficking in wildlife, has your country taken measures to provide assistance to and protection for witnesses and for victims?

Please provide an example of a case where such measures were taken.



¹⁸ Environmental Crime (fatf-gafi.org).

The following Member States that are parties to the Organized Crime Convention indicated that their country did not take any measures to provide assistance to and protection of witnesses and for victims: Brazil (Federal Prosecution Service (MPF), International Cooperation Unit (SCI)), Burkina Faso, Colombia, Denmark, Hungary, Kyrgyzstan, Latvia, Madagascar, Morocco, Myanmar, Nicaragua, Niger, Norway, Slovakia, Slovenia, Tunisia, United Kingdom. No answer/N/A was received from: Armenia, Burundi, China, Gabon, Guatemala, Malawi, Republic of Moldova, Saudi Arabia, Serbia, Sweden, Switzerland and the European Union. The following Member States that are parties to the Organized Crime Convention and the European Union confirmed that they have taken measures to provide assistance to and protection of witnesses and for victims: Angola, Austria, Belarus, Bolivia (Plurinational State of), Brazil (Receita Federal (Customs)), Canada, Côte d'Ivoire, Croatia, Czechia, Finland, France, Germany, Italy, Japan, Kenya, Malaysia, Mexico, Netherlands, New Zealand, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Senegal, South Africa, Spain, Thailand, Türkiye, United States of America.

1. Angola:

Yes, mostly from neighbouring countries and Asia.

2. Austria:

No cases yet, but Austrian Code of Criminal Procedure foresees the same protection of witnesses and victims, no matter what offences have been committed.

3. Belarus:

Уголовно-процессуальным законом Республики Беларусь предусмотрено применение мер по обеспечению безопасности участников уголовного процесса (включая свидетелей и потерпевших), к которым относятся: неразглашение сведений о личности, освобождение от явки в судебное заседание, закрытое судебное заседание и прочие.

Информация о применении мер безопасности к участникам процесса по уголовным делам о преступлениях анализируемой категории отсутствует.

4. Brazil:

Receita Federal (Customs): See : <https://www.gov.br/pt-br/servicos/receber-assistencia-e-protecao-a-testemunhas>

5. Canada:

Canada takes measures to protect witnesses by incorporating witness protection provisions within its wildlife legislation (such as the Migratory Birds Convention Act) and more broadly within the Criminal code for all Canadians. The identity of confidential informants is subject to very strong protection under Canadian law. Moreover, witnesses, victims or other persons with information about crime or potential crime of which they have knowledge, for example poaching wildlife or other such wildlife offence, may anonymously report this information via a free phoneline. Callers are provided a code number which they may use in subsequent calls and callers do not have to identify themselves. Information they provide will be forwarded to law enforcement (i.e., Crime Stoppers).

6. Colombia:

Sin embargo se utilizan mecanismos para proteger las Fuentes Humanas o informantes que suministren información tendiente a la identificación de estructuras organizadas como es (Agentes encubiertos)

7. Côte d'Ivoire:

Oui, il existe une loi.

Loi n° 2018-570 du 13 juin 2018 relative à la protection des témoins, victimes, dénonciateurs, experts et autres personnes concernées

8. Croatia:

The Criminal Procedure Act (Official Gazette No. 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 126/19, 130/20, 80/22) prescribes as follows:

Victim

Article 43 (Official Gazette No. 145/13, 70/17, 80/22)

(1) Under this Act the victim of a criminal offence shall have:

- 1) the right of easily accessible, confidential and free of charge access to services providing support to victims of criminal offences;
- 2) the right to efficient psychological and other professional assistance and support of the body, authority or institution providing assistance to victims of criminal offences as provided for by law;
- 3) the right to protection from intimidation and retaliation;
- 4) the right to protection of the dignity of the victim when testifying;
- 5) the right to be heard without unjustified delay after the complaint with regard to a criminal offence has been made and to be further heard only insofar as this is necessary for the purposes of the criminal proceeding;
- 6) the right to be accompanied by a person enjoying his/her confidence when taking part in any acts;
- 7) the right to be subject to a minimum number of medical interventions and only where strictly necessary for the purposes of the criminal proceedings;
- 8) the right to file a motion for prosecution and a private action pursuant to the provisions of the Criminal Act, the right to participate in the criminal proceeding as an injured party, the right to be informed of the dismissal of the criminal complaint (Article 206, paragraph 3, of this Act) and of the state attorney dropping the criminal charge, and the right to take over criminal prosecution in lieu of the state attorney;
- 9) the right to be informed by the state attorney of the acts performed as a result of his/her complaint (Article 206a of this Act) and the right to complain to a senior state attorney (Article 206b of this Act);
- 10) the right to be informed without unjustified delay, at his/her request, of the release from custody or the investigative prison, the defendant having fled or the convicted person having been released, and of the measures taken for the purposes of his/her protection;
- 11) the right to be informed, at his/her request, of any decision finally terminating a criminal proceeding;
- 12) the right to propose to be examined by means of an audio or video recording device;
- 13) any other rights provided for by law.

(2) Where the victim of a criminal offence punishable by imprisonment for more than five years has suffered severe harm as a result of a criminal offence, he/she

is entitled to the professional assistance of an advisor appointed at government expense when bringing a civil claim.

(3) The victim of an intentional crime of violence is entitled under a special act to compensation from the state budget. If the victim has won a civil claim, the amount awarded shall be taken into account when determining the amount of compensation. If the victim has already been awarded state compensation, the court shall act likewise when determining the amount to be awarded on the basis of the civil claim made.

(4) Already at the time of performing the first act in which the victim takes part, the court, the state attorney's office, the investigators and the police shall advise the victim in a manner he/she understands of:

- 1) the rights referred to in paragraphs 1, 2 and 3 of this Article and Article 44 of this Act;
- 2) his/her rights as an injured party.

(5) The bodies referred to in paragraph 4 of this Article shall treat the victim in a considerate manner and shall make sure that he/she has understood the information given to him/her about his/her rights.

(6) The bodies referred to in paragraph 4 of this Article shall instruct the victim in a manner he/she understands on what it means to participate in a proceeding as the injured party. The instruction given and the statement by the victim on whether he/she wants to take part in the proceeding as the injured party shall be entered on the record.

(7) The rights referred to in paragraph 1, points 8, 9 and 11, of this Article shall also be enjoyed by legal persons against which a criminal offence was committed. The provisions of this Act governing the exercise of the said rights by the victim of a criminal offence shall apply accordingly to legal persons against which a criminal offence was committed.

Article 43a (Official Gazette No. 70/17)

(1) Before questioning the victim, the body conducting the questioning shall carry out, in cooperation with the bodies, organisations or institutions providing assistance and support to victims of criminal offences, an individual assessment of the victim. The individual assessment shall include establishing whether there is a need to take special protection measures in respect of the victim and if yes, which ones (special method of questioning the victim, use of communication technology so as to avoid visual contact between the victim and the perpetrator and other measures provided for by law). Where the victim of a criminal offence is a child, it shall be presumed that special protection measures need to be taken and it shall be established which ones.

(2) The individual assessment of a victim shall take into account the personal characteristics of the victim, the type or nature of the criminal offences and the circumstances of the criminal offence. In this context particular attention shall be paid to victims who have suffered considerable harm due to the severity of the criminal offence, victims of a criminal offence committed with a bias related to their personal characteristics and victims whose relationship to the perpetrator makes them particularly vulnerable.

(3) In terms of paragraph 2 of this Article, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence and exploitation, hate crime and victims with disabilities shall be duly included in the individual assessment.

(4) Individual assessments of victims shall be carried out with the involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special protection measures as provided for by law.

(5) The body conducting the proceeding shall keep the questioning of victims with specific protection needs to a minimum. The state attorney may propose that such witnesses testify at the evidentiary hearing.

(6) Subject to prior consent of the minister responsible for internal affairs, the minister responsible for the judiciary shall adopt an ordinance regulating the manner in which the individual assessment of a victim referred to in paragraph 1 of this Article is to be carried out.

9. Czechia:

Section 55(2) of the Code of Criminal Procedure provides for the confidentiality of the witness's identity and personal data (name, surname, occupation, home address, etc.). It applies in particular if the witness or a person close to the witness is clearly threatened with bodily harm (in principle, any bodily harm is sufficient; on the other hand, the witness's identity is also kept secret if the witness or a person close to the witness is threatened with death). In addition, on condition that there is another serious risk of violation of their fundamental rights and freedoms (in particular under Articles 7 to 16 of the Charter of Fundamental Rights and Freedoms, a higher intensity of possible interference is required here than in the case of interference with the right to life - Article 6 of the Charter of Fundamental Rights and Freedoms).

The concealment of the true identity of witnesses is one of the means of protecting their life, health or other constitutionally guaranteed fundamental rights. At the same time, it constitutes a substantial interference with the accused's right of defence, both in the possibility of verifying the truthfulness of factual allegations and in the possibility of verifying the credibility of witnesses. It is the duty of the State to protect both of these rights and it does so in the Constitution and the Charter of Fundamental Rights and Freedoms (which is part of the constitutional order). However, it is not realistically possible to apply them in full during criminal proceedings in one and the same case - it follows logically that the application of one limits the fulfilment of the other.

The procedure under Section 55(2) of the Code of Criminal Procedure may apply exclusively to witnesses and persons close to them and, on the basis of the provision in Section 158(8), last sentence, of the Code of Criminal Procedure, also to persons giving explanations (if it is necessary to provide protection to such persons as witnesses). This regulation does not apply to experts, interpreters or other persons.

