

**Draft**

**Convention against Environmental Crime**

**(*Ecocrimes* Convention)**

## **Preamble**

The States Parties,

*Recognizing* that preservation of the natural environment is crucial to the future of mankind,

*Concerned* about the rise in environmental crimes and their effects, which are increasingly extending beyond the borders of the States in which those crimes are being committed,

*Concerned* about the strong and increasing links between environmental crime and other forms of international crimes, such as transnational organized crime, illicit trafficking, money-laundering or even corruption and in full compliance with texts already adopted by the United Nations,

*Recognizing* that environmental crime has an impact not only on the environment but also on national peace, security and economies as well as negative health and social implications which are liable to compromise sustainable development,

*Determined* to combat such crimes in an efficient and responsive manner, which requires a comprehensive and multidisciplinary approach in order to preserve the environment and human health,

*Recognizing* that differences in national laws and capabilities create the conditions that give rise to environmental crime and thus make it necessary to increase international cooperation, taking into account the common but differentiated responsibilities of States,

*Noting* that a number of international and regional instruments addresses the issue of the protection of the environment without establishing systems of appropriate sanctions in order to ensure full compliance with the laws for the protection of the environment,

*Recognizing* that such compliance can and should be strengthened by the availability of criminal sanctions, which demonstrate a social disapproval of a qualitatively different nature compared to administrative penalties or a compensation mechanism under civil law,

*Noting* also the existence of a number of international conventions regulating cooperation on criminal procedures, but that none of them deals specifically with the protection of the environment and determined to strengthen the use of criminal law in its different dimensions, both preventive and punitive, without prejudice to all other means available, namely, civil and administrative remedies, in order to ensure, particularly the restoration of damage to the environment and compensation for the victims,

*Noting* the initiatives in this regard of a number of international organizations and, in particular, those of the United Nations Environment Programme, the United Nations Office on Drugs and Crime and Interpol,

*Affirming* that States are responsible for the fulfillment of their international obligations concerning protection and preservation of the environment, and are liable in accordance with international law,

*Convinced* that effective measures, especially of a penal nature, should be taken immediately to promote cooperation in order to prevent and combat environmental crimes more effectively;

*Have agreed as follows:*

## ***Chapter 1 General provisions***

### **Article 1 - Use of terms**

For the purposes of this Convention: p

1. "Illegal" means:
  - a) Any behavior contrary to the law of the State in whose territory the illegal act is committed, characterized by the infringement of a law, an administrative regulation, or a decision taken by a competent authority concerning the protection of the environment;
  - b) Any other behavior is also deemed illegal:
    - i) Where the acts have been committed by a foreign physical or legal person in a State whose environmental laws establish a level of protection clearly lower than that established in the State of nationality of the physical person or the State where the legal persona has its registered office or even the State from which the wastes have come;
    - ii) Where the acts have been committed under the guise of an authorization or a permit having been obtained or being held by means of corruption, abuse of a public official position or threats within the meaning of United Nations Convention against Corruption.
2. "Ecosystems" mean the dynamic complexes of plant, animal and micro-organism communities and their non-living environments interacting as functional units.
3. "Legal person" means any entity having legal personality according to the applicable law, except for States or public entities exercising State authority and public international organizations.

4. "Foreign legal persons" mean:

- a) A legal person whose registered offices is situated in a State other than the one in which such legal person or one of its subsidiaries commits the prohibited behavior, or
- b) A legal person whose registered office is situated in the State where the prohibited behavior is committed but that undertakes its activities in the course of which that behavior is carried out through a foreign legal person or one of its subsidiaries.

For the purposes of determining the nationality of a legal person, a State shall be able to take into account the criterion based upon the registered office as well as the place where the legal person performs its main activities or it has its main administrative center.

## **Article 2 - Scope of application**

1. This Convention shall apply to the prevention and punishment of crimes established in articles 3 and 4, as well as the compensation of their consequences.
2. The present Convention is without prejudice to the norms applicable to the crime of ecocide and violations to the administrative regulation dealing with the protection of the environment.

## ***Chapter 2 Repressive measures***

### **Article 3 – Crimes against the Environment**

1. Each State Party shall adopt such legislative and other measures as may be necessary to ensure that the endangerment of the environment, resulting from the following illegal acts committed intentionally or with at least serious negligence constitute a crime:

(a) the discharge, emission or introduction of a quantity of substances or ionizing radiation into air or the atmosphere, soil, water or the aquatic environments;

(b) the collection, transport, recovery or disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including action taken as a dealer or a broker in the framework of any activity related to the waste management;

(c) the operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used;

(d) the production, processing, handling, use, holding, storage, transport, import, export or disposal of nuclear materials or other hazardous radioactive substances;

(e) the production, import, export, placing on the market or use of ozone-depleting substances;

(f) the killing, destruction, possession or taking of specimens of protected wild fauna or flora species, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species;

(g) trading in specimens of protected wild fauna or flora species or parts or derivatives thereof, except for cases where the acts concern a negligible quantity of such specimens and have a negligible impact on the conservation status of the species;

(h) any other act of a similar nature liable to put the environment at risk.

2. Where the acts listed in the previous paragraph create a risk of causing substantial damage to ecosystems by affecting their composition, structure and functioning, they are deemed to endanger the environment:

3. The act of causing a substantial damage to ecosystems by affecting their composition, structure and functioning constitutes an aggravating factor.

