Criminalization of Crimes that Affect the Environment

Constructive Dialogue on Technical Assistance & International Cooperation

By Alice Pasqualato, Policy Officer, Global Initiative to End Wildlife Crime
Gaps in the current int’ response

LACK OF DEDICATED INT’ LEGAL FRAMEWORK

“No single international legal instrument comprehensively protects the environment, criminalizes all behaviours that harm the environment, nor defines crimes that affect the environment.”

UNODC Global Analysis on Crimes that Affect the Environment (2024)

“Complicated” and “unharmonized” patchwork of international and regional agreements.

Basel Convention is the only international agreement which includes a specific requirement to criminalize a crime that affects the environment (hazardous waste).
Inconsistent criminalization

Lack of dedicated environmental crime legal framework = varying levels of criminalization.

• **Criminals can exploit the disparities between national laws** by operating in or moving their activities to countries where conducts are not criminalized;

• **Hindered international cooperation**: inconsistent criminalization makes it harder for States to cooperate effectively in tackling environmental crimes. This might result, for example, in extradition challenges or barriers to Mutual Legal Assistance (MLA) when dual criminality is required;

UNODC Analysis: soil & noise pollution, illegal fishing & mining are CAE with lowest level of criminalization.
A key member of the criminal network flees from **Country A**, where they are wanted for illegal fishing, to **Country B**. Authorities in Country A request extradition under UNTOC provisions (Art. 16) to bring the offender to justice. However, due to the lack of dual criminality—since Country B does not consider illegal fishing a crime—Country B refuses the extradition request.
Lack of harmonization

Even when States do criminalize environmental offences, there are varying standards of criminalization:

- **different definitions** (E.g., State A defines ‘wildlife trafficking’ to include possession, State B only criminalizes import and export);

- **wide differences in penalties** > crime displacement;

- **extent of liability**: does it extend to legal persons?

Possible responses: Majority of States in CCPCJ33 report support a potential new UNTOC Protocol(s)
CAE still not treated as serious crimes under the UNTOC definition (Art. 2)
Focus: wildlife trafficking

“Millions of species that are not listed by CITES may be illegally harvested and traded internationally” (UNODC, 2016). This includes species that are strictly protected at the national level in their country of origin.

- No international mechanism to prevent this;
- Very few destination countries have legal mechanisms regarding the import of species protected by source country;

Possible responses: **States (especially destination countries) to criminalize trafficking of wildlife taken in contravention of the national laws of the country of collection/origin.**
Thank You!

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