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Tackling Corruption related to Environmental Crimes

Submission by the
UNCAC Coalition's Environmental Crime and Corruption Working Group¹ to the
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Environmental crime is the 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 crimes.

The cost and impact of environmental crimes

As the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) warns of the loss of one million species in the coming decade,² crimes affecting the environment and ecosystems need to be urgently addressed. Yet, the impact of environmental crimes on society goes beyond environmental destruction and biodiversity loss. They impact global health as they inherently reduce the already diminished space between wildlife and society, thus increasing the risks of zoonotic outbreaks. The COVID-19 pandemic acts as a stark reminder of the fragile relationship between humankind and wildlife, and its impact on global health.³ Furthermore, environmental crimes significantly contribute to the global climate crisis – which is exacerbated by harmful activities of global industries and of big polluters who are not held accountable.

Money laundering and fiscal evasion practices go hand-in-hand with environmental crime, entailing serious long-term economic loss. They also severely impact local communities in which natural resources are stolen and the environment is damaged. The World Bank estimates that

¹ <https://uncaccoalition.org/get-involved/working-groups/environmental-crime-and-corruption/>.

² Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) (2019), "The Global Assessment Report on Biodiversity and Ecosystem Services", available at: https://ipbes.net/sites/default/files/inline/files/ipbes_global_assessment_report_summary_for_policymakers.pdf.

³ Christine K. Johnson, Peta L. Hitchens, Pranav S. Pandit, Julie Rushmore, Tierra Smiley Evans, Cristin C. W. Young and Megan M. Doyle (2020), "Global shifts in mammalian population trends reveal key predictors of virus spillover risk", Royal Society Publishing, available at: <https://royalsocietypublishing.org/doi/10.1098/rspb.2019.2736>.

the annual economic loss of wildlife trafficking, IUU fishing, and illegal logging tallies to USD 1-2 trillion.⁴ There is a high risk that the record sums of funding that States and regional organizations are mobilizing⁵ to respond to the climate and environmental crises will be exploited by corrupt interests.⁶

Environmental crimes pose a threat to human rights, including the right to clean water, to food, and fundamentally to life, as well as the right to a healthy environment, upon which other human rights depend. They are often committed in regions and societies devastated by war and unrest and can further perpetuate conflict.

Growing international recognition of the links between environmental crimes and corruption

The strong links between environmental crimes and corruption are increasingly recognized on the international stage. Several resolutions of the United Nations General Assembly concerning Tackling Illicit Trafficking in Wildlife explicitly note the need to address corruption facilitating Illegal Wildlife Trade (IWT). CITES Resolution Conf 17.6 also specifically addresses corruption in wildlife and forest crimes. The UNCAC CoSP in Resolution 8/12⁷ acknowledged the significant interlinkages between corruption, environmental destruction and the exploitation of natural resources. While the Political Declaration of the recent first-ever UN General Assembly Special Session (UNGASS)⁸ on corruption failed to make the explicit link to environmental crimes, Member States vowed to “strengthen our responses to any existing, growing and potential links [between corruption and other forms of crime], and disrupt them, recognizing that corruption can often be an enabler of other transnational crimes and illicit financial flows.”⁹ Member States also reaffirmed their commitment to the 2030 Agenda for Sustainable Development, of which SDG 16 on strong and corruption-free institutions is increasingly being recognized as key to achieving other goals, such as SDG 14 on life below water and SDG 15 on life on land.¹⁰

International fora beyond the UNCAC are also addressing the linkages among corruption, climate, and the environment. At the regional level, the EU’s Action Plan against Wildlife Trafficking¹¹ includes tackling corruption as an inherent part of its strategy. The EU also requires companies in the extractive and logging industries to report on their payments to

⁴ This number does not include the damages to the environment caused by illegal mining and pollution crimes. World Bank (2019), “Illegal logging, fishing and wildlife trade: the costs and how to combat it”, available at: <https://pubdocs.worldbank.org/en/482771571323560234/WBGReport1017Digital.pdf>.

⁵ See: European Commission (2021), “A European Green Deal”, available at:

https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en.