#### **Article 4 – Crimes against Persons**

1. Each State Party shall adopt such legislative and other measures as may be necessary to ensure that the endangerment of the life of persons, resulting from the following acts committed intentionally or with at least serious negligence constitute a crime :

(a) the discharge, emission or introduction of a quantity of substances or ionizing radiation into air or the atmosphere, soil, water or the aquatic environments;

(b) the collection, transport, recovery or disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including action taken as a dealer or a broker in the framework of any activity related to the waste management;

(c) the operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used;

(d) the production, processing, handling, use, holding, storage, transport, import, export or disposal of nuclear materials or other hazardous radioactive substances;

(e) any other act of a similar nature liable to cause the death or serious injuries to individuals.

2. Where the acts listed in the previous paragraph create a risk of causing the death or serious injuries to persons, they are deemed to endanger the life of persons:

3. The act of causing death or serious injury to any person as a result of the acts listed in paragraph 1 constitutes an aggravating factor.

### **Article 5 – Participation in Crimes**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a crime, consistent with its legal principles, participation in any capacity such as an accomplice, assistant or instigator in a crime established in accordance with this Convention.

2. Each State Party shall adopt such measures as may be necessary to establish as a crime, consistent with its legal principles, participation in organized criminal group within the meaning of art. 5 of the United Nations Convention against Transnational Organized Crime: Where one or more of the crimes referred to in this Convention are committed by a structured group, within the meaning of art. 2 of the United Nations Convention against Transnational Organized Crime, and such crimes are recurrent and related, directly or indirectly, to the obtaining of a financial or other material benefit, they will be regarded as equivalent to a "serious crime" within the meaning of the aforementioned Convention regardless of the sanction established for the crime.

### **Article 6 – Liability of legal persons**

1. Each State Party shall adopt such measure as may be necessary, consistent with its legal principles, to ensure that legal persons can be held criminally liable for the crimes established in accordance with this Convention, where those crimes have been committed for their benefit, by any person who has a leading position with the legal person concerned, acting either individually or as part of the organ of the legal person, based upon:

- a) a power of representation of the legal person;
- b) an authority to take decisions on behalf of the legal person; or
- c) an authority to exercise control within the legal person.

2. Each State Party shall adopt such measure as may be necessary, consistent with its legal principles, to ensure that legal persons can be held criminally liable where their lack of supervision or control has made possible the commission for their benefit of a crime established by this Convention.

3. Subject to the legal principles of the State Party, the liability of legal persons may be of a criminal, civil or administrative nature.

4. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal prosecution

against natural persons who have participated in the commission of a crime within the meaning of art. 5, and the crimes referred to in arts. 3 and 4.

### **Article 7 – Sanctions against natural persons**

1. States Parties shall adopt such measures as may be necessary to impose effective, proportionate and dissuasive sanctions on natural persons convicted for the crimes established in accordance with this Convention and ensure restoration of damage to the environment and compensation for victims.

2. States Parties shall make the crimes established in accordance with this Convention punishable, taking into account their extreme seriousness. For the purposes of sentencing and determining the gravity of the sanction, State Parties shall take into account the following criteria:

- a) The economic benefit obtained from the crime, including the savings resulting from failure to adopt environmental protection measures;
- b) The level of responsibility of the perpetrator of the crime, the fact that he/she has committed the crime in course of the activities carried out by a legal person or his/her status of public official;
- c) The prompt restoration of damage and compensation of victims;
- d) The organized nature of the crime.

3. The restoration of damage may take the form of:

- a) Measures of reinstatement;
- b) Damages;
- c) Compliance programmes;
- d) Provisioning the Environment Fund;
- e) Local development measures;
- f) And, depending on the circumstances, symbolic restoration measures adapted to the cultural dimension of the damage caused to the environment, which may take the form of making an apology to the harmed communities.

### **Article 8 – Sanctions against legal persons**

1. States Parties shall take such measures as may be necessary to impose effective, proportionate and dissuasive sanctions on the legal persons convicted for the crimes established in accordance with this Convention and ensure restoration of damage to the environment and compensation for victims.

2. States Parties shall adopt such measures as may be necessary to impose effective, proportionate and dissuasive penalties on the legal persons convicted for any of the crimes established in accordance with this Convention. In particular, States Parties shall consider establishing the following sanctions:

- a) Monetary fines;
- b) Orders of prohibitions, especially:
  - The dissolution of the legal person;
  - The temporary or permanent closure of the premises or establishments of the legal person;
  - The temporary or permanent suspension of all or part of the activities carried out by the legal person in the course of which the crime has been committed, incited or covered up;
  - The withdrawal of licenses; authorizations or concessions;
  - The prohibition against receiving public subsidies and financing and entering into contracts with public administrations.
- c) Publication of the conviction. Where there are a number of unidentified victims, such publication shall ensure that victims become aware of their right to claim compensation;
- d) Appointment of a judicial officer to ensure that the legal person concerned takes the organizational measures aimed at preventing additional crimes against the environment or that it diligently implements the restoration or compensation measures.

3. Restoration of damage may take the form of:

- a) Measures of reinstatement;
- b) Damages;
- c) Compliance programmes;
- d) Provisioning the Environment Fund;
- e) Local development measures;
- f) And, depending on the circumstances, symbolic restoration measures adapted to the cultural dimension of the damage caused to the environment which may take the form of making an apology to the harmed communities.

4. States Parties shall adopt such measures as may be necessary to prevent sanctions or the harmful consequences that arise therefrom from being insured.

