

# A NEW PROTOCOL FOR THE UNTOC?

**A GUIDANCE NOTE FOR THE 1ST MEETING OF THE  
NEW INTERGOVERNMENTAL EXPERT GROUP ON  
CRIMES THAT AFFECT THE ENVIRONMENT**

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## **ACRONYMS AND ABBREVIATIONS**

CCPCJ	United Nations Commission on Crime Prevention and Criminal Justice
CITES	Convention on International Trades in Endangered Species of Wild Fauna and Flora
COP	Conference of the Parties
ECOSOC	United Nations Economic and Social Council
EU	European Union
GI-TOC	Global Initiative Against Transnational Organized Crime
IEG	Intergovernmental expert group
INTERPOL	International Criminal Police Organization
IUCN	International Union for Conservation of Nature
MARPOL	International Convention for the Prevention of Pollution from Ships
NGO	Non-governmental organization
OECD	Organisation for Economic Co-operation and Development
UN	United Nations
UNEA	United Nations Environment Assembly
UNCAC	United Nations Convention against Corruption
UNGA	United Nations General Assembly
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime





## INTRODUCTION

In October 2024, Brazil, France and Peru tabled a resolution at the 12th session of the Conference of the Parties (COP) to the UN Convention against Transnational Organized Crime (UNTOC) for a new intergovernmental process to take stock of how the convention addresses crimes that affect the environment.<sup>1</sup> In addition, the resolution called for possible gaps to be identified in the current international legal framework to prevent and combat these crimes, and to discuss whether any additional protocol should be developed. The work of the new intergovernmental expert group (IEG) will therefore become a key focus of multilateral discussions on environmental crimes in the future.<sup>2</sup>

The first meeting of this group will take place in Vienna from 30 June to 2 July 2025, and may be followed by a second meeting in early 2026, ahead of the 15th UN Congress on Crime Prevention and Criminal Justice in the United Arab Emirates in April. The group will be expected to report on its work at the 13th UNTOC COP in October 2026.

This new process is the culmination of a long-brewing movement towards addressing environmental crimes beyond what can be controlled through CITES. For example, it builds on progress made at France's initiative to push forward resolutions on environmental crime that are within the scope of existing UN instruments. In 2022, Resolution 31/1 of the UN Commission of Crime Prevention and Criminal Justice (CCPCJ) called for views on a potential new protocol on wildlife trafficking to be collected,<sup>3</sup> following a campaign led by the Global Initiative to End Wildlife Crime consortium,<sup>4</sup> which had high-profile government support from countries such as Angola, Kenya, Peru and Gabon, but for which consensus could not be reached as part of UN General Assembly Resolution 75/311 on wildlife trafficking.

The UN Office on Drugs and Crime (UNODC) has published several analyses of what it calls the 'patchwork' of existing legislation,<sup>5</sup> and documented member states' views on the topic through questionnaires coming out of the latest CCPCJ and UNTOC resolutions.<sup>6</sup>

Calls for discussions on updating the international legal framework on environmental crimes, including potentially a new protocol, date back even further. For example, a joint paper by the Global Initiative Against Transnational Organized Crime (GI-TOC) and the World Wildlife Fund was launched at the 13th UN Crime Congress in Doha in 2015,<sup>7</sup> and the UN system itself has adopted calls for further action since 2014, primarily with regard to the illegal wildlife trade.

Environmental criminal markets have changed considerably since, increasing the need for the urgent updating of the existing multilateral response. Crimes that affect the environment are deeply globalized and require diverse action across value chains, including in transit countries, to be successfully combatted. Moreover, incentives for actions and consequences for inaction are grossly skewed across the globe, and preventive and remedial measures, convictions and recovery of proceeds from these crimes often lag behind. Despite some progress – notably on trafficking in wildlife, and especially in some iconic species – it has not been enough. It has never been clearer that more internationally coordinated action and globally funded and resourced responses are needed.<sup>8</sup>

## An ineffective current approach

From the GI-TOC's perspective, it is clear that the current approach is not effective enough:

- Criminals are adapting faster than law enforcement by exploiting emerging markets, technology and loopholes.
- Natural resources are finite, yet the quantities of waste and toxic substances generated are proliferating. Increased scarcity of the very things we need for survival will drive up prices and then criminal profits (and therefore incentives from crime), until even criminals will be faced by the law of diminishing returns. This will worsen inequalities, including in accessing basic life resources, impede sustainable development and undermine people's resilience in the face of environmental adversity.
- Paradoxically, where efforts at better environmental regulation are successful and activities that used to be legal become unlawful, formerly licit (but destructive) practices and markets will increasingly go underground to meet demands that persist after policies and laws have changed. This is already seen with, for example, booming illicit markets in chlorofluorocarbons, including in Europe.<sup>9</sup> And as new financial mechanisms are being developed to mitigate climate change and reverse biodiversity loss, illicit environmental markets will continue expanding and diversifying.<sup>10</sup>

Despite the fracturing of official multilateralism, there is, in fact, substantial activity on this issue (see timeline and box below). This is masked by the fact that it is dispersed across different processes and initiatives, though this itself belies the fact that the response to environmental crimes has, until now, lacked central coordination in the current UN system.

