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ANNEXES 1 to 2

ANNEXES

to the

Proposal for a Council Decision

on the conclusion, on behalf of the European Union, of the Council of Europe Convention on the protection of the environment through criminal law

ANNEX 1

COMMITTEE OF MINISTERS CM Documents **CM(2025)52-final** 14 May 2025

134th Session of the Committee of Ministers

(Luxembourg, 13-14 May 2025)

Council of Europe Convention on the Protection of the Environment through Criminal Law

PREAMBLE

The member States of the Council of Europe and the other Signatories to this Convention,

Recalling the Reykjavik Declaration, adopted at the 4th Summit of Heads of State and Government of the Council of Europe (Reykjavik, 16-17 May 2023), in which the Heads of State and Government of the Council of Europe declared their commitment to strengthening their work at the Council of Europe on the human rights aspects of the environment, to identifying the challenges raised by the triple planetary crisis of pollution, climate change and loss of biodiversity for human rights, and to contributing to the development of common responses thereto;

Recalling the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, 1950) and its Protocols, the Convention on the Conservation of European Wildlife and Natural Habitats (ETS No. 104, 1979) and the Council of Europe Landscape Convention (ETS No. 176, 2000);

Having regard to the European Convention on Extradition (ETS No. 24, 1957) and its Protocols, the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30, 1959) and its Protocols, the European Convention on the International Validity of Criminal Judgments (ETS No. 70, 1970), the European Convention on the Transfer of Proceedings in Criminal Matters (ETS No. 73, 1972), the Criminal Law Convention on Corruption (ETS No. 173, 1999), the Convention on Cybercrime (ETS No. 185, 2001) and its Protocols and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198, 2005);

Having regard to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, 1981) and the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS No. 223, 2018);

Recalling the following recommendations of the Committee of Ministers to member States of the Council of Europe: Recommendation No. R (88) 18 concerning liability of enterprises having legal personality for offences committed in the exercise of their activities, Recommendation No. R (96) 8 on crime policy in Europe in a time of change, Recommendation Rec(2001)11 concerning guiding principles on the fight against organised crime, Recommendation CM/Rec(2014)7 on the protection of whistleblowers,

Recommendation CM/Rec(2022)9 on the protection of witnesses and collaborators of justice and Recommendation CM/Rec(2022)20 on human rights and the protection of the environment;

Recalling Resolution (77) 28 of the Committee of Ministers of the Council of Europe on the contribution of criminal law to the protection of the environment;

Recalling Parliamentary Assembly of the Council of Europe Resolution 2398 (2021) and Recommendation 2213 (2021) "Addressing issues of criminal and civil liability in the context of climate change", Resolution 2477 (2023) and Recommendation 2246 (2023) "Environmental impact of armed conflicts" and Recommendation 2272 (2024) "Mainstreaming the human right to a safe, clean, healthy and sustainable environment with the Reykjavik process" that call for the recognition of ecocide, which is already covered by the law of certain member States of the Council of Europe and is being discussed at the international level;

Taking into account the case law of the European Court of Human Rights which sets important standards regarding the protection of human rights and the environment;

Bearing in mind Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC;

Bearing in mind the United Nations Framework Convention on Climate Change (1992) and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (1998);

Bearing in mind the United Nations Convention against Transnational Organized Crime (2000) and the United Nations Convention against Corruption (2003);

Bearing in mind the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (1973) and the United Nations Convention on Biological Diversity (1992);

Bearing in mind the International Convention for the Prevention of Pollution from Ships (MARPOL, 1973) and its Protocols, the International Convention for the Safety of Life at Sea (SOLAS Convention, 1974), the United Nations Convention on the Law of the Sea (UNCLOS, 1982), the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (1992) and the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (2009);

Bearing in mind the Convention on the Physical Protection of Nuclear Material and its amendment (1979), the Convention on Long-range Transboundary Air Pollution (1979), the Montreal Protocol on Substances that Deplete the Ozone Layer (1987), the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989), the Convention on Environmental Impact Assessment in a Transboundary Context (1991), the Convention on Nuclear Safety (1994), the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (1997), the Stockholm Convention on Persistent Organic Pollutants (2001) and the Minamata Convention on Mercury (2013);

Recalling the principles of the Declaration of the United Nations Conference on the Human Environment (1972) and the Rio Declaration of the United Nations on Environment and Development (1992);

Recalling the Paris Agreement, adopted at the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (COP 21) on 12 December 2015 and opened for signature on 22 April 2016, the Glasgow Climate Pact, adopted at COP 26, the

outcome of the first global stocktake adopted at COP 28 and the Kunming-Montreal Global Biodiversity Framework, adopted by the Parties to the United Nations Convention on Biological Diversity on 18 December 2022;