#### **Article 9 – Criteria for the determination of sanctions on legal persons**

1. For the purposes of sentencing, priority consideration should be given to the restoration of the damage and the compensation of victims.

2. Where the fine would put at risk the solvency of the legal person, jeopardize the job security or the restoration of the damage caused, State Parties may adopt measures to allow payments to be made in installments. In these cases, and in accordance with their internal law,



State Parties can also give priority to restoration of damage caused by the legal person that committed the crime.

3. State Parties shall take into account the following criteria for sentencing and determining the gravity of the sanction:

- a) The economic benefit obtained from the crime, including the savings resulting from failure to adopt environmental protection measures;
- b) The lack of or the inadequate monitoring internal measures that could have prevented the commission of the crime.
- c) The repeated crimes against the environment committed within the premises of or by the legal person. To this end, sanctions imposed on legal persons by other authorities shall be taken into account;
- d) The organized nature of the crime;
- e) The cooperation by the legal person in the criminal proceedings, especially in the establishment of criminal liability;
- f) The prompt restoration of damage and the assistance provided to victims;
- g) The expeditious adoption of monitoring internal measures aimed at preventing similar crimes.

4. The dissolution of the legal person and the permanent closure of its premises or the cessation of its operations shall only be ordered where the legal person will be considered as belonging to an organized criminal group within the meaning of the United Nations Convention against Transnational Organized Crime.

#### **Article 10 – Suspension of enforcement of sanctions, evidence and procedural agreements**

1. States Parties may consider, in accordance with the fundamental principles of their domestic law, the feasibility of neither imposing any sanctions, nor enforce them nor prosecute the legal person concerned, where the latter has taken voluntarily, in a manner as required and without delay, its internal organizational measures, namely:

- a) It has notified the competent authorities of the commission of one of the crimes defined in this Convention, that has been perpetrated by one of its employees or leaders;
- b) It has restored or endeavored to restore the damage caused by it, especially, the harm caused to the victims;

2. In those cases, the decision not to impose any sanctions, nor enforce them or nor prosecute the legal person concerned can be subject to the fulfilment of certain conditions, namely:

- a) The appointment of a public supervisor responsible for monitoring the appropriate preventive measures adopted by the entity as well as the restoration of the damage caused or investigating the underlying causes that led to the commission of the crime against the environment;

- b) Payment of an amount providing an offset to the benefit obtained by the legal person as a result of the commission of the crime or the failure to respect the environmental legislation.

### **Article 11 Confiscation and seizure**

1. States Parties shall adopt, to the greatest extent possible within their domestic legal systems, such measures as may be necessary to enable confiscation of:

- (a) Proceeds of crime derived from crimes covered by this Convention or property the value of which corresponds to that of such proceeds;
- (b) Property, equipment or other instrumentalities used in or destined for use in crimes covered by this Convention.

2. States Parties shall consider the possibility of seizing the proceeds of crime derived from crimes covered by this Convention. The proceeds of the crime also include the savings that may result from the lack of the adoption of measures aimed at protecting the environment.

3. States Parties shall adopt such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

4. If proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

5. If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

6. Income or other benefits derived from proceeds of crime, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled may also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

7. For the purposes of this article and article 17 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. States Parties shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

8. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.

9. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of

the domestic law of a State Party.

## **Article 12 – Jurisdiction**

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the crimes established in accordance with this Convention where:

- a) The acts have been committed in the territory under the jurisdiction of the State concerned; or
- b) The result of the crime takes place in any territory under the jurisdiction of the State concerned; or
- c) The crime is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the crime is committed.
- d) The crime is committed by nationals of that State; or
- e) The crime is committed by a legal person that has its registered office or performs its main activities or has its main administrative center in the territory of the aforementioned State; or
- f) The crime is committed against nationals of that State Party and that that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction in cases where the alleged perpetrator of a crime established in this Convention is present in its territory and it does not extradite that person, pursuant to art. 15, to any of the States Parties which have established their jurisdiction in accordance with paragraph 1.

3. When more than one State Party claims jurisdiction over the crimes established in this Convention, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

4. Without prejudice to norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

## **Article 13 Investigation and prosecution**

1. Upon being satisfied that the circumstances so warrant, after having examined all information available to it, the State Party in whose territory a person suspected of committing a crime referred to in arts. 3 and 4 is present shall take the appropriate measures so as to ensure his/her custody or take any other legal measures as required to ensure that person's presence in its territory. The custody and other measures shall be as provided in the law of

that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. The State concerned shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he/she is a national, or if that person is a stateless person, the representative of the State in the territory of which that person habitually resides.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in paragraph 1 of art. 12 of the fact that that person is in custody and the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 2 of the present article shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

#### **Article 14 Participation of civil society**

Each State Party shall take any measures as may be necessary to foster, in accordance with its internal law, access to information for civil society and grant any group, foundation or association which, according to their statutes, aims at the protection of the environment, the right to participate in the criminal proceedings concerning the crimes referred to in this Convention.

#### **Article 15 – Extradite or prosecute**

1. The State Party in the territory under whose jurisdiction a person alleged to have committed a crime referred to in arts. 3 and 4 is found shall, if it does not extradite that person, submit the case to its competent authorities for the purpose of prosecution.

2. Those authorities shall take their decision in the same manner as in the case of any other crime of a serious nature under the law of that State.

3. Any person regarding whom proceedings are being carried out in connection with the crimes referred to in arts. 3 and 4 shall be guaranteed fair treatment at all stages of the proceedings.

