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NOTE

From: General Secretariat of the Council
To: JHA Counsellors/ COSI Support Group
Standing Committee on Operational Cooperation on Internal Security

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Subject: Implementation 2018-2021 EU Policy Cycle for organised and serious international crime: Draft MULTI ANNUAL STRATEGIC PLAN for Environmental Crime Priority

DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (03.10.2017)

Action 11 of the timeline for the continuation of the EU Policy Cycle for organised and serious international crime for the period 2018-2021 provides that expert groups of Member States and EU agencies, coordinated by the Commission will draft Multi-Annual Strategic Plans (MASPs) "to address the crime priorities, including the identification of common horizontal minimum strategic goals in advance in order to strengthen the consistency and facilitate the MASP drafting".

The general MASP workshop was held in Brussels under the auspices of the Commission on 26 June 2017 and participants agreed on the draft common horizontal minimum strategic goals prepared by the Commission as set out in 10838/1/17 REV 1.

The MASP workshop on "environmental crime" was held in Brussels under the auspices of the Commission on 29 and 30 June 2017. Participants agreed on the draft MASP as set out in the annex. This MASP is submitted to COSI for adoption.

EU Policy Cycle for organised and serious international crime 2018/2021

Multi Annual Strategic Plan for Environmental Crime Priority

Priority: *To disrupt Organised Crime Groups (OCGs) involved in environmental crime, more particularly wildlife and illicit waste trafficking.*

1. Description of the scope of the problem

Environmental crime covers any criminal activity that breaches environmental legislation and causes significant harm or risk to the environment and human health. This broad area of crime covers a diverse range of different offences including the improper collection, transport, recovery or disposal of waste, the illegal operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored, the killing, destruction, possession or trade of specimens of protected wild fauna or flora species, and the production, importation, exportation, placing on the market or use of ozone-depleting substances.

Environmental crime is characterised by its impact on the natural environment. The environmental impact manifests itself in increasing levels of pollution, a degradation of wildlife, a reduction in biodiversity and the disturbance of ecological balance. Environmental crime puts public health at risk. The environmental impact of illicit waste trafficking is substantial and long-lasting. Illegally dumped or incorrectly processed waste can remain a hazard for decades and in many cases entails serious health risks for individuals exposed to the resulting pollution. The financial impact of environmental crime is significant. The costs of removing the pollution caused by illicit waste trafficking are enormous. Illicit waste trafficking also distorts pricing and competitiveness on the legal waste management market. Legally operating waste management companies lose out to illicit waste traffickers due to higher prices. The trafficking of endangered species creates price distortions in the legitimate trade in animals and plants.

Inadequately vaccinated animals trafficked into a country can introduce new diseases to the local fauna. The wildlife itself is also exposed to the danger of health and life risk, e.g. due to the improper transportation / trafficking.

While estimates remain vague, Interpol and UNEP estimate that environmental crime is worth USD 91 billion to USD 258 billion annually (compared to previous estimates of USD 70-213 billion in 2014¹). The value of this diversified criminal market, estimated to grow at 2-3 times the pace of the global economy, makes environmental crime the fourth largest crime in the world after drug trafficking (344 billion USD), counterfeit crimes (288 billion USD) and human trafficking (157 billion USD)².

The EU has an important role to play in addressing environmental crime. Depending on the specific criminal market the EU is the origin (e.g. illegal waste trafficking, glass eels) or the destination market (e.g. protected species, illegal timber), and/or a hub for trafficking in transit to other regions (e.g. wildlife products)³. As an example, Member States report to the Commission about 3000 seizures of wildlife products every year. The low detection risk together with its lucrative nature⁴ makes environmental crime especially attractive for organised criminal groups. The phenomenon is also important from the perspective of the EU external borders security.