Recalling the following resolutions by the General Assembly of the United Nations: A/RES/75/196 of 16 December 2020, entitled "Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity"; A/RES/76/185 of 16 December 2021, entitled "Preventing and combating crimes that affect the environment"; A/RES/76/300 of 28 July 2022, entitled "The human right to a clean, healthy and sustainable environment"; and A/RES/77/325 of 25 August 2023, entitled "Tackling illicit trafficking in wildlife";

Recalling the following United Nations Economic and Social Council resolutions: Resolution 2013/40 of 25 July 2013 "Crime prevention and criminal justice responses to illicit trafficking in protected species of wild fauna and flora", Resolution 2008/25 of 24 July 2008 "International cooperation in preventing and combating illicit international trafficking in forest products, including timber, wildlife and other forest biological resources" and Resolution 1996/10 of 23 July 1996 "The role of criminal law in the protection of the environment";

Recalling the Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: Towards the Achievement of the 2030 Agenda for Sustainable Development, adopted by the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice, held in Kyoto, Japan, from 7 to 12 March 2021;

Recalling the following resolutions by the Conference of the Parties of the United Nations Convention against Transnational Organized Crime: Resolution 11/3 of October 2022 entitled "Outcomes of the joint thematic discussion of the Working Group of Government Experts on Technical Assistance and the Working Group on International Cooperation on the application of the United Nations Convention against Transnational Organized Crime for preventing and combating transnational organized crimes that affect the environment", Resolution 31/1 of May 2022 of the Commission of Crime Prevention and Criminal Justice entitled "Strengthening the international legal framework for international cooperation to prevent and combat illicit trafficking in wildlife" as well as Resolution 10/6 of October 2020 entitled "Preventing and combating crimes that affect the environment falling within the scope of the United Nations Convention against Transnational Organized Crime" and;

Recognising the primary role and responsibility of States in defining their policies and strategies to prevent and combat environmental crime;

Taking account of the existing research on the cost of environmental crime;

Acknowledging that activities of organised environmental crime hinder and undermine efforts undertaken by States to protect the environment, promote the rule of law and achieve sustainable development;

Recognising that environmental crime has a negative impact on economies, public health, human safety, food security, livelihoods and habitats;

Recognising the fundamental role of effective international co-operation in preventing and combating environmental crime and, to this end, acknowledging the importance of addressing, tackling and effectively responding to international challenges and barriers that hinder such co-operation;

Acknowledging also the important contributions of other relevant stakeholders, including the private sector, civil society, non-governmental organisations, the media, academia and the scientific community, in preventing and combating environmental crime;

Acknowledging also that, in the field of environmental protection, civil society, including environmental non-governmental organisations, plays an important role in contributing to raising public awareness of environmental issues and in the area of prevention and detection of environmental criminal offences;

Recognising the importance of due diligence by legal persons to ensure the protection of the environment and to prevent environmental offences;

Recognising that environmental crime increasingly has extraterritorial effects and takes the form of international trafficking, which, along with the acceleration of degradation phenomena (climate change, erosion of biodiversity, depletion of natural resources, destruction of habitats, etc.), prompts the need for general minimum standards in criminal law as part of a common and collaborative international framework;

Recognising that environmental crime may take many forms, which the law needs to identify, define and criminalise in a clear, effective and proportionate manner, fully respecting the principle of legality;

Recognising that some intentional conduct covered by this Convention can cause particularly severe damage to the environment and that this should be recognised as a particularly serious offence,

Have agreed as follows:

Chapter I – Purposes, scope, definitions and non-discrimination

Article 1 – Purposes of the Convention

1. The purposes of this Convention are to:

   (a) effectively prevent and combat environmental crime;

   (b) promote and enhance national and international co-operation against environmental crime;

   (c) establish minimum rules to guide States in their national legislation;

and thereby promote and enhance the protection of the environment.

2. In order to ensure effective implementation of its provisions by the Parties, this Convention establishes a specific monitoring mechanism.

Article 2 – Scope of the Convention

1. This Convention shall apply to the prevention, detection, investigation, prosecution and sanctioning of criminal offences established in accordance with this Convention.

2. This Convention shall apply in times of peace and in situations of armed conflict, wartime or occupation.

Article 3 – Definitions

For the purposes of this Convention:

   (a) the term “unlawful” shall mean infringing a domestic law, a regulation, an administrative provision or a decision taken by a competent authority aimed at protecting the environment. The conduct shall be unlawful even if it is carried

out under the authorisation of a competent authority of a Party when the authorisation was obtained fraudulently or by corruption, extortion or coercion;

(b) the term "water" shall mean all surface water categories, including rivers, lakes, transitional waters, coastal waters, all groundwater bodies and all marine waters, including oceans and seas;

(c) the term "ecosystem" shall mean a dynamic complex of plant, fungi, animal and micro-organism communities and their non-living environment which interact as a functional unit. It includes habitat types, habitats of species and species populations;

(d) the term "waste" shall mean any substance or object which the holder discards, intends to discard or is required to discard.