Act No.137/2001 Coll., on Special Protection of Witnesses and Other Persons in Connection with Criminal Proceedings and on Amendments to Act No.99/1963 Coll., the Code of Civil Procedure, as amended, regulates the provision of special protection and assistance to witnesses and other persons who appear to be at risk of bodily harm or other serious danger in connection with criminal proceedings. It is therefore a broader regulation than the provisions of Article 55(2) of the Code of Criminal Procedure. However, this Act is only applied if the safety of the person at risk cannot be ensured in any other way (section 2(1)(a) of the Police Act, section 55(2) and section 209 of the Code of Criminal Procedure; see also section 183a(4) of the Code of Criminal Procedure).

Reference should also be made to section 50 of the Police Act:

For the purposes of this Act, short-term protection of a person means measures including

- (a) physical protection,
- (b) temporary change of residence of a person,
- (c) the use of security technology, or
- (d) counselling and preventive activities.

Short-term protection of persons shall be provided by the police in justified cases to a person who is apparently threatened with harm to health or other serious danger, but cannot be provided with special protection of persons pursuant to Act No. 137/2001 Coll., or the conditions for ensuring the safety of a person pursuant to Section 49(1) of the Police Act or the conditions for the protection of a person entrusted with the execution of a decision pursuant to Section 21 of the Police Act are not fulfilled. In justified cases, short-term protection of persons shall also be granted to persons close to the person who appear to be at risk of bodily harm or other serious danger. Short-term protection may not be granted without the consent of the person to whom it is to be granted.

In the event of an imminent attack on the life or health of a person, a police officer shall provide that person with preliminary physical protection and inform the police department responsible for providing short-term protection of persons thereof.

Act No. 45/2013 Coll., on Victims of Crime, provides comprehensive regulation of the protection of victims of crime.

The Act on Victims of Crime is considered to be a groundbreaking, systematic and elaborate law, which has substantially improved the status and rights of victims of crime since the second half of 2013. The Victims of Crime Act has established the right to professional assistance, which in certain cases is also provided free of charge or for a reduced fee (Sections 4 to 6 of the Victims of Crime Act), a broadly defined right of the victim to information (Sections 7 to 13 of the Victims of Crime Act), and the right to protection of privacy (Sections 15 and 16 of the Victims of Crime Act). The Act provides for the institution of a victim's confidant (Section 21 of the Victims of Crime Act), the institution known from abroad as the victim impact statement (Section 22 of the Victims of Crime Act) and, last but not least, the institution of interim measures in criminal proceedings (provisions of Sections 88b to 88o of the Code of Criminal Procedure). The Victims of Crime Act aims to prevent the victim and a person close to the victim from having contact with the person whom the victim has identified as the perpetrator, with the suspect or with the person against whom the criminal proceedings are being conducted, since it provides that the victim and a person close to the victim have the right to make a request at any stage of the criminal proceedings, or, where appropriate, before the opening of the criminal proceedings, that the necessary measures be taken to prevent them from coming into contact with a person whom the victim has identified as the perpetrator, suspected of having committed a criminal offence or against whom criminal proceedings are being conducted. The competent authorities shall be obliged to comply with such a request if the victim is particularly vulnerable and the nature of the action to be taken does not preclude it. If such a request cannot be granted because the nature of the act to be carried out precludes it, the competent authorities are obliged to take appropriate measures to prevent the victim from coming into contact with a person whom he or she has identified as the perpetrator, who is suspected of having committed a criminal offence or against whom criminal proceedings are pending, before the act is started and after it has been completed (Section 17 of the Victims of Crime Act). The victim may request to be interviewed by a person of the same or opposite sex in the preparatory proceedings. The request of a particularly vulnerable victim must be granted

unless important reasons prevent this. The reasons for refusing the request shall be noted in the record of the proceedings. A particularly vulnerable victim may also request that an interpreter of the same or opposite sex be brought in when his or her statement needs to be interpreted. The law enforcement authority shall comply with the request unless the performance of the act cannot be postponed or an interpreter of the requested gender cannot be provided (Section 19 of the Victims of Crime Act). A particularly vulnerable victim must be questioned in criminal proceedings with particular sensitivity and with regard to the specific circumstances that make him/her particularly vulnerable. Where possible, the questioning of particularly vulnerable victims in pre-trial proceedings shall be carried out by a person trained for that purpose in premises adapted or adapted for that purpose. The interview of a particularly vulnerable victim shall be conducted in such a way that it need not be repeated at a later date. In the event of a further interview before the same authority, the interviewer shall normally be the same person, unless important reasons prevent this. If the particularly vulnerable victim does not wish to have direct visual contact with the person suspected of having committed the offence or with the person against whom the criminal proceedings are being conducted, the necessary measures shall be taken, unless compelling reasons prevent it, to avoid such visual contact, in particular by using audiovisual equipment where technically possible. In doing so, it shall be ensured that the rights of the defence are not infringed.

The Act defines a victim of a crime as a natural person who has been or should have been harmed, damaged or injured by the crime or at whose expense the perpetrator has been or should have been enriched by the crime.

For the purposes of the Act, a particularly vulnerable victim is a child, a person who is elderly or who is affected by a physical, mental or psychological handicap or sensory impairment, if these facts, in the light of the circumstances of the case and the circumstances of the person, may prevent him or her from fully and effectively participating in society in comparison with other members of society, a victim of certain offences which do not include any offence against the environment, a victim of an offence against human dignity in the sexual sphere, an offence involving coercion, violence or threat of violence, an offence committed on account of membership of a nation, race, ethnic group, religion, class or other group of persons, or a victim of an offence committed for the benefit of an organised criminal group, if in the particular case there is an increased risk of secondary harm, in particular because of his or her age, sex, race, nationality, sexual orientation, religion, state of health, intellectual maturity, ability to express himself or herself, the life situation in which he or she finds himself or herself, or with regard to his or her relationship to or dependence on the person suspected of committing the offence.

10. Finland:

General provisions on the support and assistance of victims and witnesses (in e.g. Criminal Procedure Act, Code of Judicial Procedure and other related general procedural legislation) apply to all criminal proceedings, including illicit trafficking in wildlife.

These general provisions include, inter alia, the possibility for a court to appoint a trial counsel for an injured party at the expense of the State, the right of the victim to have legal aid, assessment by the authorities of the victim's special needs for protection during the criminal investigation and trial and of the protection measures required, restriction of the presence of the public during proceedings to protect a person to be heard, hearing of victims or witnesses via video connection or behind a screen, non-disclosure of contact details of the victim, anonymous witnessing, witness protection programme, restraining order or even a change of name or personal identity code.

11. France:

Au-delà des dispositions pénales venant punir les intimidations visant spécifiquement les victimes et témoins d'infractions (articles 434-5 et 434-15 du code pénal notamment), la France a développé un cadre légal général de protection des lanceurs d'alerte. Ce cadre législatif, créé avec la loi Sapin 2 du 9 décembre 2016, a été modifié récemment par la loi du 22 mars 2022 venant transposer une directive européenne de 2019 sur ce sujet. Ces dispositions concernent la dénonciation de tout crime ou délit, pouvant donc inclure les atteintes au trafic d'espèces sauvages.

Il existe deux canaux de dénonciation : l'un interne à la société dans laquelle exerce le lanceur d'alerte, l'autre externe à la société auprès d'une liste d'autorités comprenant notamment l'Autorité française anticorruption. La qualité de lanceur d'alerte est élargie à de nombreux acteurs (anciens salariés, candidats à l'embauche, sous-traitants...). La protection est étendue aux proches du lanceur d'alerte, aux entités juridiques qu'il contrôle et aux facilitateurs. Elle comprend le renforcement de la confidentialité des signalements, l'interdiction de représailles (sanctions disciplinaires ou atteintes sur les réseaux sociaux) ou encore la possibilité d'allouer une provision pour frais de justice ou des subsides au lanceur d'alerte. Ce dernier bénéficie d'une irresponsabilité civile et pénale. Il agit sans contrepartie financière pour bénéficier de la protection. Celle-ci n'est pas mise en œuvre s'il opte pour une divulgation publique des faits, hormis lorsque les canaux prévus par le texte ont été défaillants, en cas de danger grave ou manifeste pour l'intérêt général, ou s'il y a un risque de représailles.

12. Germany:

There are general protective measures that can apply to any witness (regardless of age or type of crime) as there are for example:

During an interrogation the witness may, if he or she wishes, be accompanied by a person of his or her confidence (section 406f Code of Criminal Procedure).

Any interrogation that takes place outside the main trial can be conducted as follows: The witness can stay in another room than the interviewer whereby the interview is audiovisually transmitted between both rooms (section 58b Code of Criminal Procedure).

Section 68 of the Code of Criminal Procedure stipulates which information the witness has to give on his or her personal circumstances before the court. Usually, the witness will be asked about his or her name, age and place of residence. If there is reasonable cause for concern that the legal interests of the witness might be in danger or the witness could be exposed to unfair influence, the judge can allow that the place of residence of the witness is kept secret. The complete identity of the witness can be kept secret in case of danger to life, limb or freedom of the witness.

It is possible to exclude the public from the trial, when a danger to life, limb or freedom of a witness is to be feared (section 172 no. 1a Court Constitution Act).

Questions concerning the personal sphere of life of a witness may only be posed when they are indispensable to clarify the case (section 68a (1) Code of Criminal Procedure).

Vulnerable witnesses, who are not able to adequately safeguard their interests and rights themselves, have the right to be assigned a lawyer free of charge to assist them legally during their testimony (section 68b (2) Code of Criminal Procedure).

In case of grave danger for the wellbeing of the witness, who is to be interviewed by a judge, the judge can decide, that the prosecutor, the defendant and his/her lawyer who have a right of attendance have to stay in a separate room to which the interview is transmitted simultaneously (section 168e Code of Criminal Procedure).