# WHAT IS THE MAIN FORUM FOR DEBATE ON ENVIRONMENTAL CRIME AT THE INTERNATIONAL LEVEL?

Our data shows that over the past 30 years, environmental crime has been mentioned in 46 resolutions by seven international forums.



**FIGURE 1** The number, theme and seat of negotiations of multilateral resolutions pertaining to environmental crime.  
 SOURCE: GI-TOC analysis of resolutions published by seven international forums

The definition of environmental crime has been applied broadly to IUCN resolutions, of which many were focused on specific species and somehow addressed their illegal trafficking; however, these were not limited to, or even primarily concerned, with addressing crimes.

We have not included statistics on resolutions and declarations from international organizations outside of the UN system (such as INTERPOL or the World Customs Organization); regional groups; multilateral environmental agreements (such as the Basel and CITES conventions);<sup>11</sup> or cross-regional multilateral forums such as BRICS, the G7 and the G20.

The timeframe stretches from 1993, when the first United Nations Economic and Social Council (ECOSOC) resolution on the role of criminal law in protecting the environment was adopted, to 2024, when UNTOC Resolution 12/4 triggered the moves towards debating an additional protocol on environmental crimes.

Notably, almost half of the activity has been in Vienna, not in the cross-cutting environmental forums, where one would expect it to be. It may also help to explain why awareness and mobilization of New York-based delegations on environmental crimes or wildlife trafficking are generally lower than in other UN head-quarters. Also notable is the limited thematic frames of the debate, which focus mostly on wildlife trafficking.

## KEY MOMENTS IN MULTILATERAL RESPONSES TO ENVIRONMENTAL CRIMES





The moves towards an additional protocol to the UNTOC through the new IEG has the potential to focus political attention and resources where they are needed most. This paper therefore considers concrete proposals for change to the international framework, with a focus on how to make a new protocol work effectively through a broad scope, coupled with targeted action. To be effective, the new protocol needs to have open, transparent and accountable systems of discussion and review. In addition, cooperation with civil society is crucial to bring the implementation of a new protocol to fruition – from international NGOs to grassroots community organizations, Indigenous peoples and local communities.

This paper aims to bring together these latest developments, in order to consider what should be prioritized in discussions at the IEG as delegates begin the process for designing a new protocol. It will analyze key issues in the mandate given to member states through resolution 12/4, namely to:

- take stock of the application and collective implementation of the UNTOC in addressing environmental crimes;
- identify any gaps in the international legal framework and which could be addressed under the convention to prevent and combat such crimes; and
- consider possible responses relevant to those gaps, including a potential new protocol to the UNTOC.



## THE HARMS OF ENVIRONMENTAL CRIMES: WHY BOLD REFORMS ARE NEEDED

**H**arm occupies a central place in the debate on environment crimes. The term used by the IEG – ‘crimes that affect the environment’ – reflects the fact that the Group does not consider any specific criminal market in isolation but rather takes as its starting point the impact of criminal activity on the natural world.

Considered broadly, these impacts are serious, widespread and diverse. Organized criminals who exploit natural resources threaten the integrity of natural systems that create a habitable and healthy environment for humanity<sup>12</sup> – whether through extraction, harvesting or addition of pollutants and waste, or through manipulating financial schemes such as carbon trading markets or biodiversity credits. They steal revenue from governments and menace the livelihoods of millions of people.<sup>13</sup> The World Bank estimates that illegal fishing, logging and wildlife trade costs the global economy between US\$1 and US\$2 trillion annually.<sup>14</sup> Through their actions, environmental criminals can severely degrade human health, leading to serious injury or even death, threaten outbreaks of pandemics,<sup>15</sup> and make water, air and soil toxic to humans, plants and animals.<sup>16</sup>

Over the past few decades, this threat has become more and more direct as actors working in environmental protection – from whistle-blowers to state officials and law enforcement officers – have increasingly been harassed, threatened and killed by corrupt and criminal networks, to such an extent that a special category of assassination risk has emerged: that of the ‘environmental defender’.<sup>17</sup>





Without an UNTOC protocol for criminalizing environmental crimes, it is almost impossible to review progress in addressing illegal mining such as that afflicting the Amazon rainforest. © Alan Chaves/AFP via Getty Images

It is also important to understand that although environmental crimes have always existed, their nature and diversity have transformed over the past two decades. Together with other criminal markets, they have expanded swiftly, turbocharged by rapid globalization coupled with inadequate international responses. This has given rise to new markets and afforded local or artisanal markets global commercial prospects.

## The reluctance to act on harms

While few dispute the impacts of environmental crime at a global level, many resist defining and responding to them – either when they are occurring in their local context, or when they find that their economies are connected to illicit value chains that link to them to crimes far away.

