



THE GLOBAL INITIATIVE TO END WILDLIFE CRIME

Frequently asked questions on a possible global wildlife
crime agreement

“By its very nature, transformative change can expect opposition from those with interests vested in the status quo, but such opposition can be overcome for the broader public good.”

IPBES, Global Assessment Report (2019)

INTRODUCTION

Background and context

In response to the global biodiversity and climate change crises and the need to prevent future wildlife-related pandemics, the Global Initiative to End Wildlife Crime (“the Initiative”) is progressing two interrelated, but not interdependent, objectives, namely to:

1. Create a new global agreement on wildlife crime. How? Through the adoption of a fourth Protocol on wildlife crime under the UN Convention Against Transnational Organised Crime (UNTOC); and
2. Amend existing international wildlife trade laws to include public health and animal health into decision making. How? Through amending the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) to include public health and animal health criteria in its decision-making processes (a ‘One Health’ approach).

The Initiative views these two objectives as critical components of the calls for transformative changes, and a shift away from “business as usual”, coming from the [IPBES Global Assessment Report \(2019\)](#), the [IPBES Pandemics Report \(2020\)](#), the [CBD Secretariat Global Biodiversity Outlook 5 Report \(2020\)](#) and the [WWF Living Planet Report \(2020\)](#). These FAQs apply to the Initiative’s first objective.

The draft Protocol would represent a major step forward in the fight against serious wildlife crimes by embedding them into the international criminal law framework. It would signify an unequivocal recognition by States Parties of the devastating scale, nature and consequences of such crimes, of the need to scale up collaborative efforts to prevent and combat them, and provide States with the means to do so. If adopted, it would give us, and future generations, the best chance of ending wildlife crimes and thereby help prevent future wildlife-related pandemics, and the devastating societal, environmental, and economic impacts associated with them.

Purpose of this document

This document elaborates on the rationale published in the Initiative’s second briefing paper, on the [“Form and content of a possible Protocol on the illicit trafficking of wildlife”](#), by directly responding to some of the questions that have been raised with the Initiative by interested parties. The Initiative greatly appreciates these questions and welcomes further questions and dialogue, which can be directed to info@endwildlifecrime.org.

“Responses to the current pandemic provide a unique opportunity for transformative change as a global community.”

Secretariat of the Convention on Biological Diversity, Global Biodiversity Outlook 5 (2020)

QUESTIONS RELATING TO A POSSIBLE GLOBAL WILDLIFE CRIME AGREEMENT

Adopting a possible fourth Protocol on wildlife crime under the UN Convention on Transnational Organised Crime

1: Has the proposal for the creation of a fourth Protocol under UNTOC been laid out in detail?

Yes, with the help of technical and legal support from its Steering Group, pro-bono support from the international law firm Arnold & Porter, and input from a network of independent reviewers, the Initiative has released a dedicated briefing paper entitled “Form and content of a possible Protocol on the illicit trafficking of wildlife.” The paper is available online [here](#) (and is being translated into multiple additional languages). The accompanying press releases, accessible on the same link, provide the broader context and rationale.

2: Wouldn't the creation of a new Protocol be difficult and time consuming to negotiate?

Yes, creating new international agreements takes considerable time and effort – as we have seen with negotiations on agreements on biodiversity, climate change, and ozone depletion, as well as on transnational crime and corruption - but that is the wrong question. The question should be whether these reforms are needed to help avoid future wildlife-related pandemics and to bring an end to serious wildlife crimes. If the answer to this question is yes, then it is worth the effort.

The time and effort taken to negotiate and adopt a Protocol to end wildlife crime and prevent future wildlife-related pandemics pales in comparison to the catastrophic impacts of these crimes (see FAQ no.3). Further, history has shown that where there is political will, international negotiations can move expeditiously. In a post-COVID-19 world there is a clear political imperative to prevent future pandemics, a growing body of scientific reports on the links between wildlife trade (legal, unregulated and illegal) and zoonotic diseases, and a recognition of the need to shift away from business as usual.