¹ <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=27076&ArticleID=36202&l=en>

² http://unep.org/documents/itw/environmental_crimes.pdf - *The illegal wildlife trade is by some estimated at 7–23 billion USD per year; Environmental crime is now estimated to be ca. 91–258 billion USD (2016) annually, a 26% increase from previous estimate in 2014; Environmental crimes is rising by 5-7% annually – 2–3 times the rate of the global economy; Losses of government revenues through lost tax income due to criminal exploitation account for at least 9–26 billion USD annually; Forestry crimes including corporate crimes and illegal logging account for an estimated 51–152 billion USD; Illegal fisheries an estimated 11–24 billion USD; Illegal mining estimated at 12–48 billion USD; Waste at 10–12 billion USD.*

³ https://www.unodc.org/documents/data-and-analysis/wildlife/World_Wildlife_Crime_Report_2016_final.pdf;

http://unep.org/documents/itw/environmental_crimes.pdf

⁴ <http://www.economist.com/news/international/21607891-parts-some-endangered-species-are-worth-more-gold-or-cocaine-bitter-pills?zid=313&ah=fe2aac0b11adef572d67aed9273b6e55>

There is a clear global peace and security component to environmental crime⁵. Illegal wildlife trafficking is increasingly recognised as a form of transnational organised crime. Even if certain criminal activities take place far from the EU their consequences have a global impact. One of those is destabilisation and poverty of certain regions which cause movements of persons, possibly also towards the EU borders. In some cases, wildlife trafficking is also used as a source of funding for non-State armed groups (such as militias or, in a few instances, terrorist groups).⁶

The environmental crime context is not only cross-continental but also cross-border in relation to the EU context. The poly-criminal nature of organised crime groups and their *modus operandi* means it is closely linked with other criminal activities, such as trafficking in drugs and firearms, as well as with corruption⁷, tax evasion and money laundering⁸. It is important to underline that 'organised crime' exists in the national legislations of the Member States as a very broad notion⁹. In relation to environmental crime a certain number of persons involved, internal division of tasks and focus on the financial gain are crucial elements, especially due to the whole chain of actions that needs to be carried out (e.g. production, transfer and sale). This also potentially covers criminal activities committed by businesses, including the document fraud or false declarations e.g. in the case of waste crime.

Environmental crime has a devastating impact not only on biodiversity but it also undermines the rule of law.¹⁰ Preventing environmental crime is also important from the point of view of moving towards circular economy¹¹.

⁵ <http://www.rona.unep.org/news/2016/environmental-crime-threatening-peace-and-security-finds-new-interpol-un-environment>

⁶ http://www.unep.org/pdf/pcdmb_policy_01.pdf

⁷ Criminal actors engaging in environmental crime heavily rely on corruption to facilitate their activities. Waste traffickers use corruption to manipulate tender procedure and obtain municipal waste management contracts. In some cases, criminals trafficking endangered species use corruption to circumvent controls by customs and other officials at airports and other border-crossing points.

⁸ International criminal cartels are also involved in the trafficking of hazardous waste and chemicals, often mislabelling this type of waste in order to evade law enforcement agencies. In 2013, the UN Office on Drugs and Crime (UNODC) reported that the illegal trade in e-waste to Southeast Asia and the Pacific was estimated at \$3.75 billion annually.

⁹ <http://www.rona.unep.org/news/2016/environmental-crime-threatening-peace-and-security-finds-new-interpol-un-environment>

⁹ Report from the Commission based on Article 10 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (COM(2016)448 final of 7.7.2016).

¹⁰ https://www.unodc.org/documents/data-and-analysis/wildlife/World_Wildlife_Crime_Report_2016_final.pdf

2. Existing activities and policies

'Environmental crime' is defined in the EU mainly through the scope of the directive 2008/99/EC on the protection of environment through criminal law¹². The significance of environmental crime has been recognised at EU level by the adoption of this Directive¹³ which aims at approximating the minimum rules regarding definitions and sanctions of environmental crimes in Member States. Another legal instrument, directive 2009/123/EC on the ship source pollution, ensures that ship-source discharges of polluting substances are regarded as criminal offences under certain conditions.¹⁴

The EU has also adopted an Action Plan against wildlife trafficking¹⁵ in February 2016, which is currently being implemented.

There are a number of EU-level networks of police officers, prosecutors, environmental inspectors and judges specialised in combating environmental crime, for example EnviCrimeNet, European Network of Prosecutors for the Environment (ENPE), IMPEL and EU Forum of Judges for the Environment (EUFJE).