#### **Article 16 Extradition**

1. The crimes set forth in arts. 3 and 4 shall be deemed to be included as extraditable crimes in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. The States Parties undertake to include such crimes as extraditable crimes in every extradition treaty to be concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the crimes referred to in art. 3 and 4. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the crimes referred to in arts. 3 and 4 as extraditable crimes between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the crimes referred to in arts. 3 and 4 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 12.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to the crimes established in arts. 3 and 4 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

6. The crimes referred to in arts. 3 and 4 shall not be regarded, for the purposes of extradition or mutual legal assistance between State Parties, as political crimes or as crimes connected with a political crime or as crimes inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such a crime may not be refused on the sole ground that it concerns a political crime or a crime connected with a political crime or a crime inspired by political motives.

### **Article 17 Mutual legal assistance**

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the crimes covered by this Convention.

2. Mutual legal assistance shall be based on the principle of mutual recognition of judgments and judicial decisions of the State Parties.

3. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the crimes for which a legal person may be held liable in accordance with article 6 of this Convention in the requesting State Party.

4. Mutual assistance shall also be afforded in proceedings brought by the administrative authorities in respect of acts which are punishable under the national law of the requesting or the requested Party, or both of them, by virtue of being violations of the rules of law, where

the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.

5. States Parties may decline to render mutual legal assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute a crime under the national law of the requested State Party.

6. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Central authorities shall ensure the speedy and proper execution or transmission of the requests received.

7. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

8. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

9. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, public policy or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar crime, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

10. Reasons shall be given for any refusal of mutual legal assistance. Before refusing a request of mutual legal assistance or postponing its execution pursuant to paragraph 11 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

11. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the

requesting State Party and for which reasons are given, preferably in the request. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an on-going investigation, prosecution or judicial proceeding.

### ***Chapter 3 Preventive measures***

#### **Article 18 – Cooperation on prevention**

1. States Parties shall cooperate in the prevention of the crimes established in this Convention by taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission of those crimes within or outside their territories.
2. States Parties shall further cooperate in the prevention of the crimes established by this Convention by exchanging accurate and verified information in accordance with their national legislation, and coordinating administrative and other measures taken.
3. States Parties may exchange information through the regional and international organizations involved in the fight against organized environmental crimes, particularly, Interpol, Europol or the United Nations Office on Drugs and Crime (UNODC).
4. States Parties provide or strengthen adequate training for the relevant professionals dealing with those identified as perpetrators or potential perpetrators and the victims of the crimes established in this Convention.
5. States Parties shall endeavor to promote public awareness regarding the existence, causes and gravity of and the threat posed by environmental crimes. Information may be disseminated where appropriate through the mass media and shall include measures to promote public participation in preventing and combating such crimes.
6. Each State Party shall inform the Secretary of this Convention the name and address of the authority or authorities that can assist other States Parties in developing measures to prevent the crimes established by this Convention.
7. States Parties shall, as appropriate, collaborate with each other and relevant international and regional organizations in promoting and developing the measures referred to in this chapter.

## ***Chapter 4 Implementation of the Convention***

### **Article 19 Protection of sovereignty**

States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

2. Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other State Party by its national law.

### **Article 20 Implementation of the Convention**

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with the fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.

2. Each State Party may adopt more strict or severe measures than those provided for in this Convention for the prevention and combat of the most serious crimes against the environment.

3. The provisions of this Convention shall be applied and construed in accordance with the rules of general international law and the international environmental law principles, particularly the principle of common but differentiated responsibilities.

### **Article 21 – Review of compliance with provisions**

1. The Assembly of State Parties shall adopt by consensus arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention.

2. These arrangements shall allow for appropriate public involvement and provide for the possibility of considering communications from members of the public concerning issues related to the this Convention.

3. The procedure adopted by consensus for reviewing compliance with the provisions of this Convention shall apply without prejudice to the procedure for the settlement of disputes provided for in art. 22. To the fullest extent possible, States Parties shall apply the procedures for reviewing compliance with the provisions of this Convention prior to resorting to the settlement of disputes procedures.



## **Article 22 – Settlement of disputes**

1. If a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States concerned shall endeavor to settle the dispute through negotiation or by any other means of dispute settlement acceptable to the parties to the dispute. Moreover, States Parties shall seek the best solution for the state of the environment and the respect for their norms by first applying, within the limits of what is appropriate, the procedure for reviewing compliance with the provisions of the Convention as set forth in art. 21.

2. Upon signature, ratification, acceptance or approval of this Convention or accession thereto, or at any time thereafter, a State may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 above, it accepts one or both of the following means of dispute settlement as compulsory in relation to any State Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice;

(b) Submission of the dispute to arbitration.

3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 above, the dispute shall not be submitted to the International Court of Justice, unless the parties have agreed otherwise.

## **Article 23 – Confiscation measures**

1. If a dispute or a situation has been duly submitted to a court, tribunal or the body in charge of reviewing compliance with the provisions of this Convention, and if the aforementioned court, tribunal or body considers that *prima facie*, has jurisdiction under the provisions of this Convention, it may prescribe any provisional measures which it considers appropriate under the circumstances to prevent serious damage to the environment or preserve the respective rights of the parties to the dispute pending the final decision.

2. Provisional measures may be modified or revoked as soon as the circumstances justifying them have changed or ceased to exist.

3. Provisional measures may be prescribed, modified or revoked under this article only at the request of a party to the dispute or any member of the public concerned and entitled to submit communications. Provisional measures may be prescribed, modified or revoked under this article only after the parties have been given an opportunity to be heard.