During the trial itself, witnesses are usually interviewed in the courtroom. Section 247a of the Code of Criminal Procedure offers the possibility that a witness can stay in a separate room during his or her interview in case of urgent danger of a grave disadvantage for the wellbeing of the witness when having to testify in the courtroom before all other participants of the trial. The statement of the witness is transmitted to the courtroom simultaneously.

13. Guatemala:

El Instituto Nacional de Bosques – INAB – carece de la competencia administrativa para conocer tales técnicas a lo cual no se puede dar respuesta a la pregunta anteriormente enunciada.

14. Italy:

Law n. 6 of 11 January 2018 provides rules for the protection of witnesses and victims irrespective of the concerned type of offence.

15. Japan:

The Code of Criminal Procedure provides various systems of protection for witnesses such as shielding measures during witness examination in criminal cases, including cases related to illicit trafficking in wildlife.

16. Kenya:

The Witness Protection Agencies Kenya have all the time been invoked where safety and identity of witnesses is at stake and/or likelihood of witnesses interferences in relation to illicit trafficking in wildlife.

17. Malaysia:

In Malaysia, the protection of witnesses in relation to the commission of any offences including the illicit trafficking in wildlife is provided in the Witness Protection Act 2009 [Act 696].

18. Mexico:

Tratándose de delitos contra el ambiente y la biodiversidad en donde intervienen un grupo delincuencia, se vela por la protección de la identidad de los testigos, conforme a lo establecido en el Código Nacional de Procedimientos Penales, la Ley Federal Contra la Delincuencia Organizada y la Ley General de Víctimas.

19. Netherlands:

The Netherlands have taken measures to provide assistance to and protection for witnesses and for victims in general *Krijgen bedreigde getuigen bescherming?* | Openbaar Ministerie (om.nl), not explicitly in the context of illicit trafficking in wildlife.

20. New Zealand:

All witnesses are afforded varying levels of protection under the Evidence Act 2006. There are also provisions within the Privacy Act 2020, which affords individuals privacy, when requests for information are made.

The Department of Conservation can also prepare and obtain environmental impact reports, which relate, on a technical level, to the impact of any crime involving flora and fauna.

Alongside this, the Department of Conservation also recognises that under s4 of the Conservation Act, we are obliged to give effect to the principles of the Treaty of Waitangi. To this end, we seek cultural impact reports from the local iwi representatives, where an offence has occurred. This statement provides the opportunity for the iwi to voice how a species is considered taonga and the value that they place upon it. The iwi is also given the opportunity to describe the environmental impacts from a cultural perspective, not solely a scientific viewpoint.

21. Norway:

This has not been an issue in our cases.

22. Panama:

Dentro del marco del proceso penal, existen mecanismos que establecen la posibilidad de ordenar medidas de protección con el objeto de salvaguardar la integridad de las víctimas, los testigos, y demás intervinientes en el proceso. Esto incluye a todo ciudadano que, en defensa de sus derechos humanos, considere la afectación de su seguridad e integridad personal. Incluso también son aplicables medidas de protección ambiental en los procesos por delitos contra el ambiente, que sirven como herramientas para restaurar o evitar la continuidad de los efectos de riesgo o daño causado.

En el contexto del delito de tráfico ilícito de fauna y flora silvestre, no hay excepción para aplicar medidas de protección a los testigos y víctimas, más cuando en casos muy puntuales y en razón de su reserva y confidencialidad, además de su posible conexión con el crimen organizado, se ha tenido que recurrir a técnicas especiales de investigación, siendo una de ellas el testigo protegido, así como la aplicación de otras medidas de protección contempladas en los artículos 332 y 333 del Código Procesal Penal, dependiendo de la naturaleza de los hechos.

23. Peru:

El 8 de enero de 2016 Perú aprobó la Ley N° 30407 para la protección y bienestar animal, estableciendo una serie de principios y medidas para brindar protección a las especies de animales vertebrados domésticos o silvestres y para reconocerlos como animales sensibles, los cuales merecen gozar de buen trato por parte del ser humano y vivir en armonía con su medio ambiente.

Así, el Estado, a través de los sectores competentes, establece las medidas necesarias para la protección de los animales de compañía, de manera que se les garantice la vida, la salud y vivir en armonía con su ambiente. Las medidas incluyen la promoción de la esterilización quirúrgica como principal método de control de la sobrepoblación animal y como estrategia de salud pública. Igualmente, asegura un adecuado y responsable trato y manejo zootécnico de los animales de granja, así como la conservación y el aprovechamiento sostenible de la fauna silvestre, de acuerdo con la legislación sobre la materia.

En ese sentido, a fin de ejemplificar con un caso, un zorro llamado “Run Run” llegó a un hogar en el distrito de Comas al ser vendido como un perro, lo cual fue como consecuencia de un tráfico de especies. Sin embargo, el animal fue reubicado al Parque de las Leyendas y no retornó a su hábitat natural. Esto debido a que ha sido criado desde cachorro como un perro más y ha adoptado conductas que no permitirán su vida silvestre. La Guía de manejo de animales silvestres decomisados o hallados en abandono de Serfor explica que decidir el destino final de los animales decomisados requiere la evaluación de factores jurídicos, sociales, económicos y biológicos, que convergen, finalmente, en una de las siguientes alternativas: 1) liberación al medio silvestre; 2) permanencia en cautiverio; y, 3) eutanasia.

24. Poland:

The Act of 28 November 2014 on Protection and Assistance for the Victim and the Witness defines the rules, conditions and scope of application of measures of protection and assistance for the injured and the witness and their relatives, if in connection with the pending or completed criminal proceedings with the participation of the injured or a witness, or criminal fiscal proceedings with the participation of a witness, there is a threat to the life or health of these persons.

The police do not collect data on this subject (example of a case where such measures were taken)

25. Portugal:

Through the consecration of the Victim's Statute and also the Law 93/99 on Witness Protection.

The Portuguese legal system provides a specific regime for victims. The Victim's Statute contains a set of measures aimed at ensuring the protection and promotion of the rights of victims of crime, as well as providing for the possibility of attributing the status of particularly vulnerable victim.

26. Qatar:

عم ، أوجد المشروع القطري قانون خاص ليحمي الشهود والضحايا وهو القانون رقم 5 لسنة 2022 بشأن حماية المجني عليهم والشهود ومن في حكمهم .

27. Romania:

The measures regulated in the Criminal Proceedings Code (Articles 113 and 125 – 130) in order to protect witnesses and victims are not tailored specifically for illicit trafficking in wildlife. The criteria to apply those measures refer to the situation of the witness/victim and they are not dependant on the offence.

Also, the provisions of Romania's Criminal Procedure Code - Law 135/2010 art. 126, on Protective measures ordered during the criminal investigation:

(1) During the criminal investigation, once the threatened witness status is granted, the prosecutor orders the application of one or more of the following measures:

- a) supervising and guarding the witness's home or providing a temporary home;
- b) accompanying and ensuring the protection of the witness or his family members during the journeys;
- c) protection of identity data by granting a pseudonym with which the witness will sign his statement;

d) hearing the witness without him being present, by means of audiovisual means of transmission, with the voice and image distorted, when the other measures are not sufficient.

(2) The prosecutor orders the application of a protection measure ex officio or at the request of the witness, one of the parties or a main procedural subject.

(3) In the case of the application of the protection measures provided for in para. (1) lit. c) and d), the witness's statement will not include his real address or his identity data, these being recorded in a special register to which only the criminal investigation body, the judge of rights and freedoms, the judge of the preliminary chamber or the court will have access, under conditions of confidentiality.

(4) The prosecutor orders the granting of threatened witness status and the application of protective measures by means of a reasoned ordinance, which shall be kept confidential.

(5) The prosecutor verifies, at reasonable time intervals, whether the conditions that determined the taking of protective measures are maintained, and otherwise orders, by a reasoned ordinance, their termination.

(6) The measures provided for in para. (1) are maintained throughout the criminal process if the state of danger has not ceased.

(7) If the state of danger appeared during the preliminary chamber procedure, the preliminary chamber judge, ex officio or upon referral to the prosecutor, orders the protective measures provided for in art. 127. The provisions of art. 128 applies accordingly.

(8) The protective measures provided for in para. (1) lit. a) and b) are communicated to the designated authority with the implementation of the measure.

The most used method in criminal investigation is the protection of identity data by granting a pseudonym with which the witness will sign his statement.

28. Senegal:

Il n'y a pas de disposition de ce genre dans le code de la chasse. Mais la loi 2021-34 du 23 juillet 2021 portant modification du code de procédure pénale prévoit des mécanismes de protection des victimes et des témoins impliqués dans une enquête dont l'infraction relevé de la catégorie de criminalité organisée. Le trafic d'espèces protégées fait partie de la criminalité organisée au Sénégal.

29. Slovakia:

Ministry of Interior: In practice, it is possible to apply the legal institute of an undisclosed witness or the institute of a person operating in favour of the Police Force (informant/grass) in accordance with legal provisions of the Slovak Republic.

30. South Africa:

RSA has a witness protection program which provide protection to all witnesses irrespective of the predicate crime they are witness to. S v Mashengu and other: Witnesses were placed under the witness protection programme that is managed by the National Prosecution Authority. Matter is current enrolled at the Mpumalanga High Court in South Africa.

31. Spain:

No existen medidas específicas para los delitos de tráfico de especies, pero el marco normativo para la protección tanto de víctimas como de testigos de delitos es amplio. En lo referente a las víctimas, se encuentra en vigor la Ley 4/2015, de 27 de abril, del Estatuto de la víctima del delito; y para el caso de los testigos, la Ley Orgánica 19/1994, de 23 de diciembre, de protección a testigos y peritos en causas criminales.