Article 4 – Principle of non-discrimination

The implementation of the provisions of this Convention by the Parties shall be secured without discrimination on any ground such as sex, race, colour, language, age, religion, political or any other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, state of health, disability or other status.

Chapter II – Integrated policies and data collection

Article 5 – Comprehensive and co-ordinated policies

1. Parties shall take the necessary legislative or other measures to adopt and implement effective, comprehensive and co-ordinated policies which encompass appropriate measures to prevent and combat the commission of any offence established in accordance with this Convention.

2. Parties shall take the necessary legislative or other measures to establish appropriate mechanisms for co-ordination and co-operation at strategic and operational levels among all their competent authorities involved in preventing and combating offences established in accordance with this Convention. Such mechanisms shall be aimed at:

   (a) ensuring a common understanding of the relationship between criminal and administrative enforcement, as well as the adoption of common priorities and practices;

   (b) the exchange of information for strategic and operational purposes within the limits of national law, including data protection rules; and

   (c) the exchange of best practices.

3. Parties shall consider designating or establishing one or more official bodies responsible for the co-ordination, implementation, monitoring and evaluation of policies and measures to prevent and combat the commission of any offence established in accordance with this Convention, taking into account their constitutional traditions, legal systems and national circumstances.

4. Measures taken pursuant to this article shall involve all relevant actors, such as government agencies, national, regional and local parliaments and authorities, including the judiciary, public prosecutors, law-enforcement agencies and, where appropriate, non-governmental organisations and other relevant organisations and entities.

5. Parties shall consider assigning specialised investigation units, prosecutors and judges to work on the prevention, investigation, prosecution and adjudication of offences established in accordance with this Convention, taking into account their constitutional traditions, legal systems and national circumstances; and with due respect to the rules governing the status and functions of legal professionals.

Article 6 – National strategy

Parties shall take the necessary legislative or other measures to establish and publish a national strategy on preventing and combating offences established in accordance with this Convention, addressing:

(a) the objectives and priorities of national policy in this area;

(b) the roles and responsibilities of the competent authorities;

(c) the resources needed and how specialisation of enforcement professionals will be supported;

(d) arrangements for regular evaluation of whether the objectives of such a national strategy are being attained; and

(e) the assistance of international networks that deal with matters directly relevant to preventing and combating offences established in accordance with this Convention and related infringements.

Article 7 – Resources

Parties shall allocate appropriate financial and human resources to prevent and combat the commission of any offence established in accordance with this Convention.

Article 8 – Training of professionals

1. Parties shall provide appropriate and regular multidisciplinary, technical and legal training for the relevant professionals dealing with the prevention, detection, investigation, prosecution and adjudication of offences established in accordance with this Convention, with due respect to the rules governing the status and functions of legal professionals.

2. Parties shall encourage the inclusion of instruction on co-ordinated multi-agency co-operation in the training referred to in paragraph 1 of this article, to allow for a comprehensive and appropriate handling of referrals in cases concerning offences established in accordance with this Convention.

Article 9 – Data collection and research

1. For the purpose of the implementation of this Convention, Parties shall undertake to:

   (a) collect relevant statistical data at regular intervals on cases concerning offences established in accordance with this Convention; and

   (b) promote research in the field of environmental crime, in order to study its root causes and effects, incidences and conviction rates, as well as the efficacy of measures taken to implement this Convention.

2. Parties shall provide the Committee of the Parties, as referred to in Article 46 of this Convention, with the information collected pursuant to this article.

3. Parties shall take the necessary legislative or other measures to ensure that the information collected pursuant to this article is available to the public.

Chapter III – Prevention

Article 10 – General obligations

Parties shall take the necessary legislative or other measures for the prevention of the commission of any offence established in accordance with this Convention by any natural or legal person, where appropriate in co-operation with civil society and non-governmental organisations.

Article 11 – Awareness raising

1. Parties shall take the necessary measures to promote or organise information and awareness-raising campaigns relating to preventing and combating environmental crime, where appropriate, in co-operation with civil society and non-governmental organisations.

2. Parties shall take the necessary measures to ensure the wide dissemination among the general public of information on measures available to prevent offences established in accordance with this Convention.

Chapter IV – Substantive criminal law

Section 1 – Pollution, products and substances

Article 12 – Offences related to unlawful pollution

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the discharge, emission or introduction of a quantity of materials or substances, energy or ionising radiation into air, soil or water, which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.