3: Should wildlife crime reform be a priority for States at this time, given the strain COVID-19 has put on national economies?

Our current system is not going to prevent the next pandemic. It could, in fact, be raising our potential exposure to zoonotic diseases. These reforms are needed to help avoid future wildlife-related pandemics. It is worth the effort to ensure we are best placed to prevent future pandemics and thereby avoid the devastating societal, environmental, and economic impacts associated with them.

A compelling economic case for investing in preventing future pandemics, including through addressing wildlife trade issues, has been published in Science, in an article titled '[Ecology and economics for pandemic prevention](#)'. It explains the multiple benefits of such investments and shows that the costs of these interventions pale in comparison to the economic impacts of a pandemic.

Further, in 2019, [The World Bank](#) assessed the value of these crimes, as they affect all species of wild animals and plants being trafficked, including fish and timber species. It arrived at a figure of \$1-2 trillion a year, when factoring in the impact on ecosystems, including their ability to sequester carbon, loss of government revenues and the value of the contraband itself. As such, these crimes are severely impacting countries ability to deliver on the [Paris Agreement](#), current (and future) [global biodiversity targets](#), and the [Sustainable Development Goals](#).

Given the enormous consequences for people, our planet, and our health, now is the time to move forward with bold and necessary reforms. We must leave the next generation with a system that is fit for purpose in a post COVID-19 world, one that helps ensure a healthy and prosperous planet, gives us the best chance of avoiding future pandemics, and can put an end to these crimes and the severe impacts they are having on biodiversity, climate change and sustainable development.

4: Would it be better to widen the scope of the proposed Protocol to cover all environmental crimes?

The Initiative does not regard this as being an “either/or” issue: it should be both. The Initiative welcomes the recent focus on “environmental crimes” through the Resolution on ‘[Preventing and combating crimes that affect the environment falling within the scope of the United Nations Convention against Transnational Organized Crime](#)’ adopted at the 10th meeting of the Conference of the Parties to UNTOC (CoP10) and also recognises the importance of scaling up efforts to tackle all crimes that have an impact on the environment.

There are a wide-range of potential ‘environmental crimes’ – as diverse as trafficking in hazardous waste to minerals to fish and timber. However, there is not yet any agreement on a definition on the scope of such crimes, whilst the work on advancing this concept is still underway. Efforts to address wildlife crime specifically and ‘environmental crime’ more broadly, can be – and should be – progressed in parallel. They may take slightly different paths, but they are complimentary, mutually reinforcing, and neither prevents the other from being advanced.

The Initiative defines wildlife to include all wild animals and plants, including fish and timber species, and the draft Protocol covers forestry and fisheries crime. Wildlife crimes are well-understood, and these crimes are possibly the most damaging of all ‘environmental crimes’.

Illicit wildlife trafficking has been addressed directly in three UN General Assembly resolutions (first in [2015](#), with follow-up Resolutions in [2017](#) and [2019](#)), amongst others. In [2019](#), the UNGA encouraged “Member States to adopt effective measures to prevent and counter the serious problem of crimes that have an impact on the environment, conservation and biodiversity, such as illicit trafficking in wildlife and wildlife products, including fauna and flora as protected by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and poaching”.

Today there is an unprecedented level of awareness amongst politicians, the private sector and civil society, of the links between wildlife trade, markets and consumption and pandemics, including those that can emerge from illicit trafficking in wild animals (along with multiple other consequences, see FAQ no.3).

The time is right to move ahead with a new international agreement to combat these serious crimes. A Protocol on wildlife crime, including fisheries and forestry crimes, would be an historic moment: the first time ‘environmental crimes’ of this nature are specifically embedded into international criminal law. It would signify recognition by States of the need to scale up collaborative efforts to prevent and combat wildlife crime, provide a powerful vehicle for doing so, and leave a strong legacy for generations to come.