⁶ See resources from Transparency International: www.transparency.org/en/projects/climate-governance-integrity-programme, for example: Transparency International Bangladesh (2020), “Climate change investments in Bangladesh: leveraging dual-use characteristics as an anti-corruption tool”, SOAS University of London, available at: <https://ace.soas.ac.uk/publication/climate-change-investments-in-bangladesh/>.

⁷ UNCAC CoSP Resolution 8/2, <https://www.unodc.org/unodc/en/corruption/COSP/session8-resolutions.html>.

⁸ United Nations General Assembly: Political Declaration adopted at the Special Session against Corruption, A/S-32/2/Add.1, June 2021, <https://undocs.org/A/S-32/2/ADD.1>.

⁹ United Nations General Assembly, UNGASS Political Declaration, para 70.

¹⁰ Ibid, p.2.

¹¹ EU Commission: EU Action Plan against Wildlife Trafficking, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0087&from=EN>.

governments.¹² Similar to the Aarhus Convention in Europe, the recently adopted Escazú Agreement¹³ obliges signatory states in Latin America and the Caribbean to recognize, promote and protect the rights of environmental defenders and guarantee the participation of the public in decision-making processes that have or may have a significant impact on the environment.¹⁴ Moreover, the United Nations Human Rights Council in October 2021 adopted a resolution recognizing the human right to a safe, clean, healthy and sustainable environment.¹⁵ The Financial Action Task Force has also recognized the linkages between money laundering and environmental crimes.¹⁶ Nonetheless, many corruption cases related to the environment and the climate still go unnoticed and unpunished.¹⁷

Therefore, we **urge States Parties to comply with their obligations** including under United Nations General Assembly Resolutions, including the UNGASS Political Declaration, as well as under the UNCAC and CITES, **and to put in place legal frameworks to effectively prevent, investigate and prosecute corruption related to the environment, including cases of exploitation and destruction of renewable natural resources.**

Steps towards tackling corruption linked to environmental crimes

In particular, States Parties should take targeted actions to prevent, detect and address corruption linked to the environment and climate:

- Reform and implement legal frameworks to ensure **full transparency in the award of government contracts, permits and concessions** – most importantly those related to major infrastructure projects, extraction of natural resources and wildlife, management

¹² EU (2013), Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, OJ L 182, 29.6.2013, p. 19–76, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0034&from=EN>; EU (2014), Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, OJ L 390, 31.12.2004, p. 38–57, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004L0109&from=EN>.

¹³ CEPAL: Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf.

¹⁴ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), Art. 7 and 9, https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf.

¹⁵ Human Rights Council: A/HRC/48/L.23/Rev.1 https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/48/L.23/Rev.1.

¹⁶ See: FATF reports on Environmental Crime, <https://www.fatf-gafi.org/publications/environmentalcrime/environmental-crime.html>.

¹⁷ United Nations Environment Programme (2019), “Dramatic growth in laws to protect environment, but widespread failure to enforce, finds report”, Press release, available at: <https://www.unep.org/news-and-stories/press-release/dramatic-growth-laws-protect-environment-widespread-failure-enforce>; See also: IUCN World Conservation Congress 2020 Resolution 38: Treating organized crime having an impact on the environment as a serious crime, https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2020_RES_038_EN.pdf.

and movement of waste, award and trading of carbon emission credits, and climate project funds. This includes proactively publishing online full contracts and all supporting documentation related to the award of these contracts or licenses, information on all legal entities involved, as well as their direct and ultimate owners, and payments from or to the public sector;