The large legal flows of trade, in which illegal trade is usually hidden, is one reason why the harms associated with environmental crime are hard to identify and disentangle. Illegal actors often pose as licit private-sector players, or launder their products through opaque value chains or on platforms where other legal trades take place, particularly for the purposes of cross-border trafficking. Substantial investment in technological and enforcement means to detect illegal trade in the midst of legal trade flows is therefore required. This is particularly important to put in place for commodities such as timber, minerals, precious metals and stones, water or waste materials, of which illegal origin is currently too easy to launder into legal value chains. The ‘grey’ nature of flows in key environmental commodities, or of flows disposing of key contaminants, may create apparent economic incentive to let the status quo stand – though these always require discounting serious externalities linked the environmental cost or to crime itself.



In addition, domestic authorities are usually responsible for setting the thresholds that determine illegality, specifying the severity and nature of sanctions (criminal law compared to civil or administrative law), issuing licences, certificates or access to protected areas, and monitoring how the private sector adheres to regulations – all of which increase the corruption pressure exerted by illegal environmental commodities markets on states. This makes tackling corruption – or instituting measures to prevent it – a central element of an effective response to environmental crimes.

But while these factors may make it seem technically complicated, politically fraught or costly to address environmental crimes, the benefits for states could also be substantial. These benefits are not just measured in terms of environmental protection and global stability, but potentially include much greater transparency, and therefore greater control, over global trade flows, more equitable access to key value chains as bad actors are removed, and insulation against the corruption that weakens state capacity. Addressing environmental crime would strengthen governance and create better trade, legal and fiscal environments in ways that support and protect sustainable livelihoods for their citizens.

## **Legislative gaps have global impacts**

As markets have emerged or expanded, serious legal and policy gaps have been exposed at national, regional or global levels. This is most obvious with regard to crimes linked to the marine environment and in the legal frameworks for new pollutants and forms of waste. In addition, the geography of environmental crime evolves constantly. This may happen when a new resource becomes recognized as offering a criminal opportunity, when demand for a product shifts, or when criminals abandon a transit route that has come under greater scrutiny for one where there is less or when they play regulatory arbitrage. Although environmental crime is a global crime – both with regard to impact and in its geography – the international response often leaves affected states feeling as though they are fighting the phenomenon alone or lack the tools to tackle it effectively.

All of this feeds into why the GI-TOC believes that a bold, broad approach to defining the overarching legal framework for tackling environmental crime is necessary – as could be achieved by an additional protocol to the UNTOC.



## PRIORITY ISSUES AND GAPS TO BE ADDRESSED

**D**espite progress in some areas, enforcement efforts and global agreements remain inadequate to address environmental crime and the associated rapidly escalating threat to ecosystems, the climate and people. This is clear from the many resolutions, debates and processes that are currently underway, all of which seek to enhance or accelerate the international response.

In April 2025, participants at an international conference hosted by France and the GI-TOC in Paris identified the following areas in which shortcomings need to be addressed to effectively prevent and combat environmental crime.<sup>18</sup>

### Legislation

There are plenty of international treaties that provide for regulation or management of environmental commodities, albeit in a fragmented, sector-by-sector approach. However, they do not include criminal law sanctions nor offer the necessary tools for international law enforcement and judicial cooperation, as underscored by the first chapter of the UNODC's Global Analysis on Crimes that Affect the Environment.<sup>19</sup>

The only universal treaty that includes criminal law provisions to potentially address environmental crime is the UNTOC, although none are specifically defined nor are the provisions complemented by a protocol – unlike for those addressing crimes such as human trafficking, smuggling of migrants or trafficking of firearms.

In addition, a patchwork of legislation does not sufficiently target the most harmful forms of environmental crime, and especially not in a way that is harmonized or mutually recognizable across borders. Although CITES and multilateral environmental agreements such as the Basel,

Rotterdam, Stockholm and Minamata conventions may list specific species or products, they are mostly focused on trade, rather than being criminal law instruments.

Even though most countries have signed up to both the UNTOC and various multilateral agreements, environmental crimes have not been clearly targeted. The weak review mechanism of the UNTOC also means that there is no effective way of determining whether UNTOC criminalization provisions are applied consistently – and evidence suggests that they often are not. Without a protocol or requirement under the UNTOC for criminalizing environmental crimes, it is almost impossible to review progress in treating, for example, illegal mining and trafficking in wildlife, timber, waste and minerals as serious crimes.<sup>20</sup>

At the same time, regional instruments – including through the EU and the Council of Europe – have not translated into global recognition, and are unlikely to do so, given political realities around the world.

## International cooperation

The patchwork of legislation directly contributes to limited opportunity for international cooperation through extradition agreements and mutual legal assistance. The diversity of offences – or lack of specificity in defining offences – means it is more difficult to meet the requirement of dual criminality. Moreover, general awareness of how the UNTOC and multilateral instruments can be used to facilitate cooperation to prosecute environmental criminals is low among judicial and law enforcement officials,<sup>21</sup> with bilateral or regional arrangements, or even direct enforcement across borders from some countries, being preferred.<sup>22</sup> Despite the widespread ratification of the UNTOC, evidence of international cooperation is difficult to find, especially as pertains to environmental crime.