¹¹ <http://researchbriefings.files.parliament.uk/documents/POST-PN-0547/POST-PN-0547.pdf> - A recent report by the trade association Environmental Services Association suggested that for every £1 put into the enforcement of waste crime there is a £4.40 return, £3.20 of which would be a return to the public sector. Partly in response to this, the EA in England was allocated an additional £23 million in funding to tackle waste crime in the 2015 Spending Review. However, consumer awareness around waste crime is low; 47% of the public are unaware of their legal responsibility to check the waste carrier licences of anyone paid to dispose of their waste.

¹² While serious breaches of EU obligations are also defined in a number of other EU environmental acts.

¹³ Directive 2008/99/EC on the protection of the environment through criminal law, OJ L 328, 6.12.2008, p. 28.

¹⁴ Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements.

¹⁵ COM(2016) 87 final, 26.2.2016.

The importance of combating environmental crime has been recognised also at the political level through, inter alia, in the:

- Council Conclusions on countering environmental crime¹⁶
- Council Conclusions on the EU Action Plan against Wildlife Trafficking¹⁷ EnviCrimeNet, Intelligence Project on Environmental Crime. Report on Environmental Crime in Europe¹⁸
- Council Conclusions on the Prevention and Combating of the Illegal Trafficking of Waste, particularly in international trafficking¹⁹
- Waste trade working group recommendations (EnviCrimeNet 2016)
- Strategic Project on Environmental crime²⁰ (Eurojust 2014)
- Synthesis of the research project “European action to fight environmental crime”²¹ (EFFACE 2016)
- EU environmental enforcement network Conference conclusions – Utrecht 2016
- IMPEL strategic work programme 2016-2020²²

¹⁶ 15412/16

¹⁷ 10512/16

¹⁸ 5352/15

¹⁹ 5956/5/10 REV 5

²⁰ [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Strategic%20project%20on%20environmental%20crime%20\(October%202014\)/environmental-crime-report_2014-11-21-EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Strategic%20project%20on%20environmental%20crime%20(October%202014)/environmental-crime-report_2014-11-21-EN.pdf)

²¹ http://ecologic.eu/sites/files/publication/2016/efface_synthesis-report_final_online.pdf

²² <https://www.impel.eu/wp-content/uploads/2014/11/IMPEL-Strategic-Work-Programme-2016-to-2020-Final-29-April-2016.pdf>

3. Identification of existing and potential vulnerabilities

Identified during the workshop held on 10 and 11 July 2017 (brainstorming between participants and their inputs) based on the key areas to target identified in the EU SOCTA 2017 (6886/17 ADD 2 EU RESTRICTED)

1. Intelligence picture

DELETED

2. Operational activities

DELETED

DELETED

3. Prevention and capacity building

DELETED

4. Cooperation with non EU partners

DELETED

5. Document fraud

DELETED

6. Financial investigations

DELETED

7. On-line trade in illicit goods & services

DELETED

4. Strategic goals: their definition and measurement of achievement:

To be filled in following the MASP meeting (input drafted during the session based on the master draft of 26/06).

1. Intelligence Picture

Objective: Through the detection of intelligence gaps, to identify and to monitor trends and new developments in the field of environmental crime affecting the EU, to detect its links to serious and organised crime and to identify the links between the latter and other criminal areas, in order to deliver an updated intelligence picture

Type of actors involved:

- Law enforcement community constituting the law enforcement and judicial chain in environmental cases (e.g. police, border and coast guards, customs, judiciary and administrative authorities)
- Other public authorities (e.g. local authorities)
- EU JHA Agencies and other EU bodies / actors
- International organisations (e.g. Interpol, WCO, UNEP, CITES Secretariat, (Basel Convention Secretariat)
- Academia
- Private sector (e.g. industry, parcel services)
- Civil society, NGOs

Type of actions:

- Develop common strategies at the national and EU level
- Identify, map and make coherent use of the relevant information/data in order to fill the existing gaps
- Improve data accessibility for the relevant authorities
- Develop analytical products, e.g. threat and risk assessments, early warnings, scenarios, future trends, lists of High Value Targets
- Focus on organised crime links as well as interconnection with other criminal markets
- Define reporting strategy and disseminate reports to identified actors

Benefit:

- Fill intelligence gaps
- Identification of key and emerging threats, high-value targets, new patterns and modus operandi and links with other forms of serious and organised crime
- Most accurate and up-to-date information facilitating intelligence-led enforcement activities, inspections and investigations
- Support decision-making and priority setting
- Support policy and legislative initiatives

KPIs:

- Number of strategies developed
- Number of stakeholders providing the data
- Quantity, quality and relevance of collected information/data
- Availability and quality of data on initiated proceedings, seizures, arrests, convictions etc.
- Number and quality of (joint) intelligence reports produced per year
- Satisfaction of stakeholders with intelligence reports (quality, frequency, relevance, operational results)

2. Operational activities

Objective: Prepare and conduct coordinated controls, investigations and prosecutions to detect and disrupt organised crime groups active in the area of environmental crime affecting the EU.

Type of actors involved:

- Law enforcement community constituting the law enforcement and judicial chain (e.g. police, border and coast guards, customs, judiciary and administrative authorities)
 - Public authorities (e.g. local authorities)
 - EU JHA Agencies and other EU bodies
- International organisations (e.g. Interpol, WCO, CITES Secretariat)

Type of actions:

DELETED

Benefit:

- Prevention of harm and damage to human health, environment and licit economy
- Disruption of OCGs and identification of perpetrators
- Enhanced awareness about the phenomenon and the way of addressing it, especially in relation to specific tactics, initiatives and practices
- Enhanced coordination on national level between various authorities
- Enhanced cross-border cooperation in the EU
- Enhanced mutual trust between various authorities
- Better understanding of the criminal business model
- Establishment of coordinated operational response

KPIs:**DELETED**

3. Prevention and Capacity building

Objective: Increase prevention against threats relating to environmental crime, including awareness-raising amongst relevant public and private actors, and building the law enforcement capacity to tackle environmental crime by improving knowledge, skills and expertise based on training and sharing of good practices.

Type of actors involved:

- Law enforcement community constituting the law enforcement and judicial chain (e.g. police, border and coast guards, customs, judiciary and administrative authorities)
- Public authorities (e.g. local authorities)
- EU JHA Agencies and other EU bodies
- International organisations (e.g. Interpol, WCO, UNEP, CITES Secretariat, Basel Convention Secretariat)
- Private sector (e.g. industry, parcel services)
- Civil society, NGOs
- Academia

Type of actions:

- Prevent crime activities
- Monitor usefulness of existing legislation
- Identify and develop relevant policy measures and preventive tools
- Raise awareness on initiatives for the relevant actors and the public
- Train of relevant authorities (e.g. through CEPOL, EJTN)
- Identify and sharing of good practices from operational activities and prosecutions
- Ensure existence of platforms for sharing good practices
- Promote the creation of national contact points
- Promote the creation of NEST (National Environmental Security Task Force)-like structures
- Promote of specialisation of the relevant authorities
- Elaborate of specialised material for training purposes

- Support and recourse to existing networks, e.g. EnviCrime Net, IMPEL, ENPE, EUFJE as well as initiatives such as TECUM
- Roll-out of relevant information exchange / awareness systems and platforms e.g. SIENA, EPE, Eurosur

Benefit:

- Increased awareness on the phenomenon of relevant actors
- Reducing harm to human health and environmental damages
- Facilitation of cooperation through ensuring clarity on contact authorities in the Member States
- Enhanced networking facilitating cooperation between various partners
- Improved knowledge of existing awareness tools, skills and expertise
- Implementation of good practices

KPIs:

- Number of prevention actions initiated per year
- Number of persons trained
- Number of contact points created
- Identification of training material
- Number of awareness raising initiatives undertaken
- Number of guidelines and manuals issued
- Number of good practices exchanged
- Number of actors having direct access to SIENA
- Number of networks supported
- Number of existing platforms
- Number of trained persons per year
- Quality of the trainings (based on feedback of the trained actors)

4. Cooperation with non EU partners

Objective: Enhance cooperation with relevant non EU partners such as international organisations, regional fora, non EU source, transit and destination countries in the field of environmental crime.