32. Thailand:

Department of National Parks, Wildlife and Plant Conservation: In the case of Mr. B.B. mentioned in Question number 8 (a), the key witness was given full protection and exempt from being charged with serious offense(s). The witness' identity was also kept confidential from the public even after the testimony was given, to prevent the witnesses from any possible form of vengeance.

33. Türkiye:

This matter is under the responsibility of the Ministry of Justice.

34. United States of America:

The federal government's responsibilities to victims are defined in the Victims' Rights and Restitution Act VRRRA, [34 U.S. Code § 20141](#). These two statutes mandate the services that are to be provided to crime victims by federal government agencies, with victim being defined as anyone who was directly physically, emotionally, or financially harmed as the result of commission of a crime. Additionally, the Crime Victims' Rights Act CVRA, 18 U.S.C. § 3771, establishes court-enforceable rights for victims of crime, which the Act defines as a person directly and proximately harmed as a result of the commission of a federal offense or an offense in the District of Columbia (offense means charges have been filed, and the victim is named in the filing).

For witnesses, Title 9-21 of the Justice Manual outlines specific procedures and processes available for the protection of federal, state, and local witnesses, as defined by statute. The USFWS has utilized the resources available to us, as identified in the Justice Manual to secure the safety and protection of our witness(es), on at least one occasion.

35. European Union:

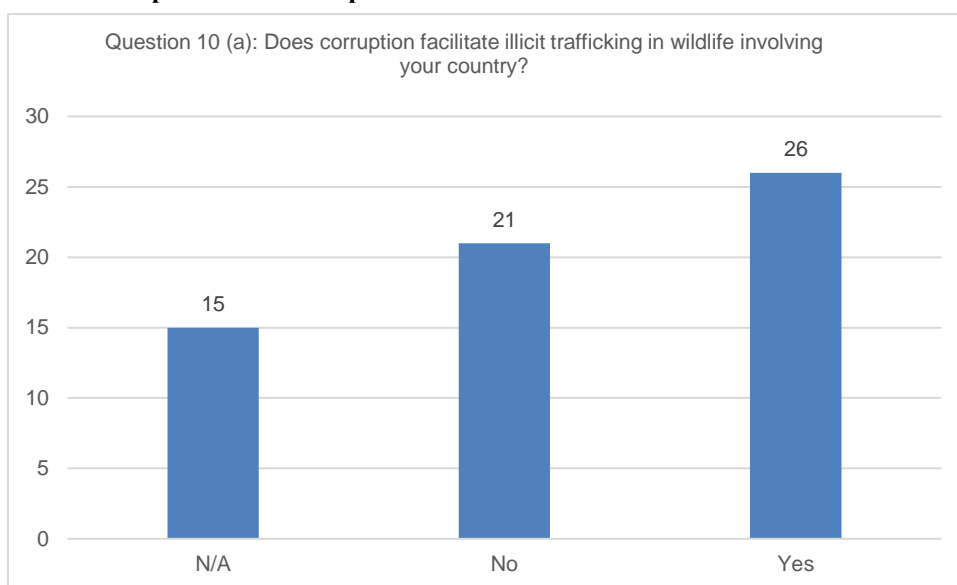
The Proposal for a new Environmental Crime Directive includes provisions on protection of persons who report environmental crimes and assist enforcement, as follows:

- Article 8 on Aggravating Circumstances covers under its point (j) the situation when the offender actively obstructs inspection, custom controls or investigation activities, or intimidates or interferes with witnesses or complainants.
- Article 13 of the same Proposal, "Protection of persons who report environmental offences or assist the investigation" concerns the protection of persons such as whistleblowers, environmental defenders and others reporting information or providing evidence to an investigation relating to environmental criminal offences.

To be noted that the Proposal is currently being discussed by the co-legislators (Council and European Parliament) therefore the provisions may be amended.

Question 10:

- a) **Does corruption facilitate illicit trafficking in wildlife involving your country?
Please provide an example.**



The following Member States that are parties to the Organized Crime Convention responded that corruption does not facilitate illicit trafficking in wildlife in their country: Austria, Bolivia (Plurinational State of), Brazil (Receita Federal (Customs)), Denmark, Finland, Germany, Hungary, Japan, Kyrgyzstan, Morocco, Myanmar, Netherlands, New Zealand, Nicaragua, Norway, Portugal, Senegal, Slovakia, Slovenia, Spain, Sweden. No answer/N/A was received from: Armenia, Belarus, Canada, China, Croatia, Gabon, Guatemala, Italy, Latvia, Malawi, Republic of Moldova, Saudi Arabia, Serbia, Switzerland, United Kingdom.

The following Member States that are parties to the Organized Crime Convention and the European Union confirmed that corruption does facilitate illicit trafficking in wildlife in their country: Angola, Brazil (Federal Prosecution Service (MPF); International Cooperation Unit (SCI)), Burkina Faso, Burundi, Colombia, Côte d'Ivoire, Czechia, France, Kenya, Madagascar, Malaysia, Mexico, Niger, Panama, Peru, Philippines, Poland, Qatar, Romania, Russian Federation, South Africa, Thailand, Tunisia, Türkiye, United States of America.

1. Angola:

Yes. Corruption is one of the factors that facilitate the illicit trafficking of wildlife internationally, to inhibit such practices Angola has been reinforcing its investment in matters related to ethics, integrity, transparency and the fight against corruption at all levels which allowed the approval of the Plan to Combat Corruption by the Attorney General's Office, as well as legislative reinforcements in terms of the Prevention and Combat of Money Laundering with a view to combating corruption.

2. Belarus:

В Республики Беларусь за последние 4 года не выявлялись коррупционные преступления, сопряженные с незаконным оборотом объектов дикой природы. По этой причине отсутствует возможность компетентно высказаться относительно того, способствует ли коррупция противоправным деяниям, о которых УНП ООН собирает информацию.

3. Brazil:

Receita Federal (Customs): Not to our knowledge
Federal Prosecution Service (MPF); International Cooperation Unit (SCI): The collective involvement makes illicit practices harder to be introduced into the systemic transparency arrangements. On one hand, the Brazilian Federal Prosecution Service's perception is that corruption facilitates wildlife trafficking, in reason of the large national geographical extension and the variety of valuable species for means of criminal practices. The more common are individualized surveillances, thus, bigger are the chances of corruption practices in large-scale. On the other hand, collective transnational efforts, established among networks or other specialized bodies, are also able to considerably dwindle corrupt solicitations, as well as organized corruption schemes.

4. Burkina Faso:

Corruption des agents des forces de défense et de sécurité pour l'exportation du bois de rose

5. Burundi:

Aux points d'entrée aeroportuaires, portuaires ou aériens.

6. Canada:

In the development of the responses to this questionnaire, Canadian respondents did not encounter recent reported cases that provide evidence of corruption facilitating illicit trafficking of wildlife.

7. Czechia:

Corruption significantly facilitates illegal trade in wildlife species.

8. France:

A ce jour et à notre connaissance, depuis 2017, aucun dossier mêlant corruption et trafic d'espèces protégées n'a été répertorié en France.

Cependant, il convient de souligner que le dispositif de lutte anticorruption est général et a vocation à lutter contre toutes les formes de corruption ; il n'existe donc pas de dispositions spécifiques à la corruption liée au trafic d'espèces protégées, ce type de corruption étant compris dans les comportements visés par le dispositif légal français.

Ce dispositif s'est renforcé avec l'adoption de plusieurs lois nationales successives:

- Les lois relatives à la transparence de la vie publique (loi organique n° 2013-906 et loi n° 2013-907 du 11 octobre 2013) ayant notamment créé la Haute autorité pour la transparence de la vie publique (HATVP) ;
- La loi du 6 décembre 2013 relative à la lutte contre la fraude fiscale et la grande délinquance économique et financière et loi organique du 6 décembre 2013 relative au procureur de la République financier :
 - Création du Parquet national financier et de l'OCLCIFI
 - Possibilité pour les associations anticorruption de se constituer partie civile
 - Extension de la possibilité de recourir aux techniques spéciales d'enquête pour les atteintes à la probité
 - Aggravation substantielle des peines d'amendes encourues ;

- La loi Sapin II du 9 décembre 2016 relative à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique, dite « Sapin II », dont les dispositions sont présentées par la circulaire du 31 janvier 2018 :
 - Assujettissement des personnes morales privées et publiques les plus exposées à un dispositif complet de conformité en matière de prévention et détection de la corruption (art 17) ;
 - Création de l'Agence Française Anticorruption (AFA), dotée de missions de contrôle, - d'assistance et de coordination en matière de lutte contre la corruption ;
 - Création d'un nouveau mécanisme de transaction pénale avec la CJIP (convention judiciaire d'intérêt public, dispositif transactionnel permettant l'extinction de l'action publique après paiement d'une amende d'intérêt public) dont la circulaire de présentation de la loi Sapin II fixe également les orientations pénales de mise en œuvre, complétées par les lignes directrices AFA-PNF sur la CJIP en matière de corruption ;
 - Levée des freins juridiques qui subsistaient en matière de poursuite de la corruption transnationale : incrimination du trafic d'influence international et suppression de l'exigence de double incrimination pour la corruption d'agent public étranger et trafic d'influence d'agent public étranger notamment ;
 - Introduction d'une disposition prévoyant la possibilité pour les juridictions françaises de faire une application extraterritoriale de leur compétence lorsqu'une entreprise étrangère exerce tout ou partie de son activité économique en France.

L'instauration du procureur de la République financier par la loi organique n°2013-1115 du 6 décembre 2013 a entraîné une modification complète de l'architecture du traitement judiciaire de la grande délinquance économique et financière.

Les critères de compétence du parquet national financier (PNF) fixés à l'article 705 du code de procédure pénale ont entraîné une modification du critère de compétence des JIRS en matière économique et financière définie à l'article 704 du code de procédure pénale.