Lack of capacity, resources and prioritization of environmental offences hampers law enforcement efficacy in addressing crimes such as wildlife trafficking. © Vichan Poti/Pacific Press/LightRocket via Getty Images



## Law enforcement and judicial capacity

The most advanced networks for international cooperation are facilitated by regional mechanisms, primarily in Europe, and even they struggle to achieve their potential, owing to a lack of capacity, resources and prioritization. Environmental crimes in the Global South present the most immediate security and development challenges, but countries often face resource, capacity and political constraints. Those in the Global North with more capacity face challenges in securing the appropriate level of prioritization compared with what is given to more traditional security risks.<sup>23</sup>

Civil society actors have become essential and reliable partners in supporting investigations and judicial processes, not only because of a lack of formal capacity in local contexts, but also because of their commitment to supporting action. Law enforcement and prosecutors need witnesses and whistle-blowers in order to open investigations and identify and intercept offenders. In the absence of dedicated facilities, states also rely on civil society organizations and the scientific community to provide shelter and care for animals that have been trafficked, including in the Global North.

Prosecutors and judges need civil society organizations to serve as civil parties to defend the environment in court cases, especially when there are no direct human victims or when whole communities are affected. To deliver fair and efficient judgments, they also need expertise from the scientific community to help them understand the impacts of crimes on the environment and people, assess the value of lost species and other damage caused to the environment and human health, and determine the remediation costs.

Civil society organizations, witnesses, whistle-blowers, environmental defenders, members of the scientific community and local communities, including Indigenous peoples, put themselves at risk by getting involved in exposing environmental crime.<sup>24</sup> Journalists and media workers who collect information to raise awareness among the general public and policymakers are also under threat. It is therefore critical to support and protect civil society to strengthen awareness, prevention, law enforcement and criminal justice responses to environmental crime.

## Political will and strategic coordination

Without sufficient political will across enough countries and enough parts of the multi-lateral system, strategic coordination and leadership to deal with environmental crime falter. Although high-level political engagement has enabled action on key priorities, such as illicit trafficking of charismatic species, and diplomatic efforts have resulted in many resolutions, follow-up and implementation have not been at the required level.<sup>25</sup>

Within countries, national security architectures and government departments such as those tasked with environmental matters, foreign affairs, justice, economy and finance do not always agree on the level of prioritization for tackling environmental crimes. There are also significant coordination gaps among all these actors; national whole-of-government and whole-of-society strategies would be necessary for effective prevention, repression and reparation of environmental crimes, with no holes in the racket for organized crime to infiltrate. This can only be achieved by high-level political leadership.

## Corruption

Corruption enables environmental crimes, both at their source (illegal extraction of resources) and along the entire value chain. It can also be the biggest roadblock to strengthening legislation that would ensure that environmental protection officers, law enforcement and the criminal justice system have the resources to conduct investigations, institute criminal proceedings and obtain fair judgments and compensation for damages.

High-level corruption facilitates environmental crimes across borders, including at the intersection between public and private interests. At lower levels, corruption greases the wheels of environmental crime, whether at border posts, in national parks and protected areas, or at regulatory and enforcement bodies. All levels of corruption need to be elevated in the discussions of the new IEG by building on UNTOC corruption-related provisions. This is in line with the mandate that the IEG should consider not only crimes that affect the environment but also 'related offences covered by UNTOC'. Points for discussion could include how to mainstream financial investigations, achieve beneficial ownership, create transparency and due diligence measures, and build corporate responsibility into future responses.<sup>26</sup>

## Private sector involvement

The private sector is notably absent from current diplomatic and multistakeholder processes related to enhancing responses to environmental crime, with the exception of forums related to financial crimes, such as the Financial Action Task Force. Although engagement in tackling the financial dimension of environmental crime (in particular money laundering) should be enhanced, it needs to be fundamentally rebooted in areas such as online trafficking in wildlife and other environmental commodities, and corporate responsibility, accountability and due diligence related to illegal mining, logging and fishing, and pollution crimes.

## Technology

Online trafficking in wildlife and other environmental commodities largely takes place on the open web, and technology companies are not taking responsibility for tackling what takes place on their platforms, as demonstrated by the high proportion of trafficking on popular social media platforms.<sup>27</sup> Civil society often takes the lead in gathering data, instituting action and developing innovative tools to address the issue through technology. Several technologies also offer to make aspects of the regulation of trade in environmental commodities (such as through increased traceability) or enforcing laws (such as through easier identification of fraudulent documents) more feasible, but lack of investment, harmonization and prioritization limit their impact and diffusion. The gap between the technological capacity needed to trace crimes and the need for technology to be less accessible to criminals remains too wide.

## Human rights

The serious negative consequences of many environmental crimes undermine or directly obstruct the realization of human rights. Victims and witnesses of environmental crimes need protection and assistance to obtain justice, recover from the damage they have suffered

and be shielded against harm. People who live on the ‘front lines’ of the crimes – e.g. near mine sites, in forests, on savannahs, or along coastlines, lakes and rivers – are particularly affected. Indigenous peoples and other front-line communities are broadly seen as needing both special protection and special recognition in processes aimed at bolstering the global focus and frameworks for addressing environmental crime. The rising rates of attack on ‘environmental defenders’ are largely seen to come from criminal networks, corrupt state officials or complicit private-sector actors (and the collusions between them).