Type of actors involved:

- Non EU Law enforcement community and judiciary
- Private sector
- EU institutions, JHA Agencies and other EU bodies /actors (e.g. EU Delegations etc.)
- International organisations (e.g. Interpol)
- Regional fora (e.g. Euromed Police, Baltic Sea Task Force)

Type of actions:

- Develop coordinated and joint operational activities with non-EU partners focusing on imports, transit or export routes
- Cooperate and coordinate activities of judicial authorities with non-EU partners (e.g. liaison magistrates, MLA treaties and JITs)
- Promote initiatives involving the intelligence-led and multidisciplinary approach
- Promote initiatives consisting in information collection and exchange with third partners
- Promote multilateral activities with non EU partners (e.g. training)
- Cooperate through activities in the area of EU external relations and development
- Cooperate with the EU Delegations

Benefit:

- Increased interaction with import, transit and export non EU partners
- Prevention of harm affecting the EU
- Decrease of illicit trafficking into and from the EU
- Displacement of criminal routes
- Disruption of OCGs
- Better insight into criminal market
- Enhance multinational law enforcement cooperation
- Enhance multilateral judicial cooperation and coordination
- Increase the profile and capabilities of EU law enforcement organisations and judiciary towards non EU partners

KPIs:

- Number of information provided and exchanged with non EU partners
- Number of contact points with relevant non EU partners established
- Number of joint operational activities
- Number of cooperation and coordination activities initiated at judicial level
- Number of actors involved in operational activities
- Number of non EU actors involved in judicial activities
- Number of common initiatives launched

5. Document Fraud

Objective: Target organised crime groups involved in environmental crime activities using document fraud and false declarations by involving specialised experts, investigators and prosecutors, where relevant, as part of investigations in the area of environmental crime.

- Type of actors involved:
- Law enforcement community constituting the law enforcement and judicial chain (e.g. police, border and coast guards, customs, judiciary and administrative authorities as well as document fraud experts)
- Public authorities (e.g. local authorities)
- EU JHA Agencies
- Liaison officers and magistrates
- Participants of the Horizontal expert group on document fraud
- Fora and initiatives specialised in document fraud
- Private and public sector

Type of actions:

DELETED

Benefit:

- Awareness raising and better insight into this specific criminal market
- Decreased use of document fraud related cases and false declarations
- Identification and monitoring of the criminal trends in terms of document fraud related cases
- Increase detection rate of criminal activities

KPIs:**DELETED**

6. Financial Investigations

Objective: Combat environmental crime by involving specialised financial investigators and prosecutors with the view to identify and disrupt financial flows, tackle money laundering and facilitate asset recovery.

- Type of actors involved:
- Law enforcement community constituting the law enforcement and judicial chain (e.g. police, border and coast guards, customs, judiciary and administrative authorities)
- Public authorities (e.g. local authorities)
- EU JHA Agencies and other EU bodies
- International organisations (e.g. Interpol)
- Participants of the OAP group on criminal finance
- FIUs, AROs, CARIN
- Tax authorities
- Private sector (e.g. banks, insurances, payment companies, etc.)

Type of actions:

DELETED

- Benefit:
- Disruption of OCGs by reducing the financial benefit derived from criminal activities
- Increase confiscation and recovery of assets
- Identification of links between the legal and illegal businesses
- Protection of licit economy i.a. by preventing infiltration of organised crime into legal market
- Increased awareness and response in relation to the economic damage caused by the environmental crime
- Better understanding of the criminal phenomenon, business models and the economic costs of environmental crime
- Facilitating the money laundering investigations
- Identification of patterns of criminal flows, including links between environmental crime and other criminal markets

- KPIs:

DELETED

7. On-line trade in (il)licit goods & services

Objective: Target the perpetrators, including organised criminal groups, involved in the online trade in licit and illicit goods and services in the area of environmental crime.

Type of actors involved:

- Law enforcement community constituting the law enforcement and judicial chain (e.g. police, border and coast guards, customs, judiciary and administrative authorities)
- Public authorities (e.g. local authorities)
- EU JHA Agencies and other EU bodies
- Private sector (e.g. parcel and transport, payment companies, IT companies)

Type of actions:

DELETED

Benefit:

- Early identification of perpetrators, including OCGs, acting online
- Awareness raising regarding the online dimension
- Better understanding of the criminal market
- Identification of the business model, especially in relation to both buyers and sellers
- Monitoring new trends and patterns
- Disruption of the criminal business model

KPIs:**DELETED**