5: Why focus on wildlife crime when we know that wildlife-related risks to human and animal health do not come solely from illicit activities, nor just from wild animals?

No single initiative will fully address the complex and multidimensional risks to public and animal health posed by wildlife (or captively-bred or domesticated animals). Preventing future pandemics will require a range of complementary initiatives.

Left as it is our system is not going to prevent the next wildlife-related pandemic. It could, in fact, be raising our potential exposure to zoonotic diseases. The Global Initiative to End Wildlife Crime is focused on addressing the risks to public and animal health posed by wildlife trade, be it legal, illegal, or unregulated, as well as through wildlife crimes more generally. It will serve to complement and mutually reinforce other measures taken to prevent future wildlife-related pandemics.

6: Why is UNTOC the best forum for a new global agreement?

[UNTOC](#) is the primary international instrument in the fight against transnational organized crime. There are 190 States Parties to the Convention, and it benefits from having the United Nations Office on Drugs and Crime ([UNODC](#)) as its guardian. The UNODC is also the guardian of the UN Convention Against Corruption, and amongst other matters it convenes the Commission on Crime Prevention and Criminal Justice and the Crime Congress. It is the natural home for convening the global community to take action to prevent and combat transnational crime.

The UNGA has in [2019](#) called upon Member States “to make illicit trafficking in protected species of wild fauna and flora and other crimes that affect the environment, such as trafficking in timber... a serious crime” in accordance with the UNTOC. However, wildlife crime has not yet been brought within the formal legal framework of the Convention as it has for a number of other serious transnational organised crimes, namely on trafficking in persons, smuggling of migrants, and illicit manufacturing of and trafficking in firearms.

The proposed draft Protocol would automatically trigger all the tools available under the UNTOC. It would, however, go much further. It would:

- agree on the conduct that is to be criminalised, namely Parties to the Protocol would be agreeing to adopt legislation establishing as a criminal offence the illicit trafficking of any whole or part of a wild animal or plant, whether alive or dead, in violation of any relevant international agreement or domestic or foreign law;
- apply to any species of wild fauna or flora, including fish and timber, that is protected under international or, importantly, any national law, and address the harvesting, taking, possessing, import or export, or introduction from the sea of illicitly traded wildlife;

- amongst many other matters, make it a criminal offence to import any wildlife, or wildlife product into a country if it had been acquired in contravention of the national laws of the source country - representing a remarkable expression of comity between nations, and a mutual respect for one another's laws;
- agree on commitments to prevent illicit wildlife trafficking, such as raising public awareness of these crimes and on demand reduction, to sharing information, such as on known groups active in illicit trafficking, on their concealment methods, known transport routes, and on sharing forensics; and
- address the role and responsibilities of the carriers of contraband, on the verification of documents, and on training and technical assistance.

The draft Protocol would represent a major step forward in the fight against these serious crimes. It would embed them into the international criminal law framework, where they belong. It would signify an unequivocal recognition by States Parties of the devastating scale, nature and consequences of such crimes, of the need to scale up collaborative efforts to both prevent and combat them, and provide States with the means to do so.

7: Don't we have a problem with inadequate criminal justice capacity at the national level, and a poor rate of successful prosecutions? Isn't this where we should be focussing enforcement efforts?

Implementation of international agreements is a challenge right across the board, from conventions addressing biodiversity, to climate change, to corruption, and to transnational crimes. However, issues requiring a cooperative, cross-border response, can most effectively be advanced through an agreed international framework. It is not a question of "either/or," it is both. We need to close the gaps in the international legal framework, while enhancing national enforcement capacity, which will be given greater political attention and impetus through adopting a new international agreement containing specific commitments to prevent and combat wildlife crimes.

The Initiative advocates for the immediate scaling-up of cooperative, global enforcement efforts to tackle existing illegal activity, including through the International Consortium on Combating Wildlife Crime ([ICWC](#)), while taking steps to make necessary changes to the international legal framework.