- Address corruption risks linked to the enabling of environmental crimes, for example by **empowering internal control units** in port and customs authorities and in bodies that award and oversee contracts, concessions and licenses;
- Ensure that **company registries and beneficial ownership registries are freely searchable and accessible online**, thereby enabling national and international stakeholders such as law enforcement, NGOs, as the general public, to access information on direct and ultimate owners of domestic legal entities and foreign entities participating in the agreements mentioned above;
- Ensure that **anti-corruption bodies** (including those established in line with UNCAC Articles 6 and 36) **are provided with adequate mandates, independence, capacity and resources to effectively tackle corruption linked to the environment and climate**;
- Establish **strong protection and reward mechanisms for whistle-blowers from the public and private sector in law and practice**, as well as secure and anonymous reporting channels to provide safe mechanisms to report crimes, corruption and other wrongdoing linked to the environment;¹⁸
- Recognize the **essential role played by whistle-blowers and environmental human rights defenders** relating to the protection of the environment by ensuring a safe, protective and enabling environment for those who uncover and report on corruption and environmental crimes, including civil society, members of local communities, and journalists, and take effective measures to protect them from attacks and retaliation (UNCAC Article 13, UNGASS Political Declaration OP 30);¹⁹
- Strengthen **mechanisms to prevent and detect money laundering and effectively prosecute** those who commit crimes of corruption as they relate to climate and environmental crimes (UNCAC Articles 23 and 60).²⁰ Include environmental crimes as a predicate offense for money laundering and make it an essential part of national risk assessments;
- Increase **capacity of relevant law enforcement agencies to investigate corruption pertaining to environmental crime**, including by strengthening international cooperation on investigating transnational environmental crimes and the financial flows

¹⁸ See: Targeting Natural Resource Corruption (TNRC) Program paper on whistleblowers and forest, fisheries and wildlife corruption, <https://c402277.ssl.cf1.rackcdn.com/publications/1434/files/original/Topic-Brief-Whistleblower-Protection-An-Essential-Tool-for-Addressing-Corruption-that-Threatens-the-Worlds-Forests-Fisheries-and-Wildlife.pdf?1613138179>.

¹⁹ See also: IUCN Marseilles World Conservation Congress Resolution 115 on protecting environmental human and peoples' rights defenders and whistleblowers, https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2020_RES_115_EN.pdf.

²⁰ See: Transparency International (2015), "Addressing Corruption in an Era of Climate Change", Submission to the 6th UNCAC CoSP, available at: <https://uncaccoalition.org/files/TI-Climate-change.pdf>.

linked to the proceeds of those crimes. In doing so, law enforcement efforts should target the higher-level actors and facilitators in criminal syndicates, tackling corruption across supply chains;

- **Designate law enforcement authorities to conduct parallel financial investigations** “alongside, or in the context of, a (traditional) criminal investigation into money laundering, terrorist financing and/or predicate offence(s).”, in line with FATF Recommendation 30,²¹ and ensure they are provided with sufficient staff with requisite technical skills and resources;
- Engage with and strengthen the **capacity of financial institutions to more effectively tackle the financial aspects of environmental crimes**, including to detect risks in payments and supply chains and act upon those red flags.²²
- Implement legal frameworks to **require private and state-owned companies to meaningfully consult and collaborate with local communities and take into consideration their views before initiating projects** that will affect the environment upon which they depend, and **establish grievance mechanisms** to facilitate the reporting of corruption; Promote proactive and inclusive partnerships with rural communities and indigenous peoples;
- **Grant independent non-governmental organizations legal standing to represent the public interest** in administrative processes and in court in cases linked to environmental crimes;
- **Involve Non-Governmental Organizations in research and investigation**: NGOs have crucial and diverse roles to play in supporting the protection of environmental crimes They can assist financial institutions by gathering intelligence and providing appropriate information on crimes and perpetrators;
- Recognizing that ‘corruption’ is multi-faceted and often affects women in different ways than men, **include gender-analysis in anti-corruption research, approaches and initiatives, and develop gender-sensitive action plans based on the findings** and implement the recommendations of UNODC’s report on addressing the gender dimensions of corruption;²³
- **Publish self-assessment checklists and full country reports of the UNCAC implementation review**, and in the context of the review process **identify possible weaknesses in the anti-corruption framework that link to environmental crimes**, and reflect those issues in the recommendations for improvement.

²¹ Financial Action Task Force (FATF), Recommendation 30, available at: <https://cfatf-gafic.org/index.php/documents/fatf-40r/396-fatf-recommendation-30-responsibilities-of-law-enforcement-and-investigative-authorities>.

²² See for example: UCN Marseilles World Conservation Congress Resolution 108 on deforestation and agricultural commodity supply chains, https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2020_RES_108_EN.pdf.

²³ See: UNODC, The Time is Now: addressing the gender dimensions of corruption (2020), available at https://www.unodc.org/documents/corruption/Publications/2020/THE_TIME_IS_NOW_2020_12_08.pdf.