La spécialisation et l'organisation du PNF lui ont permis à la fois de développer :

- Des méthodes de travail innovantes, avec une direction de l'enquête revisitée, qui inspirent actuellement notamment les JIRS et ont pavé la voie pour la création ensuite du Parquet national antiterroriste et plus récemment de la JUNALCO (juridiction spécialisée dans la lutte contre la criminalité organisée de haute complexité) ;
- Une expertise incontestée dans le traitement de la grande délinquance économique et financière ;
- Une visibilité et une crédibilité nouvelle de la France à l'international, le PNF étant un interlocuteur visible, identifié et reconnu pour les partenaires institutionnels français et étrangers au premier rang desquels les autorités de poursuite étrangères ;
- Et des résultats incontestables matérialisés tout particulièrement par les CJIP conclues en matière de corruption.

L'expertise du PNF permet une diffusion des bonnes pratiques dans les parquets JIRS et locaux spécialisés.

De plus, la France a mis en place, depuis 2004, un système électronique de délivrance des permis (i-CITES). Ce système permet aux services de contrôle d'identifier quels transferts de spécimens relèvent d'un commerce légal ; il permet par ailleurs notamment de suivre l'instruction des permis par

l'identification des agents qui sont intervenus dans le dossier. La France a aussi ratifié les Conventions UNTOC et UNCAC.

9. Guatemala:

El Instituto Nacional de Bosques – INAB – carece de la competencia administrativa para conocer tales técnicas a lo cual no se puede dar respuesta a la pregunta anteriormente enunciada.

10. Kenya:

At the border points between the member countries and in the Criminal Justice System. (Most of these cases are still pending before court and thus bared from disclosure by the sub-judice rule)

11. Madagascar:

Exemple: Cas fréquent pour le trafic des tortues ou il y a le réseau au niveau de chaque entité pour faciliter le transport et l'exportation.

12. Malaysia:

Example:

- A corrupt Enforcement Officer at an entry point of the country may approve and release wildlife declared as other animals/products.
- A corrupt officer may not do a full check on the packages/goods brought by smugglers and help them pass the blockade by keeping certain Enforcement Officers on duty.

13. New Zealand:

In New Zealand, we have no direct evidence linking corruption to illicit trafficking in wildlife. However, based on our understanding of other transnational organised crime activities, we recognise the potential threat of trusted insiders at the border. Furthermore, we are aware of instances internationally where corruption has been found to facilitate illicit trafficking in wildlife. Therefore, we remain vigilant and attentive to this risk in order to prevent any such activities from taking place within our borders.

14. Niger:

- la corruption sur les postes de contrôle chargé de la lutte contre la criminalité liée aux espèces sauvages;
- les interventions de certains responsables politiques et administratifs en cas de poursuite d'un contrevenant suite à une infraction constatée.

15. Panama:

La corrupción facilita los delitos ambientales. Los infractores ambientales, se ven apoyados por actores legales, como autoridades de policía, estamentos de seguridad, autoridades administrativas y aduaneras.

Como ejemplo, podemos señalar el uso de sobornos por parte de particulares a las autoridades y servidores públicos, para lograr pasar por los controles la madera extraída de manera ilegal de los bosques, sin los permisos correspondientes. En el caso en particular, se pudo dar con la captura de la persona que ofreció el dinero, mediante una operación encubierta.

16. Peru:

Perú es un punto clave para el tráfico ilegal de vida silvestre a nivel mundial. Tan solo entre 2000 y 2016 se realizaron casi 6000 intervenciones de productos y subproductos de fauna silvestre en el país, con destino hacia Europa, Asia y Norteamérica. Este mercado ilegal mueve cada año entre USD 7000 y USD 23 000 millones, y está estrechamente vinculado a las redes de corrupción del crimen organizado, incluyendo el tráfico de drogas, de personas, de armas, y el lavado de dinero. Esto ha motivado que muchos países lo cataloguen y procesen como crimen organizado.

17. Poland:

Data obtained from the police's IT systems in the field of corruption crime do not indicate the fact of conducting criminal proceedings related to corruption in cases related to trade in wild fauna and flora specimens. The threat of corruption may occur at the external borders of the EU in the event of an attempt to illegally smuggle specimens of fauna and flora covered by the regulations of the Washington CITES Convention and EU regulations, including in this scope. The officers of the Customs and Tax Administration are the most exposed to corruption offers.

18. Portugal:

No, there is no criminal information and police intelligence revealing evidence regarding this issue.

19. Qatar:

لفساد بشكل عام يسهل جميع الانتهاكات، إلا أن دولة قطر بذلت جهود كبيرة لمحاربة هذه الجرائم، وذلك في الجمع بين التطوير المستمر للأطر القانونية والمؤسسية الوطنية لتعزيز النزاهة، وبين دعم الجهود الدولية ذات الصلة، في مجالات تعزيز النزاهة والشفافية

20. Russian Federation:

Да

Вместе с тем контролирующими и надзорными органами, в том числе прокуратурой, в рамках имеющихся полномочий принимаются меры по профилактике и пресечению актов коррупции, привлечению виновных в их совершении лиц к установленной законом ответственности.

Так, например представителем коммерческой организации в целях реализации ее интересов в области лесопользования главному лесничему одного из участкового лесничества передано незаконное денежное вознаграждение.

По данному факту прокуратурой района Хабаровского края в отношении организации возбуждено 2 дела об административном правонарушении, предусмотренном частью 1 статьи 19.28 КоАП РФ (незаконное вознаграждение от имени юридического лица).

По результатам рассмотрения постановлений юридическому лицу назначены штрафы в размере 500 тыс. рублей за каждое правонарушение.

В связи с допущенными нарушениями материального и процессуального права по протестам прокуратуры судебные постановления отменены с вынесением новых решений о назначении штрафов в размере 1 млн рублей по каждому дел

21. Senegal

Pas a notre connaissance.

22. South Africa:

Sixteen (16) arrests were made after an intense investigation under the code name Project Blood Orange. The focus of the project was to address the trafficking of rhino horns from the Kruger national Park to the End-user countries, money laundering and corruption that enable the syndicate to conduct their operation. The matter is currently enrolled and ongoing.

S v Ping Wu,

The accused was convicted on two counts in terms of Section 6 (money laundering) of POCA. The charges related to the accused having in her possession R 1075 000,00 million, as well as three Casino gambling chips to the value of R 100 000 each, which was part of the proceeds of the unlawful activities of another person, to wit an illegal rhino horn transaction. Both charges were taken together for the purpose of sentencing, and she was sentenced to five (5) years direct imprisonment, because the accused was in custody for a period of 2 years and 6 months awaiting trial. The prosecution conducted by OCC emanates from a DPCI project aimed to investigate the smuggling of rhino horns. During the project inception, the FIC was approached, and two suspicious transaction reports were received regarding Mr. H and C. During the undercover operation, the agent was introduced to Mrs. Wu, hereinafter referred to as the accused, by Mr. H as his wife. During the last transaction conducted, the rhino horns were exchanged and were paid for in cash to the value of R 1 075 000.00. The agent was taken to a casino, the cash was divided between the three of them to reduce the size of the package, whereafter the agent deposited R 1 million into his gambling account, in the presence of Mr. H and the accused. The agent withdrew R 300 000 to gamble because the Casino became suspicious; however, he left the Casino and gave the chips to Mr. H who handed them to the accused to gamble with. A financial investigation revealed that the accused had no bank accounts or assets in South Africa. During her bail application she testified that she has investments in China and when she needs money, same would be transferred to the bank accounts of friends who would then hand her the cash. The Asset Forfeiture Unit (AFU) obtained a forfeiture order under Case number 2020/44366 regarding the two vehicles related to Mr. H and C, cash to the value of R 3 708 900.00 (inclusive of the casino account and the casino chips).

23. Thailand:

Office of the Attorney General: There is the case of rhino horn trafficking that the high level official who involved in this trafficking offers the bribe to the custom official at the scene but eventually he was prosecuted for his conduct.

Department of National Parks, Wildlife and Plant Conservation: In some cases, officers inappropriately come into contact with criminals and secretly accept their offers to turn blind eyes to the ongoing illicit activities. Such behaviors are considered serious crimes and therefore will be punished heavily, in most cases the offenders are also fired or dismissed permanently from the government service.

24. Tunisia:

b) Oui, La circulation des rapaces en provenance des pays du Golf

25. Türkiye:

Corruption is an important problem not only in our country but also in all other countries and has the potential to affect the illegal wildlife trade.

26. United States of America:

On November 16, 2022, K. M., Cambodia, Deputy Director of the Department of Wildlife and Biodiversity for the Cambodian Forestry Administration, Ministry of Agriculture, Forestry and Fisheries was arrested at John F. Kennedy International Airport in New York for his role in an international primate smuggling ring where wild-caught long-tailed macaques were being laundered through alleged captive-breeding operations in Cambodia and shipped to the U.S. O.K., Director General of the Cambodian Forestry Administration, Ministry of Agriculture, Forestry and Fisheries, like K.M., was indicted on multiple felonies for his role in the operation.

<https://www.justice.gov/usao-sdfl/pr/cambodian-officials-and-six-co-conspirators-indicted-taking-part-primate-smuggling>

27. European Union:

The recently adopted EU Wildlife Action Plan acknowledges, under its priority 1, action 8, the need to prevent and counter corruption associated with wildlife trafficking at national, regional and international levels, involving source, transit and destination countries.

Question 10:**b) What, if any, emerging trends have you encountered in illicit trafficking in wildlife by organized criminal groups?**

Please provide an example of a case where you encountered each of these trends

1. Brazil:

Receita Federal (Customs): Corn snakes and insects through postal packages. We did several seizures of corn snakes in the last years.

