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Strengthening the UNCAC to combat environmental crime and corruption

Submission by the UNCAC Coalition's Environmental Crime and Corruption Working Group¹ to the 10th Session of the UNCAC Conference of the States Parties

10 November 2023

Impact of environmental crimes

Environmental degradation, including biodiversity loss, pollution and the climate crisis are at the top of the global agenda. The UN Intergovernmental Panel on Climate Change (IPCC) urges for a reduction of greenhouse gas emissions by at least 43% within the next decade to avoid further climate extremes, food crises, and loss of nature.² Corruption and the crimes it facilitates negatively impacts climate change, destroys ecosystems, pushes species to extinction, undermines human rights, and threatens the rule of law, public health, and security. Environmental crimes³ are often undertaken by organized criminal networks that rely on corruption at every step of their global supply chain, robbing countries from important economic benefits and ecosystem services.

Local communities, including indigenous peoples, that depend on natural resources for survival are particularly vulnerable.⁴ Hundreds of environmental human rights defenders (EHRDs) are killed every year as they work to defend their land, their communities, and their human rights.⁵

¹ The UNCAC Coalition's Environmental Crime and Corruption Working Group is a platform of more than 180 civil society organizations, academics and activist around the world, <https://uncaccoalition.org/get-involved/working-groups/environmental-crime-and-corruption/>.

² Stiell (2023), The New U.N. Climate Report on How to Course Correct. <https://time.com/6264659/lessons-from-the-new-u-n-climate-report-on-how-to-course-correct>; UN Intergovernmental Panel on Climate (2023), AR6 Synthesis Report: Climate Change 2023, <https://www.ipcc.ch/report/ar6/syr/>.

³ Environmental crime is an umbrella concept that covers a wide range of crimes that breach environmental legislation and cause significant harm to the environment and people. It includes wildlife trafficking, Illegal Unreported and Unregulated fishing (IUU fishing), illegal logging, illegal mining, and waste trafficking and pollution.

⁴ See: INTERPOL on Pollution crime, <https://www.interpol.int/Crimes/Environmental-crime/Pollution-crime>.

⁵ Global Witness (2022), Decade of defiance, <https://www.globalwitness.org/en/campaigns/environmental-activists/decade-defiance/>; Transparency International (2022), CPI 2021: Corruption, Human Rights and Democracy, <https://www.transparency.org/en/news/cpi-2021-corruption-human-rights-democracy>; Allied (2023), Uncovering the hidden iceberg, https://allied-global.org/wp-content/uploads/2023/09/2023_9_the_hidden_iceberg_philippines_and_colombia_single_page_1.pdf.

Whistle-blowers also encounter serious risks when reporting cases of environmental crime and corruption, requiring robust protection and incentive mechanisms to ensure their safety and protection.⁶

Growing recognition of links between environmental crime and corruption

There are a growing number of resolutions, declarations, and reports which underscore the urgent necessity to address environmental crime and corruption, including through the adoption of Resolution 8/12 at the 8th UN Convention against Corruption (UNCAC) Conference of the States Parties (CoSP).⁷ The UN Convention against Transnational Organized Crime (UNTOC) acknowledged the need to prevent and combat corruption as an enabler of environmental crimes, calling to make the best use of the Convention when organized criminal groups are involved.⁸ The UN Human Rights Council (UNHRC) and the UN General Assembly now recognize the human right to a safe, clean, healthy, and sustainable environment.⁹ Reports by the Financial Action Task Force (FATF), along with Resolutions by the UN General Assembly and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), have also called for concerted action against corruption linked to environmental crimes and the illicit trafficking of wildlife.¹⁰

Steps towards tackling corruption linked to environmental crime

Cross-border collaboration is vital for the identification and prosecution of corrupt actors perpetuating environmental damage around the globe. Collective action and information sharing also allows for the identification of important drivers of corruption and environmental harm, as well as the exploration of potential solutions. Despite increasing recognition of the

⁶ See: UN Special Rapporteur Mary Lawlor (2021), At the heart of the struggle: Human rights defenders working against corruption. Report of the Special Rapporteur on the Situation of Human Rights Defenders, Mary Lawlor, <https://digitallibrary.un.org/record/3955232?ln=en>.

⁷ See: UNCAC CoSP Resolution 8/12 on Preventing and combating corruption as it related to crimes that have an impact on the environment, <https://www.unodc.org/unodc/en/corruption/COSP/session8-resolutions.html>.

⁸ See: UNTOC Resolution 11/3 for preventing and combating transnational organised crime that affects the environment, https://www.unodc.org/documents/treaties/UNTOC/COP/Session_11/Resolutions/English/Resolution_11_3.pdf.