International agreements act as a catalyst for national plans, legislation, and action. When CITES was established in the early 1970s, relevant national legislation was almost non-existent. The Convention provided the scaffolding for a global shift in national laws and practices. The 1992 Convention on Biological Diversity has led to each Party adopting National Biodiversity Strategy and Action Plans, and the Paris Agreement of 2015, has seen Parties submitting details of Nationally Determined Contributions. An agreement on wildlife crime would create similar positive cascade effect at the national level and enhance cross-border cooperation.

Finally, negotiations being advanced by diplomats in New York and Vienna would not take resources away from national enforcement efforts. It is not one or the other. For the reasons outlined above, a successful conclusion to negotiations would lead to additional resources being deployed to national enforcement efforts to meet new agreed international commitments.

8: Wasn't this possibility informally canvassed at the 2014 UNTOC COP?

Yes, informal discussions took place in 2014 but they predated the COVID-19 pandemic, as well as a series of global reports outlining the true scale, nature and consequences of these crimes. Solutions previously considered sufficient have now been shown to be inadequate. The right solutions are needed for the right time.

The COVID-19 pandemic of 2020 has reminded us of the catastrophic consequences of diseases spilling over from wild animals to people, including those found in illegal trade. Before now, the fragility of our natural systems and the true scale, impact and consequences of illicit trafficking in wildlife had not been elucidated so starkly, as they now have been through the release of a series of landmark publications, including the UNODC 'UN World Wildlife Crime' reports of [2016](#) and [2020](#), the World Bank's 'Illegal Logging, Fishing, and Wildlife Trade: The Costs and How To Combat It' report of [2019](#), the Intergovernmental Panel on Biodiversity and Ecosystem Services (IPBES) 'Global Assessment Report' of [2019](#), the WWF 'Living Planet Report' [2020](#), the IPBES 'Pandemics Report' and the CBD Secretariat's 'Global Biodiversity Outlook' report of [2020](#).

We need measures that are fit for purpose in a post-COVID world; measures that adequately reflect the known scale, nature, and consequences of these serious crimes.

9: What is the process for a fourth Protocol to be introduced, adopted, and ratified?

A Protocol will be negotiated by States (countries). The UNTOC provides in Article 37 that it can be supplemented by one or more Protocols, but it does not specify how such Protocols are to be developed and eventually adopted. The UNTOC currently has three Protocols, addressing trafficking in persons, migrant smuggling, and illicit manufacturing and trafficking in firearms. These Protocols were [negotiated](#) under the auspices of the United Nations (UN) and, after the text was complete, were adopted and opened for signature by the UN General Assembly (UNGA). It is expected that a similar process would apply to any further Protocols.

There are various steps that could be taken now by supporting States to make clear the need for such a Protocol, including providing views on its possible form and content. One could anticipate discussions on the proposal taking place in New York, UN Headquarters, as well as Vienna, where the UN Office and Drugs and Crime (UNODC) is headquartered (UNODC is the guardian of, and serves a central administrative and substantive role for, the UNTOC).

From a more formal perspective and as the next step in the process, States would seek a negotiating mandate from the UNGA, which would likely be asked to set up an open-ended intergovernmental ad hoc committee for the purpose of developing the full text of a Protocol. If negotiations are successful after the UN sets up the negotiations and a new wildlife crime Protocol is developed, the UNGA would review and adopt the text and then open it for signature.

Article 14 of the proposed draft Protocol contemplates that after the text is approved, it will be open to all States for signature at UN Headquarters in New York from the thirtieth day after its adoption by the UNGA up until a time to be negotiated. Like the other UNTOC Protocols, it is subject to ratification,

acceptance, or approval (each of which are methods by which nations join treaties), and instruments of ratification, acceptance, or approval will be deposited with the Secretary-General of the UN.

Article 15 of the proposed draft Protocol contemplates that it shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval, or accession. This is the same formulation used for the three existing Protocols.