Federal Prosecution Service (MPF); International Cooperation Unit (SCI): It is notorious that organized criminal groups use the same routes for both drugs and wildlife trafficking, as well as the same illicit structures and criminal patterns.

Here are two examples of cases in which drugs were detected in fish boats, possibly leaving from the South of Brazil (the State of Rio Grande do Sul) to Europe: <https://www.naoviu.com.br/apreensao-de-barco-de-pesca-em-2021-resultado-em-operacao-da-pf-nesta-terca-em-foz/> and <https://gauchazh.clicrbs.com.br/seguranca/noticia/2021/09/embarcacao-com-500-quilos-de-cocaina-e-apreendida-na-lagoa-dos-patos-cktvoxyr9004k018gok2qoiqi.html>. Although the context do not concern wildlife trafficking directly, the cases are evidence as means of demonstrating that criminals use same logistics and routes for multiple offenses.

2. Burkina Faso:

Non.

3. Burundi:

Traffic des ivoires transformés en bijoux finis

4. Colombia:

En todos los casos o investigaciones que se adelantan en la Fiscalía, es una tarea que involucra de manera obligatoria a las entidades estatales y de control, al igual que debe ser una labor coordinada en la que participen además organismos internacionales, entidades privadas, Corporaciones y la sociedad en general.

La importancia de combatir la criminalidad ambiental radica en que mientras los beneficiarios de estas actividades son grupos diversificados de organizaciones

criminales, los perjuicios afectan a toda la biodiversidad de una región, con el agravante adicional que en la mayoría de los casos son irreversibles.

Este delito se podría asemejar a los delitos de tráfico de droga, no es suficiente ejercer un control al interior de cada país, sino para la demanda en cuanto a la captación de estas especies. El principal conflicto para este interés se da en las entidades de control, ya que, por sus diferentes controles, estos no son tan efectivos y permiten el tráfico de diferentes especies en puntos fronterizos de la región. Debido a esto, las organizaciones criminales aprovechan dichos vacíos para poder lucrarse de una actividad ilegal y sin medir el daño que ocasiona en un ecosistema.

Finalmente, es de vital importancia el seguimiento a las autoridades administrativas de control ya que son la primera barrera fronteriza en impedir el paso ilegal de estas especies.

5. **Czechia:**

These were mainly cases of unauthorized handling of protected wildlife under Section 299 of the Criminal Code, namely tiger carcasses, elephant tusks and ivory products, rhinoceros horn or protected parrot species. Illegal possession in connection with offering for sale or illegal importation into the Czech Republic is the most frequently prosecuted offence.

The trade with tiger parts and products seems to be one of important emerging trends in illicit trafficking in wildlife. There are many tigers kept in captivity (most of them in private facilities) in the Czech Republic and the parts of dead bodies can be used as source of products for the illegal international trade. The importance of proper forensic testing (e.g. DNA identification of biological material) is essential here. There were also important cases of illicit rhino horn trade in the past that have been investigated. Furthermore we suspect illegal trade in rare live animals (parrots, turtles) or plants (cacti) could still be ongoing.

6. **France:**

Les années 2021 et 2022 ont été marquées par l'aboutissement et l'ouverture de plusieurs enquêtes judiciaires d'ampleur sur des trafics d'espèces protégées en France, derrière lesquels apparaissent des groupes criminels organisés.

On évoquera ainsi, de façon non exhaustive :

- le démantèlement d'un trafic de serins (oiseau protégé) adossé à un trafic de stupéfiants entre la Réunion et l'Ile Maurice (jugement de condamnation du 10 décembre 2021 devant le tribunal judiciaire de Saint-Denis de la Réunion) ;
- l'ouverture début décembre 2022 d'une information judiciaire concernant un large trafic d'animaux exotiques (notamment : perroquets, ouistitis, serval, lynx) achetés à bas prix et revendus via les réseaux sociaux, au terme d'une opération de police judiciaire francoespagnole (instruction ouverte à Bordeaux);
- l'ouverture en novembre 2022 d'une nouvelle information judiciaire concernant un trafic de civelles à la Juridiction interrégionale spécialisée (JIRS) de Bordeaux, déjà saisie de plusieurs informations judiciaires de même type. Pour mémoire, la première procédure de trafic de civelles avait été jugée à la première chambre JIRS du tribunal correctionnel de Bordeaux le 19 mars 2021, qui avait condamné trois prévenus à des peines allant de 1 an à 5 ans d'emprisonnement dont 3 assortis du sursis (avec mandat d'arrêt) et des amendes de 20 000 euros pour détention ou transport en bande organisée d'espèce non domestique ou de ses produits, ainsi que le délit douanier associé de contrebande.

Il n'a pas été constaté d'influence particulière de la pandémie de COVID-19 sur le nombre de saisies de spécimens CITES réalisées. Vous trouverez ci-dessous le nombre de saisies de spécimens CITES réalisées par les services de contrôles français depuis 2018 :

- 2018 : 1315 saisies
- 2019 : 982 saisies
- 2020 : 1097 saisies
- 2021 : 1012 saisies

7. Germany:

The illicit trafficking in eels and reptiles is still a focus. There is no information about emerging trends regarding illicit trafficking in wildlife by organized criminal groups available.

8. Hungary:

In recent times, we have identified offences of illegal trafficking of lice cacti plants from Central and South America to the EU

9. Kenya:

- During the illicit wildlife trophies transportation, weapons and drugs become part of the consignment and are sneaked in.
- Digital and technological advancement i.e. digital platforms are used for interactions.
- Increased demand for some wildlife species.
- The criminals have become more aggressive and professionals in their operations.
Cases are PBC (pending before court)

10. Kyrgyzstan:

HET

11. Madagascar:

Non (on a constaté une diminution des trafics d'espèces sauvages).

12. Mexico:

- Se modifican las rutas aéreas, terrestres y marítimas del trasiego del producto.
- Se emplean vehículos robados o bien alterados en números de serie, sin placas de circulación.
- Se emplean los servicios de mensajería o paquetería internacional, con remitente y destinatario inexistente.
- Se oculta el producto ilegal en productos de comercio legal y tráfico permitido. (blanqueo del producto).

13. Morocco:

Des groups de trafic du chardonneret s'organisent de plus en plus au niveau national, malgré les opérations de lutte contre ce fléau. Ces groupes se composent d'éléments charges de la capture dans le milieu naturel, d'autres personnes sont charge de la collecte et du transport d'autres se chargent de l'exportation des oiseaux à travers les frontières terrestres du pays. Plusieurs opérations de saisis ont été opérées lors de l'acheminement de cette espèce au niveau des frontières. Également, un trafic des civelles a été signalé, pratique notamment par des asiatiques à travers la dissimulation de ces poisson dans des sacs en plastique et destines à être exportes par voie aérienne et parfois par voie terrestre.

14. Myanmar:

We will handle and solve in accordance with our laws, regulations and procedures. We all also fully cooperate with line departments and ministries in operations as well.

We do not experience in such case (where these trends have been encountered)

15. Netherlands:

Please see attached Environmental crime threat assessment of the Netherlands 2021.

16. New Zealand:

- We are aware of international reporting and academic research on the impact of declining wildlife populations on market demand.
- An increase in the use of private/encrypted messaging apps among trading groups.
- According to international research, the use of the dark web for trading has been observed specifically in relation to animals that possess psychoactive properties (for example, certain toad species), rather than for the purpose of owning the wildlife itself.
- There is also evidence to suggest that certain animal species are ‘fashion trends’ and that various species drop in and out of fashion or favour.

It is suspected that imports of traditional medicines, which could contain products with unknown provenance (potentially derived from endangered animals) could transit borders in low value/high volume shipments, which may evade detection. Poor record keeping from import agents may also contribute to the evasion of detection.

17. Norway:

We see no emerging trends related to illicit trafficking in wildlife by organized criminal groups.

18. Panama:

Falsificación de documentos públicos o la utilización de documentos alterados

Caso 1. Exportación de madera de gran valor en el mercado asiático, por parte de personas jurídicas, las cuales omiten los respectivos permisos o inspecciones requeridos por parte del Ministerio de Ambiente (autoridad regente) y Autoridad Nacional de Aduanas, integrándose igualmente la participación de servidores públicos para así movilizar y comercializar de manera ilegal. La madera es extraída ilegalmente de los bosques naturales, con destino a China. Estas operaciones son realizadas, bajo el amparo de personas jurídicas (vinculadas entre sí) que utilizan documentos alterados o "reutilizados", que dan la apariencia de ser legales o que al menos fueron obtenidos lícitamente por medio de las personas encargadas de otorgarlos.

Caso 2. Se identificó la comercialización ilegal de 15,745.950 kg, correspondientes a 585 paquetes en total de aletas de tiburón, que salieron de Panamá con destino a Hong Kong. Este hecho se identificó debido a que la Autoridad CITES de China, solicitó verificar la autenticidad del permiso CITES para exportar las aletas de tiburón, por tratarse de especies protegidas con la Convención; sin embargo, el permiso no fue emitido por el Ministerio de Ambiente, no hay registro de su emisión, pero el sello, estampilla y formulario, si corresponde a los utilizados por CITES Panamá.

La empresa que exportó y comercializó las aletas de tiburón a Hong Kong, es también investigada por la importación, exportación y reexportación de maderas procedente de México.

Utilización de la importación y reexportación de especies de vida silvestre.

Investigación que nace por posibles violaciones aduaneras y delitos conexos, consistente en enviar madera importada de México, haciéndola pasar como madera nacional y de este modo evitar el proceso de reexportación, toda vez que la misma siempre tiene como destino final China. Se detectó que una persona jurídica panameña, estaba realizando importaciones de madera procedente de México; sin embargo, esta misma madera que recibía, posteriormente era embarcada con destino a China, mediante una presunta reexportación.