Indigenous peoples and other front-line communities could also be adversely affected by overly broad enforcement approaches, which criminalize protected and traditional harvesting or seek to displace people from territories where environmental commodities are found, as recognized, for example, by UN General Assembly Resolution 78/216.<sup>28</sup> At the same time, these communities can and do contribute to the protection of their environments. Alongside other victims of environmental crime, environmental defenders and civil society organizations, they should be brought into dialogue with enforcement actors and policymakers regarding responses, and supported to implement civilian responses.





## WHAT SHOULD A PROTOCOL ACHIEVE AND HOW?

The task of the IEG is not just to talk about a new protocol, but also to assess the gaps and take stock of current levels of implementation. Nonetheless, it will need to consider the issue of a new protocol in detail, and ideally set a clear course of action for reporting back to the UNTOC COP in 2026.

The range of harms and challenges of environmental crimes requires an unequivocal response from the IEG about what the value and scope of a new protocol should be. Although the GI-TOC realizes that a new protocol should not be considered to be a silver bullet, it firmly believes that it can address the clear legislative and international cooperation shortcomings, in synergy with other tools available in the global toolbox (such as multilateral environmental agreements and other international conventions and protocols). At the same time, a new protocol can build political will and create momentum to direct resources and attention to where they are needed the most. If it is done right, a new protocol can be a truly effective mechanism to combat crimes that affect the environment, and even help to revitalize the implementation of the UNTOC more generally.

As the IEG is beginning its work, all those engaging with it should put forward their views on what a new protocol should look like in order to combat environmental crimes, to benefit not only ecosystems but also people. In this spirit, the GI-TOC suggests that a new protocol should be based on the following four principles, in addition to those already covered in the UNTOC.

### Common and shared responsibility

Even though the principle of common and shared responsibility is not explicitly mentioned in the UNTOC, it is well established in the existing global anti-crime response, in particular in addressing the world drug situation.<sup>29</sup>



The trafficking of waste from Europe to Türkiye, where it often ends up in illegal dumpsites, remains a challenging issue that demands cooperation between source and end markets. © Yasin AKGUL / AFP

This principle has also been affirmed by the UN General Assembly in its annual ‘omnibus’ resolutions on crime prevention and criminal justice. The latest one, Resolution 78/229 adopted in 2023, notably stressed ‘the importance of strengthened international cooperation, based on the principles of common and shared responsibility and in accordance with international law’. Interestingly, crimes that affect the environment are the only category of organized crime mentioned in this paragraph that are not explicitly covered by the UNTOC and its additional protocols so far.

A common and shared responsibility should also take into account the ‘responsibility of States to fully promote and protect human rights and fundamental freedoms, as well as to uphold the principle of human dignity, in the impartial administration of justice and throughout all our efforts in preventing and combating crimes that affect the environment’, as affirmed by CCPCJ Resolution L8.<sup>30</sup>

The inclusion of this principle is designed to give political direction and common cause between all regions and countries, including source and consumer markets, in the Global North and the Global South.

## A holistic approach

States and regions have different priorities, depending on the trends in environmental crime they are faced with. These patterns are constantly evolving as organized criminal groups are opportunists by nature and adapt to system changes quickly. New forms of environmental crime are starting to emerge with the development of climate and biodiversity finance and regulatory market mechanisms. Illegal water abstraction by organized criminal groups is also increasingly seen.



As put forward at the Paris conference in April 2025,<sup>31</sup> and mirrored by negotiations at the CCPCJ in May,<sup>32</sup> a global, consensus-based response should not single out certain forms of environmental crime, as this could lead to priorities of other regions being overlooked. In addition, focusing only on certain crimes or regions could deprive the international community of useful tools to prevent new illegal markets from emerging, anticipate shifts in illicit flows of environmental commodities, or limit the protocol's ability to evolve in order to remain relevant.

A holistic approach to crimes that affect the environment offers the advantage of being able to better anticipate and adapt to changes in organized crime trends and related illegal markets over time.

## **A harm-based approach**

The Kyoto Declaration adopted by the 14th UN Crime Congress and endorsed by the UN General Assembly reflects a harms-based view of environmental crimes, by referring to 'crimes that affect the environment'.<sup>33</sup> In Resolution 76/185, the General Assembly:

- expressed its deep concern about 'all those killed, injured, threatened or exploited by organized criminal groups involved in or benefiting from crimes that affect the environment and about those whose living environment, safety, health or livelihoods are endangered or put at risk by those crimes, and affirm[ed] its resolve to assist and protect those affected, in accordance with national law';
- noted 'that activities of organized criminal groups that affect the environment hinder and undermine efforts undertaken by States to protect the environment, promote the rule of law and achieve sustainable development, including efforts to contribute to the implementation of the 2030 Agenda for Sustainable Development'; and
- recognized that 'crimes that affect the environment may also have a negative impact on economies, public health, human safety, food security, livelihoods and habitats'.