4. The court, tribunal or the body in charge of reviewing compliance with the provisions of this Convention shall, without delay, notify the parties to the dispute and, as appropriate, any

other parties considered to have an interest in the dispute, of any provisional measure adopted or any other decision modifying or revoking such measure.

5. Pending the constitution of an arbitral tribunal to which a dispute is being submitted under art. 22 , any court or tribunal agreed upon by the parties or, failing such agreement within two weeks from the date of the request for provisional measures, the International Court of Justice may prescribe, modify and revoke provisional measures pursuant to this provision, if the Court considers that *prima facie* the tribunal that is to be constituted would have jurisdiction and that the urgency of the situation so requires. Once constituted, the tribunal to which the dispute has been submitted may modify, revoke or affirm those provisional measures, acting in conformity with paragraphs 1 to 4.

6. The parties to the dispute shall comply promptly with any provisional measures prescribed under this article.

### ***Chapter 5 Final Clauses***

*Due to the lack of specificity inherent to the legal field concerning environmental crimes, final clauses shall not be developed here.*

**Draft**

## **Convention against Ecocide**

**(*Ecocide* Convention)**

## Preamble

The States Parties to this Convention,

*Recognizing* that all peoples are united by a shared destiny and that their environment constitutes a common good for present and future generations, whose protection is crucial to the survival of mankind,

*Recognizing* that the future of mankind and the sustainability of the planet is the responsibility of the international community in its entirety,

*Concerned* about the rise in intentional offences against the environment and the serious and lasting consequences, which are sometimes irreparable for the ecological balances and human populations,

*Recognizing* that differences in national laws and capabilities create the conditions that give rise to environmental crime worldwide,

*Noting* that a number of international and regional instruments addresses the issue of the protection of the environment without establishing systems of appropriate sanctions for the preservation of the safety of the planet,

*Concerned* about the strong and increasing links between environmental crime and other forms of international crimes, such as transnational organized crime, illicit trafficking, money-laundering or even corruption and in full compliance with texts already adopted by the United Nations,

*Recognizing* that the most serious crimes against the environment threaten international peace and security and the safety of the planet,

*Determined* to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention and reparation of the consequences of such crimes,

*Determined* to consider the establishment of an international criminal jurisdiction complementary to the national criminal jurisdictions to try the crime of ecocide,

*Recalling* that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes,

*Determined* to these ends to strengthen the conditions for judicial cooperation in criminal matters amongst States and to ensure that the most serious international crimes against the environment, which characterize the crime of ecocide, are subject to appropriate criminal sanctions,

Have agreed as follows:

## ***Chapter 1 General provisions***

### **Article 1 - Scope of application**

1. The provisions of this Convention shall apply to the most serious crimes against the environment that, both in times of peace and in times of armed conflict, have an impact on the safety of the planet.
2. The present Convention is without prejudice to the relevant rules of international humanitarian law prohibiting environmental damage in time of armed conflict.

## ***Chapter 2 Repressive measures***

### **Article 2 – Definition of Ecocide**

1. For the purpose of this Convention, ecocide means the intentional acts committed in the context of a widespread and systematic action that have an adverse impact on the safety of the planet, such acts being defined as follows:
  - a) the discharge, emission or introduction of a quantity of substances or ionizing radiation into air or atmosphere, soil, water or the aquatic environments;
  - b) the collection, transport, recovery or disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including action taken as a dealer or a broker in the framework of any activity related to the waste management;
  - c) the operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used;
  - d) the production, processing, handling, use, holding, storage, transport, import, export or disposal of nuclear materials or other hazardous radioactive substances;
  - e) the killing, destruction, possession or taking of specimens of wild fauna or flora species whether protected or not;
  - f) other acts of a similar character committed intentionally that adversely affect the safety of the planet.

2. The acts referred to in paragraph 1 adversely affecting the safety of the planet when they cause:

- a) a widespread, constant and serious degradation of the quality of air or the atmosphere, the quality of soil or the quality of water, the fauna and flora or their ecological functions; or
- b) death, permanent disabilities or other incurable serious illnesses to a population or they strip permanently the latter of their lands, territories or resources;

3. The acts referred to in paragraph 1 must have been committed intentionally and with the knowledge of the widespread and systematic nature of the actions in whose framework the aforementioned acts are being carried out. These acts shall also be deemed intentional where their perpetrator either knew or should have known that there existed a high probability that such acts may adversely affect the safety of the planet.

### **Article 3 – Participation in the crime of ecocide**

Each State Party shall take the appropriate legislative and other measures for ensuring that any person can be held liable for the crime of ecocide, provided that he/she intentionally:

(a) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;

(b) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;

(c) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission, particularly through the creation of false documents or the forgery of documents;

(d) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime of ecocide; or

(ii) Be made in full knowledge of the intention of the group to commit the crime;

(e) Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions.

#### **Article 4 – Non-applicability of statute of limitations**

Statute of limitations does not apply to the crime of ecocide.

#### **Article 5 –Criminal liability of legal persons**

1. Each State Party shall adopt such measure as may be necessary, consistent with its legal principles, to ensure that a legal person can be held criminally liable for the crime of ecocide, where such a crime has been committed for its benefit, by any person who has a leading position with the legal person concerned, acting either individually or as part of the organ of the legal person, based upon:

- a) a power of representation of the legal person;
- b) an authority to take decisions on behalf of the legal person; or
- c) an authority to exercise control within the legal person.