⁹ Human Rights Council (2021), The human right to a clean, healthy and sustainable environment, A/HRC/RES/48/13, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/289/50/PDF/G2128950.pdf?OpenElement>.

¹⁰ See: FATF reports on Environmental Crime, <https://www.fatf-gafi.org/en/publications/Environmentalcrime/Money-laundering-from-environmental-crime.html> and Illegal Wildlife Trade <https://www.fatf-gafi.org/en/publications/Environmentalcrime/Money-laundering-wildlife-trade.html>; UN General Assembly (2021), Tackling illicit trafficking in wildlife, A/RES/75/311, <https://digitallibrary.un.org/record/3933854>; UN General Assembly (2023), Tackling illicit trafficking in wildlife. A/RES/A/77/L.99, <https://undocs.org/Home/Mobile?FinalSymbol=A%2F77%2FL.99&Language=E&DeviceType=Desktop&LangRequested=False>; CITES Resolution Conf 17.6 on Prohibiting, preventing, detecting, and countering corruption, which facilitates activities conducted in violation of the Convention, https://cites.org/sites/default/files/document/E-Res-17-06_0.pdf.

inextricable links between corruption and environmental crime and their detrimental effects, corruption related to environmental crime still goes unnoticed and unpunished. Legal frameworks are often poorly enforced, resulting in greater environmental damage and harm to communities and livelihoods across the globe.¹¹

The UNCAC is among the best tools available to fight corruption enabling environmental crime, other environmental harms and its significant negative impacts on both people and nature. The 10th UNCAC CoSP is therefore a major opportunity for States Parties to drive substantial change.

The UNCAC Coalition’s Working Group on Environmental Crime and Corruption (“WG ECC”)¹² calls upon States Parties to build on UNCAC CoSP Resolution 8/12 (adopted in 2019), by adopting a strong resolution at CoSP10 to bolster the implementation of the UNCAC to tackle environmental crime and corruption and its impacts. Particularly, the WG ECC calls upon States Parties to:

- Strengthen and promote the **implementation and enforcement of effective legal frameworks** to address corruption linked to environmental crime through robust legislation targeting money-laundering, bribery, corruption, fraud, organized crime, and financial crimes.¹³
- Ensure that law enforcement agencies receive **adequate mandate, resources, and capacity** to effectively address corruption linked to environmental crimes, with a specific focus on empowering customs authorities and other relevant government bodies responsible for awarding and overseeing contracts, concessions, and licenses¹⁴; and implement stringent measures and sanctions for non-compliance.
- In accordance with Resolution 8/12, promote **international cooperation** in the investigation and prosecution of corruption offenses related to environmental crime by increasing cooperation among all relevant government agencies.
- **Reinforce the current legal framework**, including through follow-up commitments to Resolution 8/12, with greater focus addressing the impact of environmental crimes and corruption on the climate crisis.
- Fully implement articles 49 and 50 of the Convention by enhancing the use of **joint investigations** to address the transnational nature of crimes impacting the

¹¹ UN Environment Programme (2019), Environmental Rule of Law report, <https://www.unep.org/news-and-stories/press-release/dramatic-growth-laws-protect-environment-widespread-failure-enforce>.

¹² Consisting of 180 members, civil society organizations and academics across the globe, advocating for strong and coordinated measures to break the links between corruption and environmental crimes.

¹³ UNODC & WWF (2023), World Drug Report, https://files.worldwildlife.org/wwfcomprod/files/Publication/file/8mie6esklg_Crimes_that_Affect_the_Environment_and_Climate_Change.pdf; OECD (2016), Corruption in the Extractive Value Chain report, https://www.oecd-ilibrary.org/development/corruption-in-the-extractive-value-chain_9789264256569-en.

¹⁴ Wildlife Justice Commission (2023), Dirty Money: The Role of Corruption in Enabling Wildlife Crime, <https://wildlifejustice.org/wp-content/uploads/2023/07/corruption-report-2023-SPREADS-V12.pdf>.

environment, and **specialized investigative techniques**, including financial investigations¹⁵, to combat corruption associated with environmental offenses.