This shows that the international community does have an understanding about the impacts of environmental crime because of its harms both to the natural environment and to people. A new protocol would therefore be well designed if it can address both these harms while being holistic and responsive, rather than being directed at specific criminal markets only.

## **A whole-of-government and whole-of-society approach**

To develop an effective global response, the international community will need to address environmental crime in all its complexity and dimensions: as variously a criminal justice issue, a security issue, an economic and financial issue, a governance issue, a development issue, a human rights issue, and an intergenerational justice and equity issue. Not a single institution has the necessary expertise, powers, tools or resources to manage this alone. An effective response will require cross-sectoral and cross-regional cooperation, as well as whole-of-government and whole-of-society strategies, with strong coordination among departments and agencies. In addition, governments will have to work with civil society, academia, the scientific community, businesses, international organizations and other stakeholders.



## Suggested core elements of a new protocol

Ultimately, the protocol should serve as a new legal instrument to upgrade the current legal framework, and engender a more strategic and coordinated response to environmental crimes, through the following defined objectives:

- To promote and strengthen measures to effectively prevent and combat crimes that affect the environment and related offences covered by the protocol and the UNTOC, including the laundering of their proceeds and corruption.
- To protect the environment from any illegal activities and illegal use, disposal or release of substances that cause severe environmental degradation or are found to be harmful to human health and contravene provisions of the UNTOC,<sup>34</sup> international environmental law and other international instruments supporting their effectiveness, and ensure effective remediation of the damage caused to the environment.
- To protect and assist victims of the offences covered by the protocol, and those who defend their communities against the impacts of such crimes, with full respect for their human rights, and ensure effective restitution and compensation for the harms caused to them.
- To promote, facilitate and strengthen international cooperation in order to meet these objectives, based on the principle of common and shared responsibility.

The approach to criminalization, which should be the core of the protocol, should be guided by the following principles:

- The offences that will be criminalized under this protocol should be included independently of transnationality,<sup>35</sup> consistent with article 34, paragraph 2 of the UNTOC.
- When discussing the scope and list of offences to be criminalized under this protocol, the IEG should take into consideration some of the key principles that underpin international environmental law, in particular that of doing no harm, taking precaution, and ensuring the polluter pays, and the principles of prevention, cooperation, intergenerational equity, access to information, public participation and access to justice, and non-regression.
- When discussing criminalization, the IEG should reflect on both the objective elements of offences committed (*actus reus*) and the subjective elements of offences (*mens rea*) related to the accused's state of mind at the time of the offence. The IEG should also consider the possible application of the principle of *malum in se* (an act that is inherently immoral, regardless of whether it is criminalized), in addition to the principle of *malum prohibitum* (an act that is illegal but not necessarily immoral).
- To build an effective global response and to ensure that the protocol will remain relevant over time, as broad a range of the crimes that affect the environment as possible should be criminalized as serious crimes, based on the broad approach provided by the UNTOC, in particular in its articles 2, 3 and 5.
- In order to set minimum standards for all parties and thus facilitate international cooperation, the protocol could provide both a generic definition of crimes that affect the environment and a list of environmental offences that should be criminalized as serious crimes, based on the framework provided by international conventions, protocols, and multilateral environmental agreements.
- Possible generic definitions of environmental crimes would be complicated to negotiate, but could nonetheless include:
  - unlawful acts committed intentionally, or with serious negligence, that cause or are likely to cause substantial damage to ecosystems in their composition, structure or functioning

- illicit activities that cause or are likely to cause severe environmental degradation, may be found to be harmful to human health, and contravene provisions of the convention, international environmental law or any other international instruments supporting their effectiveness.
- Offences all along value chains should be covered, from illegal extraction to trafficking and final selling or illegal disposal or release.
- A principle of legal comity – where countries agree to respect each other's law by treating crimes committed outside their jurisdiction seriously – would also help to even out the imbalance between the priorities of countries where crimes are committed, and the countries that receive the goods trafficked as a result.

A protocol built on the mentioned foundations could have real impact if:

- international cooperation and technical assistance is boosted through increased awareness, capacity, networks and training;
- political attention and resources are directed to crimes that affect the environment through law enforcement, community resilience and criminal justice responses;
- there are clear provisions to protect whistle-blowers, environmental defenders, Indigenous peoples and human rights through criminal justice responses;
- provisions and implementation are reviewed effectively and openly, with high levels of transparency and accountability;
- it includes preventive and remedial measures to address both the root causes of environmental crimes and repair the damage caused to the environment;
- it is designed to address the corruption and impunity that drives environmental crimes; and
- engagement across sectors, including the private sector, and the broader UN system is fostered.