2. Each State Party shall adopt such measure as may be necessary, consistent with its legal principles, to ensure that a legal person can be held criminally liable where its lack of supervision or control has made possible the commission of a crime of ecocide for its benefit.

3. The liability of a legal person under paragraphs 1 and 2 shall not exclude criminal prosecution against natural persons who have participated in the commission of a crime of ecocide referred to in article 3.

4. "Legal person" means any entity having legal personality according to the applicable law, except for States or public entities exercising State authority and public international organizations.

#### **Article 6 – Sanctions against natural persons**

1. States Parties shall adopt such measures as may be necessary to impose effective, proportionate and dissuasive sanctions on the natural persons convicted for the crime of ecocide and ensure restoration of damage to the environment and compensation for victims.

2. States Parties shall make the crime of ecocide punishable by appropriate sanctions which shall take into account the extreme seriousness of the crime. Such sanctions may include imprisonment, the imposition of a monetary fine, a forfeiture of proceeds, property and assets derived directly or indirectly from that crime, without prejudice to the rights of bona fide third parties.

3. For the purposes of sentencing and determining the gravity of the sanction, State Parties shall take into account the following criteria:

- a) The economic benefit from the crime, including the savings resulting from failure to adopt environmental protection measures;
- b) The level of responsibility of the perpetrator of the crime, the fact that he/she has committed the crime in course of the activities carried out by a legal person or his/her status of public official;
- c) The prompt restoration of damage and compensation of victims;
- d) The organized nature of the crime.

4. The restoration of damage may take the form of:

- a) Measures of reinstatement,
- b) Damages,
- c) Compliance programmes,
- d) Provisioning the Environment Fund,
- e) Local development measures
- f) And, depending on the circumstances, symbolic restoration measures adapted to the cultural dimension of the damage caused to the environment which may take the form of making an apology to the harmed communities.

### **Article 7 – Sanctions against legal persons**

1. States Parties shall adopt such measures as may be necessary to impose effective, proportionate and dissuasive sanctions on the legal persons convicted for the crime of ecocide and ensure restoration of damage to the environment and compensation for victims.

2. States Parties shall adopt such measures as may be necessary to impose effective, proportionate and dissuasive sanctions on the legal persons convicted for the crime of ecocide. In particular, States Parties shall consider establishing the following sanctions:

- a) Monetary fines;
- b) Orders of prohibitions, especially:
  - a. The dissolution of the legal person;
  - b. The temporary or permanent closure of the premises or establishments of the legal person;
  - c. The temporary or permanent suspension of all or part of the activities carried out by the legal person in the course of which the crime has been committed, incited or covered up;
  - d. The withdrawal of licenses; authorizations or concessions;
  - e. The prohibition against receiving public subsidies and financing and entering into contracts with public administrations.
- c) Publication of the conviction. Where there are a number of unidentified victims, such publication shall ensure that the victims become aware of their right to claim compensation;



- d) Appointment of a judicial officer to ensure that the legal person concerned takes the organizational measures aimed at preventing additional crimes against the environment or diligently implementing restoration or compensation measures.

3. Restoration of damage may take the form of:

- a) Measures of reinstatement,
- b) Damages,
- c) Compliance programmes,
- d) Provisioning the Environment Fund,
- e) Local development measures
- f) And, depending on the circumstances, symbolic restoration measures adapted to the cultural dimension of the damage caused to the environment which may take the form of making an apology to the harmed communities.

4. States Parties shall adopt such measures as may be necessary to prevent those sanctions or the harmful damage that arise therefrom from being insured.

### **Article 8 – Criteria for the determination of sanctions on legal persons**

1. For the purposes of sentencing and determining the sanction, priority consideration should be given to the restoration of the damage and the compensation of victims.

2. Where the fine would put at risk the solvency of the legal person, jeopardize the job security or the restoration of the damage caused, State Parties may adopt measures to allow for payment to be made in installments. In these cases, and in accordance with their internal law, State Parties can also give priority to restoration of the damage caused by the legal person that committed the crime.

3. State Parties shall take into account the following criteria for sentencing and determining the gravity of the sanction:

- a) The economic benefit obtained from the crime, including the savings resulting from failure to adopt environmental protection measures;
- b) The lack of or the inadequate monitoring internal measures that could have prevented the commission of the crime.
- c) The repeated crimes against the environment committed within the premises of or by the legal person. To this end, sanctions imposed on legal persons by other authorities shall be taken into account;
- d) The organized nature of the crime;
- e) The cooperation by the legal person in the criminal proceedings, especially in the establishment of criminal liability;
- f) The prompt restoration of damage and the assistance provided to victims;
- g) The expeditious adoption of monitoring internal measures aimed at preventing similar crimes.

4. The dissolution of the legal person and the permanent closure of its premises or the cessation of its operations shall only be ordered where the legal person will have been created to commit the alleged crimes or where it will be considered as belonging to an organized

criminal group within the meaning of the United Nations Convention against Transnational Organized Crime.

### **Article 9 - Confiscation and seizure**

1. States Parties shall adopt, to the greatest extent possible within their domestic legal systems, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from crimes covered by this Convention or property the value of which corresponds to that of such proceeds; The proceeds of the crime also include the savings the savings resulting from failure to adopt environmental protection measures;

(b) Property, equipment or other instrumentalities used in or destined for use in crimes covered by this Convention.

2. States Parties shall adopt such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

3. If proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

4. If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

5. Income or other benefits derived from proceeds of crime, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

6. For the purposes of this article and article 13 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. States Parties shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

7. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.

8. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a State Party.

## **Article 10 – Jurisdiction**

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the crime of ecocide in the following cases:

- a) Where the acts have been committed in the territory under the jurisdiction of the State concerned; or
- b) Where the result of the crime takes place in any territory under the jurisdiction of the State concerned; or
- c) Where the crime is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the crime is committed.
- d) Where the crime is committed by nationals of that State; or
- e) Where the crime is committed by a legal person having its registered office or its principal activity or its main administrative center in its territory; or
- f) Where the crime is committed against nationals of that State Party and that that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction in cases where the alleged perpetrator of a crime of ecocide is present in its territory and it does not extradite that person, pursuant to art. 15, to any of the States Parties which have established their jurisdiction in accordance with paragraph 1.

3. Where more than one State claims jurisdiction over a crime of ecocide, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

4. Without prejudice to norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

## **Article 11 - Investigation and prosecution**

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the perpetrator or alleged perpetrator of the commission of a crime of ecocide is present shall take the appropriate measures under its national law so as to ensure that person's presence for the purpose of prosecution or extradition. The custody and other measures shall be in accordance with the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. The State concerned shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he/she is a national, or if that person is a stateless person, the representative of the State in the territory of which that person habitually resides.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in paragraph 1 of art. 10 of the fact that that person is in custody and the circumstances which warrant that person's detention. The State which makes the investigation referred to in paragraph 2 of the present article shall promptly inform the aforementioned States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

5. The State concerned shall notify the International Prosecutor for the Environment referred to in art. 17 of these circumstances, within the shortest possible period of time.

### **Article 12 - Participation of civil society**

Each State Party shall take any measures as may be necessary to foster, in accordance with its internal law, access to information for civil society and grant any group, foundation or association which, according to their statutes, aims to protect the environment, the right to participate in criminal proceedings concerning the crime of ecocide.

### **Article 13 - Extradite or prosecute**

1. The State Party in the territory under whose jurisdiction a person alleged to have committed a crime of ecocide is found shall, if it does not extradite that person, submit the case to its competent authorities for the purpose of prosecution.

2. Those authorities shall take their decision in the same manner as in the case of any other crime of a grave nature under the law of that State.

3. Any person regarding whom proceedings are being carried out in connection with the crime of ecocide shall be guaranteed fair treatment at all stages of the proceedings.

### **Article - 14 Extradition**

1. The crime of ecocide shall be deemed to be included as an extraditable crime in any

extradition treaty existing between any of the States Parties before the entry into force of this Convention. The States Parties undertake to include such crime as an extraditable crime in every extradition treaty to be concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the crime of ecocide. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the crime of ecocide as an extraditable crime between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the crime of ecocide shall be treated, for the purposes of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territory of the States that have established jurisdiction in accordance with article 10.

5. The crime of ecocide may not be regarded, for the purposes of extradition or mutual legal assistance between States Parties, as a political crime or as a crime connected with a political crime or as a crime inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such a crime may not be refused on the sole ground that it concerns a political crime or a crime connected with a political crime or a crime inspired by political motives.

### **Article 15 - Mutual legal assistance**

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the crime of ecocide covered by this Convention.

2. Mutual legal assistance shall be based on the principle of mutual recognition of judgments and judicial decisions of the State Parties.

3. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the crimes for which a legal person may be held liable in accordance with article 5 of this Convention in the requesting State Party.

4. Mutual assistance shall also be afforded in proceedings brought by the administrative authorities in respect of acts which are punishable under the national law of the requesting or the requested Party by virtue of being violations of the rules of law, where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.

5. States Parties may decline to render mutual legal assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute a crime under the national law of the requested State Party.

6. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Central authorities shall ensure the speedy and proper execution or transmission of the requests received.

7. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

8. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

9. Mutual legal assistance may be refused:

- (a) If the request is not made in conformity with the provisions of this article;
- (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, public policy or other essential interests;
- (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar crime, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;
- (d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

10. Reasons shall be given for any refusal of mutual legal assistance. Before refusing a request of mutual legal assistance or postponing its execution pursuant to paragraph 11 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

11. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

### **Article 16 – International cooperation**

1. The State Parties shall afford each other, in accordance with the provisions of relevant international instruments on international cooperation in criminal matters and with their domestic law, the widest measure of cooperation in investigations and judicial proceedings relating to the crime of ecocide.
2. State Parties shall cooperate actively with International Prosecutor's Office for the Environment referred to in art. 17 in investigations and judicial proceedings relating to the crime of ecocide.

### **Article 17 – International Prosecutor for the Environment**

1. The Assembly of State Parties shall elect the International Prosecutor for the Environment for a term of five years, who will act independently and his/her role will be complementary to that of the national prosecuting authorities.
2. The Prosecutor shall be competent to investigate and collect evidence in relation to alleged acts of ecocide of which the Office of the International Prosecutor has been notified by the national authorities of the State Parties, regional and international organizations involved in the fight against environmental crimes, civil society or GREEN.
3. State Parties shall appoint a national prosecutor who shall act as the correspondent of the International Prosecutor for the Environment.
4. The International Prosecutor for the Environment shall support national authorities and contribute to the coordination of investigations and prosecutions.

### **Article 18 – International Criminal Court for the Environment**

State Parties shall cooperate with the aim of establishing an International Criminal Court for the Environment which shall be complementary to national jurisdictions and shall have jurisdiction over the crime of ecocide.