Se evidencia nexos con empresas madereras mexicanas, que ingresan a Panamá, con características similares a la Dalbergia Retusa (Cocobolo). En síntesis, inconsistencias en los distintos conocimientos de embarque, puesto que se declaró el ingreso de madera Platysmicium yucanatum, Platysmicium pinnatum, Cordia eleagnoides, y sale de Panamá, Dalbergia Retusa, como reexportación, sin permisos CITES y evadiendo los controles aduaneros.

19. Peru:

- Construcción de embarcaciones pesqueras artesanales y de menor escala utilizadas para la pesca ilegal de especies hidrobiológicas.
- El comercio virtual como instrumento utilizado por las organizaciones criminales para facilitar el tráfico transnacional de productos de vida silvestre.

En los últimos años, la construcción de embarcaciones pesqueras artesanales y de menor escala ha crecido desmesuradamente. Entre el 2011 y el 2018, se construyeron 640 embarcaciones anuales. Desde hace más de 10 años, aún es común ver cómo estas embarcaciones, que luego son usadas en la pesca ilegal, se construyen en astilleros ilegales que operan en corralones, patios de viviendas o incluso en la vía pública.

La pesca ilegal no declarada y no reglamentada (pesca INDNR), también es un ejemplo de criminalidad organizada, la cual se compone de una cadena grande de eslabones que parte desde la extracción hasta el comercio, incluyendo también las actividades de procesamiento, instalación de muelles, establecimiento de puntos de desembarque, o construcción de embarcaciones pesqueras en astilleros ilegales.

Por otro lado, otra tendencia cobra una relevancia especial en el contexto actual, donde el comercio virtual es cada vez más utilizado por organizaciones criminales para facilitar el tráfico transnacional de productos de vida silvestre, según se ha constatado durante el estado de emergencia. Asimismo, resulta de interés para hacer frente al crimen transnacional, el cual capta cada vez más la atención de los países a nivel mundial y en la región, haciendo necesaria la suma de esfuerzos a nivel transfronterizo.

20. Poland:

Currently, the largest number of cases conducted by the Police concerns offering CITES specimens for sale via the Internet - advertising portals, sales platforms, etc. - a trend that has been going on for several years.

21. Portugal:

The huge profits obtained by transnational organised crime against the environment are not always perceived at local or national level, due to a restricted view of the extent of trafficking and the complexity of the criminal web that enables and sustains the circuit in which international criminal networks operate (as happened until recently with the capture of glass eel in Portugal, which could be interpreted as an offence against the fishing regime, as the catch was made at a small-scale level by fishermen in the rivers, when in the end it generates millions in the framework of international criminal networks that organise the circuit and send the specimens to their Asian destination).

22. Qatar:

قيام بعض المنظمات غير النظامية بتهريب العاج عن طريق مسافرين الترانزيت

لا يوجد

23. Romania:

Currently criminals cover their criminal activity by creating and using false documents to create an appearance of legality (case 421/P/2018).

24. Russian Federation:

Да.

Правоприменительная практика свидетельствует о выявлении в рассматриваемой сфере, помимо указанных выше преступлений (ответ на вопрос 5), также фактов мошенничества, злоупотребления/превышения должностных полномочий, взяточничества. Такие деяния совершаются при непосредственном участии либо

при содействии недобросовестных сотрудников органов власти и государственных учреждений.

В качестве примеров уголовных дел можно привести следующие.

Следственным управлением СК России по одной из республик Российской Федерации расследовано уголовное дело, возбужденное в отношении группы браконьеров, выловивших 1 135 особей байкальского омуля на сумму 8 263 000 рублей.

Прокуратурой республики с одним из злоумышленников заключено досудебное соглашение, в результате чего изобличен инспектор ДПС ГИБДД МВД по этой же республике гражданин М., который за взятки оказывал помощь в перевозке незаконно добытой рыбы. В отношении его возбуждено 12 уголовных дел о преступлениях, предусмотренных частью 1 статьи 285 (злоупотребление должностными полномочиями) (5 эпизодов), частью 3 статьи 290 (получение взятки) (6 эпизодов), частью 3 статьи 30 (покушение на преступление) УК РФ. По результатам расследования уголовное дело по обвинению гражданина М. 29.12.2022 направлено в суд.

2. Следственным управлением СК России по одной из областей Российской Федерации 20.07.2022 на основании оперативно-разыскных

материалов УФСБ России по области возбуждено уголовное дело в отношении гражданина Б. по части 5 статьи 291 УК РФ (дача взятки).

Расследованием установлено, что гражданин Б. передал сотруднику УФСБ России по области взятку в виде денег в сумме 1 млн рублей, являющуюся частью взятки в 2 млн рублей, за общее покровительство ООО «С.» при осуществлении деятельности по добыче, переработке и реализации водно-биологических ресурсов, а именно за непроведение сотрудниками отделения УФСБ проверочных мероприятий в период добычи и переработки водно-биологических ресурсов, а также не привлечение к установленной законом ответственности общества и его работников за допущенные нарушения при осуществлении указанной деятельности. Расследование уголовного дела окончено 27.12.2022 направлением в суд.

3. В производстве ГСУ СК России одной из областей Российской Федерации находится уголовное дело, возбужденное 30.11.2021 в отношении граждан Н., Н., П., а также неустановленных должностных лиц филиалов ГКУ МО «М.», Комитета лесного хозяйства области и территориального управления Росимущества в области по части 4 статьи 159 УК РФ (мошенничество). С этим делом в одном производстве соединен ряд уголовных дел по фактам взяточничества, в том числе в отношении руководителя ТУ Росимущества в области П. по пункту «в» части 5 статьи 290 УК РФ, и превышения служебных полномочий по части 1 статьи 286 УК РФ.

По данным следствия, членами организованной преступной группы осуществлена незаконная рубка различных пород деревьев до степени прекращения их роста в общем объеме не менее 32 тыс. куб. метров, чем причинен ущерб Российской Федерации на сумму 600 млн рублей.

Также установлено, что ведущий специалист-эксперт отдела приватизации и управления ФГУП АО ТУ Росимущества в области Ч. Получил взятку в размере 2 млн рублей за заключение договора купли-продажи древесины между ООО «П.» и управлением.

4. Следственным управлением МВД одной из республик Российской Федерации 05.05.2022 возбуждено и расследуется уголовное дело в отношении и. о. директора АУ РХ «У.» гражданина В. по части 3 статьи 210 УК РФ (организация преступного сообщества), а также ряда иных лиц, в том числе неустановленных - по части 2 статьи 210 УК РФ. Установлено, что гражданин В. в целях совершения преступлений в лесной отрасли, используя свое служебное положение, создал преступное сообщество, в которое входили работники отдела лесничества,

лесничие, а также привлекаемые для незаконных рубок лесных насаждений лесозаготовители, имеющие в распоряжении наемных рабочих и соответствующее оборудование для заготовки древесины.

В 2018-2019 годах злоумышленники совершили на территории республики ряд умышленных преступлений - незаконные рубки древесины в объеме 6 041,23 куб. метра под видом ее заготовки по договорам купли-продажи лесных насаждений для собственных нужд, чем причинили Российской Федерации в лице Министерства природных ресурсов и экологии республики материальный ущерб на общую сумму 24 450 395 рублей.

25. Slovakia:

Ministry of Interior: As regards the new trends of the recent years, we registered cases of illicit trade with hunter trophies of endangered species. Perpetrators take advantage of the fact the hunter trophies like skin, crania, parts of the body, do not have any indistinguishable marking and their illegal possession can be concealed by another permit for a legal import of a specimen of the same species by a different person who consequently claims the specimen in question was lent to the suspect.

26. Slovenia:

There is no new trends.

27. Spain:

Dependiendo de las especies con que se trafique, los modus operandi cambian. No obstante, en lo que se refiere tanto a reptiles como a aves, una de las casuísticas recientemente detectadas se corresponde con la importación ilícita de especies no incluidas en el Convenio CITES, pero que se encuentran altamente protegidas en los países de origen.

Por otra parte, también se ha detectado el uso de centros de cría autorizados, e incluso centros de rescate de especies, para blanquear especímenes obtenidos ilegalmente del medio natural y presentarlos como criados en cautividad, obteniendo así permisos legales e introduciendo especies de origen ilícito en el comercio legal.

Finalmente, cabe destacar la importación de especies protegidas carentes de documentación legal escondidas en grandes partidas de importación legal por parte de empresas o particulares con grandes volúmenes de importación, lo que les permite reducir el nivel de fiscalización sobre sus partidas comerciales.

28. Sweden:

The illegal fishing and smuggling of European glass eels to Asian countries is very much connected to OCG's. It's a "multi-million-dollar industry" that feeds the OCG's even though EU have an export ban. The European eel, *Anguilla anguilla*, is an endangered species that is protected by EU- and national regulations/legislations, and as a CITES-listed species, but there is a need of a higher level of protection as there is still legal fishing and sales for consumption within the EU and so via various exemptions.

Within the EU we also see an extensive illegal trade with reptiles, exotic birds and also somewhat so regarding wild collected cactus- and succulent plant species. Concerned species are even found in trade within the EU despite the country of origin's export ban and even before the description as a new species.

29. Thailand:

Office of the Attorney General: By using online platform or dark web to buy and sell wildlife.

The Department of National Park and Royal Thai Police has shown many example in this trend. More details can be found from those agencies.

Department of National Parks, Wildlife and Plant Conservation: In the case of species popularly traded for bushmeat, the method used to traffick such species was shifted

from transferring live animals to only trafficking their parts or chunks of meat, making it even more difficult to detect.