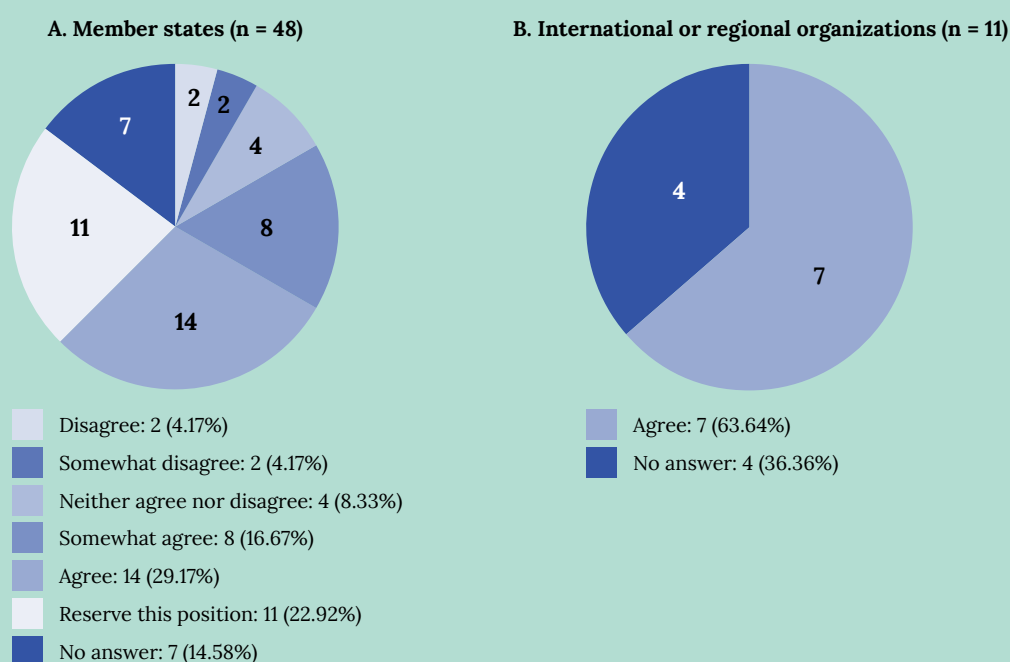
## **SUMMARY OF SUBMISSIONS TO THE INTERGOVERNMENTAL EXPERT GROUP**

At the time of writing, 48 states parties to the UNTOC and 11 regional or international organizations have submitted official submissions to the IEG secretariat. These provide interesting insights into positioning on the topics that the IEG is mandated to discuss, although detailed recommendations on drafting a protocol are not yet included. Civil society organizations were not invited to provide submissions to the official process owing to a lack of access to the process included in the UNTOC COP Resolution 12/4.

Responses to a questionnaire issued by the secretariat reflect a general acknowledgement of gaps in the international legal framework to address environmental crimes (Figure 2) and that a new protocol could be advantageous in addressing such gaps (Figure 3).

The results reveal that many countries are undecided; however, a sizeable proportion of interested states also showed a level of understanding that the UNTOC does not currently address environmental crimes well and that a new protocol should be part of a more effective response through the international legal framework.

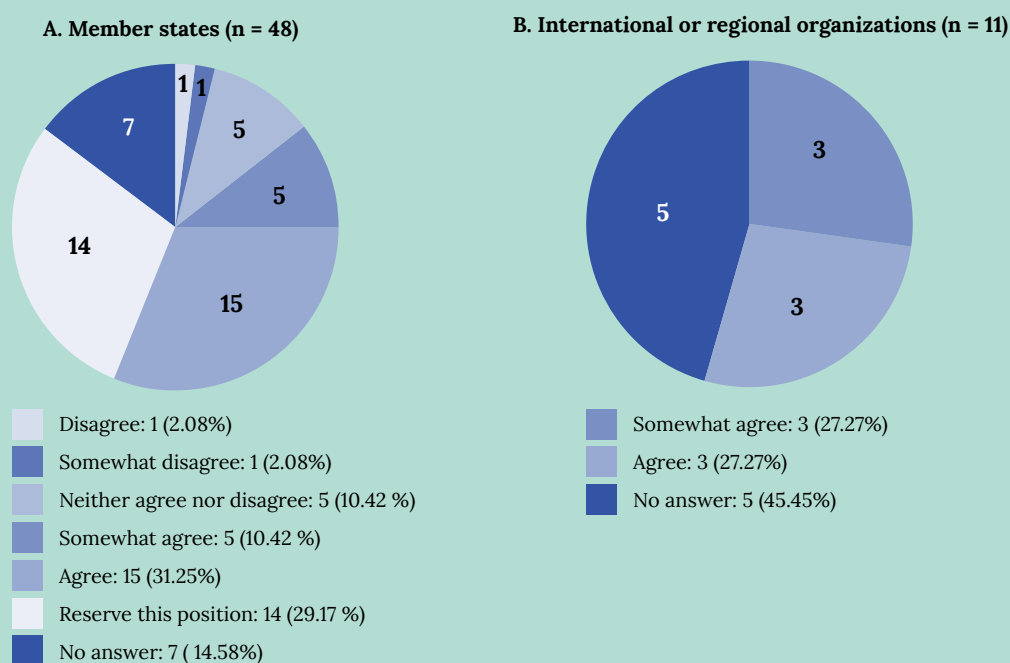
‘There are gaps in the international legal framework with respect to crimes that affect the environment.’