## ***Chapter 3 Preventive measures***

### **Article 19 – International Cooperation on prevention**

1. States Parties shall cooperate in the prevention of the crime of ecocide by taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission of those crimes within or outside their territories.
2. States Parties shall further cooperate in the prevention of the crime of ecocide by exchanging accurate and verified information in accordance with their national legislation, and coordinating administrative and other measures taken.
3. States Parties may exchange information through the regional and international institutions involved in the fight against organized environmental crimes, particularly, Interpol, Europol or the United Nations Office on Drugs and Crime (UNODC).
4. States Parties provide or strengthen adequate training to the relevant for the relevant professionals dealing with those identified as perpetrators or potential perpetrators and the victims of the crime of ecocide.
5. States Parties shall endeavor to promote public awareness regarding the existence, causes and gravity of and the threat posed by environmental crimes. Information may be disseminated where appropriate through the mass media and shall include measures to promote public participation in preventing and combating such crime.
6. Each State Party shall inform the Secretary of this Convention the name and address of the authority or authorities that can assist other States Parties in developing measures to prevent the crime of ecocide.
7. States Parties shall, as appropriate, collaborate with each other and relevant international and regional organizations in promoting and developing the measures referred to in this chapter.

### **Article 20 – Group for Research and Enquiry on Environmental matters (GREEN)**

1. The Group for Research and Enquiry on Environmental matters ("GREEN") establishes material facts that may be liable to fall within the definition of the crime of ecocide and delivers opinions on international environmental crimes.
2. GREEN shall act at the request of one or more States Parties, the Secretariat of the Convention, the International Prosecutor for the Environment, or any other organizations that have to deal with the most serious crimes against the environment or on the basis of a communication from the civil society.



3. GREEN shall be composed of 20 members elected by the States Parties according to an equitable geographical representation. The members of GREEN shall serve in their personal capacity. They shall be of high moral character and have a recognized expertise in environmental matters.
4. GREEN may request from States Parties and national, regional and international organizations all such information and assistance that it deems appropriate to enable it to carry out its mandate.
5. GREEN issues an annual activity report.

#### ***Chapter 4 Implementation of the Convention***

##### **Article 21 - Protection of sovereignty**

1. The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.
2. Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other State Party by its national law.

##### **Article 22 - Implementation of the Convention**

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.
2. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating most serious crimes against the environment.
3. The provisions of this Convention shall be applied and construed in accordance with the rules of general international law and the international environmental law principles, particularly the principle of common but differentiated responsibilities.

### **Article 23 – Review of compliance with the provisions of the Convention**

1. The Assembly of State Parties shall adopt by consensus arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention.
2. These arrangements shall allow for appropriate public involvement and provide for the possibility to consider communications from members of the public concerning issues related to this Convention.
3. The procedure adopted by consensus for reviewing compliance with the provisions of this Convention is applied without prejudice to the procedure for the settlement of disputes. To the fullest extent possible, the States Parties shall first apply the procedures for reviewing the compliance with the provisions of this Convention prior to resorting to the settlement of disputes procedures.

### **Article 24 – Settlement of disputes**

1. If a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute. Moreover, the States Parties shall seek the best solution for the state of the environment and the respect for their rights by first applying, and within the limits of what is appropriate, the procedure for reviewing the compliance with the provisions of this Convention as set forth in art. 25.
2. Upon signature, ratification, acceptance or approval of this Convention or accession thereto, or at any time thereafter, a State may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 above, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:
  - (a) Submission of the dispute to the International Court of Justice;
  - (b) Submission of the dispute to arbitration.
3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 above, the dispute shall not be submitted to the International Court of Justice, unless the parties to the dispute agree otherwise.

## **Article 25 – Provisional measures**

1. If a dispute or a situation has been duly submitted to a court, tribunal or the body in charge of reviewing compliance with the provisions of this Convention, and if the aforementioned court, tribunal or body considers that *prima facie*, it has jurisdiction under the provisions of this Convention, it may prescribe any provisional measures which it considers appropriate under the circumstances to prevent serious harm to the environment or preserve the respective rights of the parties to the dispute pending the final decision.
2. Provisional measures may be modified or revoked as soon as the circumstances justifying them have changed or ceased to exist.
3. Provisional measures may be prescribed, modified or revoked under this article only at the request of a party to the dispute or any member of the public concerned and entitled to submit communications. Provisional measures may be prescribed, modified or revoked under this article only after the parties have been given an opportunity to be heard.
4. The court, tribunal or the body in charge of reviewing the compliance with the provisions of this Convention shall without delay, notify the parties to the dispute and, as appropriate, any other parties considered to have an interest in the dispute, of any provisional measure adopted or any decision modifying or revoking such measure.
5. Pending the constitution of an arbitral tribunal to which a dispute is being submitted under art. 26, any court or tribunal agreed upon by the parties or, failing such agreement within two weeks from the date of the request for provisional measures, the International Court of Justice may prescribe, modify and revoke provisional measures pursuant to this provision, if the Court considers that *prima facie* the tribunal that is to be constituted would have jurisdiction and that the urgency of the situation so requires. Once constituted, the tribunal to which the dispute has been submitted may modify, revoke or affirm those provisional measures, acting in conformity with paragraphs 1 to 4.
6. The parties to the dispute shall comply promptly with any provisional measures prescribed under this article.

## **Chapter 5 Final Provision**

*Due to the lack of specificity inherent to legal field concerning the crime of ecocide, final provisions shall not be developed here.*