- Make environmental crime a **predicate offense** for money laundering and an essential part of **national risk assessments**, in accordance with Articles 23 and 60 of the Convention, including mapping corruption risks to identify where to prioritize anti-corruption actions to protect the environment.
- Strengthen, implement, and enforce **anti-money laundering regimes** consistent with Articles 14 and 52 of the Convention and FATF recommendations in preventing and combating environmental crimes.
- Fully implement **UN Sustainable Development Goal 16**¹⁶ by combating organized crime, substantially reducing corruption, developing transparent institutions, and ensuring participatory decision-making at all levels.
- Strengthen transparency, integrity, and accountability for **awarding, granting, and management of contracts, concessions, permits, and licenses** by authorities across the value chain in the environmental sector (including mineral resources essential for clean energy transition), including by strengthening key processes like Environmental Impact Assessments and/or Strategic Environmental Assessments and safeguard those processes from conflicts of interest.
- Ensure **open, equitable, fair, and competitive procedures** along the whole cycle of procurement with systematic digital disclosure and transparency of information and open data on project-level contracts, payments, and revenue allocation.
- Ensure access to adequate, accurate, and up-to-date information on **direct and ultimate beneficial owners** of all legal entities, including the identification of any politically exposed persons holding ownership rights in the environmental sector, including the fisheries, extractives, forestry and waste sectors. Establish publicly available central company and **beneficial ownership registries** that are freely searchable and easily accessible.¹⁷
- Promote **good governance and anti-corruption measures** to achieve climate mitigation and biodiversity conservation goals and in the proper management and use of climate finance funds and other finance mechanisms to protect the environment and biological diversity.
- Increase understanding of **corruption drivers**, including social normative pressures which facilitate and justify corrupt behaviours, with the aim to help design appropriate, bottom-up actions to address corruption.

¹⁵ UNODC (2021), Preventing and Combating Corruption as it Relates to Crimes that Have an Impact on the Environment: an Overview, https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-CRP.8_E.pdf.

¹⁶ See Goal 16 of Agenda 2030 to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels, <https://sdgs.un.org/goals/goal16>.

¹⁷ EITI International Secretariat (2019), The EITI Standard, <https://eiti.org/sites/default/files/2022-03/EITI%20Standard%202019%20EN.pdf>.

- Promote a **safe and enabling environment for EHRDs and other civil society** actors to operate free from threats, harassment, intimidation, and violence, including through the adoption of protection laws in accordance with international human rights standard, ensuring that this work is not criminalized or stigmatized, and developing programs for protection and early warnings.
- Actively **support civil society actors to expose** and combat corruption linked to environmental crime through research, advocacy, and investigations, and grant independent NGOs legal standing to **represent the public interest**.
- Legally require and effectively implement robust **protection and incentive mechanisms** for whistle-blowers from the public and private sectors who report corruption linked to environmental offenses providing secure and anonymous reporting channels.¹⁸
- Empower private and state-owned companies to proactively engage and consider the **perspectives of indigenous peoples and local communities** through Free, Prior and Informed Consent (FPIC) before initiating projects affecting their dependent environment and establish robust grievance mechanisms to facilitate reporting of corruption incidents.
- Request the UNODC to regularly **monitor threats** to whistle-blowers, activists, journalists, and other civil society actors exposing and combating corruption linked to environmental crime.
- Compile **best practices** on effective laws, policies, and implementation measures to combat environmental crime and corruption, and promote adoption of these practices through technical assistance, capacity building, and policy development activities.
- Request the organization of actions, in consultation with other UN fora and non-governmental organizations, to convene a **workshop** to examine the linkages between environmental crime and corruption and its impact on the environment, climate change, biodiversity and human rights.
- Assess and address the **linkage between corruption and environmental crime and its human rights impacts** and promote cooperation between the UNCAC and human rights fora, such as the UNHRC, to address these linkages.
- Acknowledge that environmental crime and corruption are **key drivers of climate change**, and that **good governance and anti-corruption measures** are central to achieve mitigation goals, including through coordinated action between UN Framework Convention on Climate Change (UNFCCC), UN Environment Assembly, UNCAC, and other relevant international fora.¹⁹

¹⁸ UNGASS Political Declaration (2021), Art. 13, <https://baselgovernance.org/sites/default/files/2021-06/UNGASS%20Corruption%202021%20Political%20Declaration.pdf>.

¹⁹ See: United Nations Climate Change (2022), Sharm el-Sheikh Implementation Plan, <https://unfccc.int/documents/624444>; UN Environment Assembly (2022), Political declaration of the special session of the United Nations Environment Assembly to commemorate the fiftieth anniversary of the establishment of the United Nations Environment Programme,

- Ensure that tackling environmental crime and corruption is a more prominently addressed topic in climate fora, such the **UNFCCC, IPCC, and UN Environment Programme (UNEP)** agendas, including by addressing the impact of crime and corruption on pollution and human rights in the new UNEP treaty on plastic pollution.