**FIGURE 2** (A) Member state views on whether there are gaps in the international framework with regard to crimes that affect the environment; and (B) International and regional organization views on whether there are gaps in the international framework with regard to crimes that affect the environment.

SOURCE: Website of the IEG, UNODC, [https://www.unodc.org/unodc/en/treaties/CTOC/CAE\\_IEG\\_2025.html](https://www.unodc.org/unodc/en/treaties/CTOC/CAE_IEG_2025.html).

‘An additional protocol to the organized crime convention would be feasible and meritorious.’



**FIGURE 3** (A) Member state views on whether a new protocol would be feasible and meritorious for crimes that affect the environment; and (B) International and regional organization views on whether a new protocol would be feasible and meritorious for crimes that affect the environment.

SOURCE: Website of the IEG, UNODC, [https://www.unodc.org/unodc/en/treaties/CTOC/CAE\\_IEG\\_2025.html](https://www.unodc.org/unodc/en/treaties/CTOC/CAE_IEG_2025.html)





## THE IMPORTANCE OF EFFECTIVE REVIEW

**A**lthough the idea of a new protocol to the UNTOC is gaining momentum, how it is implemented and reviewed will be fundamental to its success. Despite the convention being almost universally ratified, it faces serious implementation and review challenges, such as the review process being weak, slow and under-resourced, and the impact on criminal markets being impossible to quantify.

The UNTOC's use in international cooperation processes and addressing environmental crimes is patchy, and data on its implementation is lacking. These challenges are exacerbated by the closed and restricted review process, and low awareness among key practitioners.

Even if a new protocol is adopted and integrated into the existing review process, it may not yield any results for a long time. Only two country reviews, for only one of four review clusters, have been produced since the launch of the review process in 2020, 17 years after the convention entered into force.

At the moment, civil society participation is voluntary – and peripheral. Although some countries have integrated civil society and published their interim findings voluntarily, this model simply will not fit a new protocol.

Member states should be ambitious in pushing for a bespoke review process for the new protocol, to hold states to a higher level of accountability than the existing UNTOC review process. The process should be based on:

- critical evaluation and scrutiny of implementation;
- transparency and accountability, with full and meaningful participation of civil society, the private sector, academia and other relevant stakeholders;
- flexibility to respond to emerging issues;

- efficient use of resources;
- targeted capacity building and technical assistance;
- a resource relevant to all countries, whether in the Global North or Global South; and
- coordination across the UN system.

In this way, the protocol could lead the way in more effective review of the UNTOC more generally, and therefore revitalize its overall implementation and engagement around it.



## CONCLUSION AND RECOMMENDATIONS

In the context of a fragmented geopolitics and competing priorities, it is increasingly challenging to focus attention on transnational organized crime. Yet organized crime has not waned in its ambition and enthusiasm, especially in learning how to carry out environmental crimes – with devastating impacts on society and natural resources.

The UNTOC will be 25 years old this year, yet international engagement has been slow and virtually stagnant. Participation in its conference of parties and subsidiary bodies is limited and suffers from inertia and a lack of resources and attention.

However, enthusiasm for a new protocol appears to be gaining momentum. A new protocol will never be a silver bullet, but the IEG could become a focal point for multilateral responses to environmental crimes. It is therefore an opportunity to push forward ambitious ideas for change – and should aim to produce more than just an isolated protocol.

Although the IEG has a specific mandate, discussions should seek to:

- evaluate the effectiveness of the current international legal framework for addressing environmental crimes in order to contribute to the harmonization of UNTOC implementation against environmental crime at the national level;
- assess the feasibility, objectives and shape of a new international legal instrument under the UNTOC while addressing the flaws in the convention's current implementation and review process and considering overlooked environmental crimes; and
- break down barriers between different forums to ensure that corruption and illicit financial flows are effectively addressed as enablers of environmental crime and to aid coordinated implementation of instruments for a more effective global response.



The fight against environmental crime requires several important elements: stronger cooperation under existing multilateral agreements; more effective cross-border law enforcement and judicial collaboration; a more impactful fight against illicit financial flows; better intelligence sharing; and new partnerships between governments and civil society. Advances will also depend on expanded research, information sharing and analysis from both civil society and international organizations.

Civil society involvement is crucial for successful outcomes, not only at the multilateral level but also in making multilateral agreements more effective across the board. Any conversations on environmental crime should therefore amplify the voices of communities and environmental defenders working on the front lines. This should form part of the bolder initiatives needed against environmental crime, and enhanced measures to strengthen the rule of law and challenge impunity.

The IEG can create an environment where member states can work through but also around existing structures, to move faster on addressing environmental crime than the official UNTOC review process currently allows. At the most ambitious outcome, a new protocol could increase meaningful action on the UNTOC more generally, amplifying the effect across different criminal markets – through taking action on crimes that affect the environment.

## NOTES

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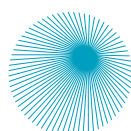




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