For instance, the case of water monitors being trafficked to Cambodia, which is normally transferred live. However, the recent arrest was happening when the accused was caught while preparing the water monitor's meat to be trafficked to Cambodia. There are also changes in trading method from physical stalls to online trades.

30. Tunisia:

Non.

31. United States of America:

The increased prevalence of foreign-based, encrypted communications software used by wildlife traffickers presents unique challenges for U.S. law enforcement. The operational features of these communication applications and the fact that the controlling entities for these applications and platforms are often located outside of the United States, makes obtaining evidence through traditional means, such as search warrants and other judicial processes, very difficult.

The rise of cryptocurrency, both the increase in the various types of currencies and the advancement in privacy, methods, and processes involved when conducting financial transactions with cryptocurrency, make it a challenge for criminal investigators to trace financial transactions and identify individuals involved in illicit wildlife trafficking.

32. European Union:

- Wildlife cybercrime
- Financial crime in wildlife and timber trafficking trends

An example of case where these trends have been encountered: A TRAFFIC and WWF report on financial crime in wildlife and timber trafficking in the EU should be ready for publication by May 2023. It includes an analysis of 17 case studies, most from 2019-2022. This report aims to raise awareness among frontline law enforcement officers of the appropriate investigative “follow the money” strategy and money laundering risk indicators for financial institutions.

Question 11:

Are there any questions that were not but should have been asked? If yes, please provide the information here.

1. Colombia:

¿Cuáles son las mayores desafíos y necesidades para fortalecer la lucha contra el tráfico de fauna y flora silvestre?

- Afrontar la normalización de la caza y tenencia o consumo de fauna silvestre y exótica.
- Dar cumplimiento a la ley 2153 de 2021 con la creación del sistema de información, registro y monitoreo que permita controlar, prevenir y evitar el tráfico ilegal de fauna y flora silvestre en el territorio nacional, en las vías nacionales, centros comerciales, plazas de mercado, terminales de transporte, aeropuertos, puertos marítimos y fluviales, bodegas y, en general, en toda la Nación. Este sistema, busca integrar nuevas tecnologías en aras de desarrollar un control eficaz para la protección de las diversas especies que viven en nuestro país. Asimismo, busca impulsar la cooperación conjunta entre organismos internacionales y el Gobierno Nacional, para prevenir, controlar y conservar las especies sometidas al tráfico ilegal.
- De acuerdo con los diagnósticos realizados por entidades de control nacionales, se deben fortalecer los programas de control y vigilancia

preventiva, unificar los sistemas de administración desde las licencias ambientales para zootecnia, así como los permisos de aprovechamiento de los recursos forestales. También se deben conformar comités interagenciales de control al tráfico de vida silvestre, mediante los que se identifiquen rutas de comercio ilegal, se realicen incautaciones y rescates de fauna silvestre que están en cautiverio por parte de particulares, y se doten los centros de valoración y rehabilitación de fauna silvestre

- Ejercer un mayor control de las empresas y cadenas de suministro de productos forestales.
- Fortalecer la cooperación a todo nivel, interagencial al interior del país, bilateral y multilateral en la búsqueda de respuestas y soluciones y en su implementación que permitan aumentar las capacidades del Estados en la lucha contra el tráfico ilícito de la vida silvestre.
- La capacitación a funcionarios relacionados con los procesos de identificación y manejo de especies objeto de tráfico.
- Mejorar los procesos de articulación y acciones interinstitucionales, es importante mencionar que si bien, el Estado colombiano destina un recurso económico importante en la mitigación, prevención y lucha contra el tráfico de fauna y flora silvestre, la topografía, la biosfera, el ecosistema y la inmensa diversidad de características geográficas, hacen que sea muy complejo poder dar seguimiento a todos los casos de tráfico existentes en el país, es importante mencionar que el tráfico de fauna silvestre es el cuarto negocio ilícito más rentable del mundo, Colombia adelanta acciones, estrategias que buscan reducir la corrupción y redes de tráfico; no obstante su capacidad operativa es limitada y requiere de recursos para poder ejercer acciones más efectivas en todo el territorio nacional.

Adicionalmente, en el marco del trabajo interinstitucional que requiere la lucha contra el tráfico ilícito de fauna y flora silvestres, se han identificado las siguientes necesidades:

- Capacitación para la investigación especializada en delitos ambientales.
- Talleres prácticos procedimentales, manejo de especies, identificación y clasificación de recursos maderables, reconocimiento espacial a través de drones.
- Capacitación a peritos.
- Semovientes caninos con el fin entrenarlos en la identificación de flora y fauna.
- Vehículos modificados para atender emergencias realizar transporte y atención de primeros auxilios a fauna.
- Kits de manejo de fauna (por ejemplo guantes, etc) para la Policía Nacional.
- Capacitación y/o oferta de herramientas a autoridades aduaneras sobre identificación de especies de flora y fauna (vida silvestre) prohibidas o controladas a nivel internacional.
- Transferencia de conocimiento de parte de las entidades que expiden los permisos de importación/exportación con sus respectivos requisitos.
- Manuales de manejo con protocolos precisos para la manipulación y custodia de especies detectadas en las acciones de control que permitan dar el manejo cuidadoso y seguro de la especie encontrada, previo a su entrega a la autoridad ambiental competente de la jurisdicción cuando correspondan a tráfico ilícito de especies.
- Intercambio de experiencias exitosas y mejores prácticas internacionales en materia aduanera para combatir el tráfico ilícito de especies.
- Formación sobre legislación ambiental internacional.
- Formación profesional técnico jurídica a fiscales, fuerza pública y jueces sobre delitos ambientales.
- Capacitación en para autoridades policiales y aduaneras en Métodos de ocultación, Elaboración de perfiles de contenedores de vida silvestre ilegal,

Identificación de la madera (para efectos de la inspección aduanera al ingreso y salida del territorio aduanero nacional).

2. France:

La France souhaiterait souligner l'importance de tenir compte de l'ensemble des crimes portant atteinte à l'environnement, et non seulement d'une partie de ces crimes que représentent le trafic d'espèces sauvages.

Une approche englobante de la lutte contre la criminalité environnementale (ensemble des activités illégales portant atteinte à l'environnement et profitant à certains individus et/ou entités non-étatiques), permet s'intéresser à l'ensemble des menaces criminelles auxquelles les pays font face, qu'ils soient concernés en tant que pays d'origine, de transit ou de destination de ces crimes et trafics illicites qui y sont liés. La criminalité environnementale, dans toutes ses formes, constitue une grave menace en expansion pour l'environnement, la biodiversité et la santé publique, mais également pour la paix et la sécurité internationales puisqu'elle contribue souvent à d'autres formes de criminalité (financement de groupes criminels ou terroristes, corruption et blanchiment d'argent).

Devenue en quelques années l'une des activités criminelles les plus lucratives au monde (elle générerait entre 110 et 281 milliards USD par an selon un rapport du PNUE et d'Interpol de 2018), elle est également très prisée par les réseaux transnationaux organisés en raison des faibles risques qu'elle présente pour les trafiquants, la criminalité environnementale restant encore peu incriminée dans les législations nationales et bénéficiant d'importantes lacunes dans les capacités dont disposent les professionnels chargés de prévenir et lutter contre ces crimes.

Considérant que le manque d'harmonisation des législations et le niveau insuffisant de la coopération internationale dans ce domaine facilite également l'action des trafiquants, la France continue de promouvoir une définition englobant les 5 catégories de crimes environnementaux reconnus comme tels par l'Assemblée des Nations Unies pour l'Environnement : le commerce illégal d'espèces sauvages (1), l'exploitation forestière illégale (2), les activités affectant les espèces marines sauvages menacées y compris la pêche illégale (3), le déversement et le commerce illégal de déchets et substances dangereux et toxiques (4), l'exploitation et le commerce illégal de minerais (5).

Afin de lutter contre ce phénomène, nos efforts communs doivent être poursuivis, conformément à l'approche retenue dans la résolution 76/185 du 16 décembre 2021 par l'Assemblée Générale des Nations Unies et dans la résolution 10/6 de la Conférence des parties à la Convention des Nations unies contre la criminalité transnationale organisée.

3. New Zealand:

It may have been useful to have asked about other crime types, that is, the presence of other crimes, for example, wildlife found with illegal tobacco, or illegal timber shipments.

4. Peru:

Si, procedemos a señalar las preguntas:

- ¿Qué zonas son las más afectadas en su país como consecuencia del tráfico ilícito de flora y fauna silvestre?
- ¿Es una de las mayores amenazas para la conservación global de la diversidad biológica de su país el creciente aumento del comercio ilícito de flora y fauna silvestre? ¿Por qué?
- En el contexto del tráfico ilícito de fauna y flora silvestres, ¿ha adoptado su país medidas dirigidas a combatir la corrupción?

- ¿Qué medidas aplica su país para intensificar la cooperación con las autoridades encargadas de hacer cumplir la ley en relación al tráfico ilícito de flora y fauna silvestre?

5. Romania:

Yes. For example: Are you aware of any studies carried out in your country by other non-governmental institutions that you care refer us to?

6. Sweden:

General comment: Cooperation between countries is necessary to ensure compliance with international wildlife protection regulations. The challenges in this area are not unique, as technological advancements have shifted criminal activities to the internet and globalized the issue, making it more difficult to detect, combat, and prosecute crimes. The EU's action plan against illegal trade has also identified digitization as a significant challenge, where frameworks, cooperation, and expertise need to be strengthened. To effectively monitor and enforce wildlife protection regulations, consideration must be given to how supervision should be carried out in an area that spans several conventions, some of which do not have sanctioning capabilities. One possible strategy is to authorize practical institutions to assess wildlife protection issues and provide consistent recommendations to improve compliance with the conventions.