Article 13 – Offences related to the placing on the market of products in breach of environmental requirements

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the placing on the market, in breach of a prohibition or another requirement aimed at protecting the environment, of a product, the use of which results in the discharge, emission or introduction of a quantity of materials or substances, energy or ionising radiation into air, soil or water, which causes or is likely to cause death or serious injury to any person or substantial damage to air, water or soil quality, or to animals or plants as a result of the product's use on a larger scale, namely the use of the product by several users, regardless of their number.

Article 14 – Offences related to chemical substances

1. Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the manufacture, placing or making available on the market, import, export or use of regulated chemical substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when such conduct is prohibited according to the domestic law aimed at protecting the environment and which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.

2. Parties may identify the domestic provisions that they decide to make subject to paragraph 1 of this article and notify them to the Secretariat.

Article 15 – Offences related to radioactive material or substances

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the manufacture, production, processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material or substances, when such conduct causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.

Article 16 – Offences related to mercury

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the manufacture, use, storage, import or export of mercury, mercury compounds and mixtures of mercury and mercury-added products, when such conduct causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.

Article 17 – Offences related to ozone-depleting substances

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the production, placing on the market, import, export, use or release of ozone-depleting substances, or the production, placing on the market, import or export of products and equipment containing or relying on such substances.

Article 18 – Offences related to fluorinated greenhouse gases

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the production, placing on the market, import, export, use or release of fluorinated greenhouse gases, or the placing on the market or import of products and equipment containing or relying on such gases.

Section 2 – Waste

Article 19 – Offences related to the unlawful collection, treatment, transport, recovery, disposal or shipment of waste

1. Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the collection, treatment, transport, recovery or disposal of waste, the supervision of such operations and the aftercare of disposal sites, including action taken as a dealer or a broker (waste management), when such conduct:

   (a) concerns hazardous waste as defined in accordance with domestic law and when it involves a non-negligible quantity; or

   (b) concerns other waste than that referred to in paragraph 1.a of this article and causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.

2. Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the transboundary shipment of waste when such shipment is undertaken in a non-

negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked.

Section 3 – Installations

Article 20 – Offences related to the unlawful operation or closure of an installation in which a dangerous activity is carried out

1. Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the operation or closure of an installation in which a dangerous activity is carried out, when such conduct causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.

2. Parties may identify the domestic provisions that they decide to make subject to paragraph 1 of this article and notify them to the Secretariat.

Article 21 – Offences related to the unlawful operation or closure of an installation that involves dangerous substances

1. Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the operation or closure of an installation in which dangerous substances or mixtures are stored or used, when such conduct causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.

2. Parties may identify the domestic provisions that they decide to make subject to paragraph 1 of this article and notify them to the Secretariat.

Section 4 – Ships

Article 22 – Offences related to the unlawful recycling of ships

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the failure of the owner of a ship to comply with the applicable requirements which impose the recycling of a ship at ship recycling facilities that meet required environmental standards.

Article 23 – Offences related to the ship-source discharges of polluting substances

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the ship-source discharges of polluting substances, when such conduct causes or is likely to cause deterioration in the quality of water or damage to the marine environment.

Section 5 – Natural resources

Article 24 – Offences related to the unlawful abstraction of surface water or groundwater

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the abstraction of surface water or groundwater which causes or is likely to cause substantial damage to the ecological status or potential of surface water bodies or to the quantitative status of groundwater bodies.

Article 25 – Offences related to trade in unlawfully harvested timber

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the placing on the market of unlawfully harvested timber, or of products derived from such timber, except where the conduct concerns a negligible quantity.

Article 26 – Offences related to unlawful mining

1. Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, mining activities which require an environmental impact assessment or an equivalent environmental procedure under domestic law, when they are undertaken without a legally required development consent concerning environmental aspects established under domestic law and when they cause or are likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.

2. Parties may identify domestic provisions that they decide to make subject to paragraph 1 of this article and notify them to the Secretariat.

Section 6 – Biodiversity

Article 27 – Offences related to the unlawful killing, destruction, taking and possession of protected wild fauna or flora

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the killing, destruction, taking or possession of a specimen or specimens of protected wild fauna or flora species, including the taking or possession of parts or derivatives of specimens, except where the conduct concerns a negligible quantity of such specimens, taking into account, where relevant, the conservation status of the species.

Article 28 – Offences related to the unlawful trading in protected wild fauna or flora

1. Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the sale or offering for sale of a specimen or specimens of protected wild fauna or flora species, or parts or derivatives thereof, except for cases where the conduct concerns a negligible quantity of such specimens, taking into account, where relevant, the conservation status of the species.

2. Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the transboundary trading in specimens of protected wild fauna or flora species, or parts or derivatives thereof, except for cases where the conduct concerns a negligible quantity of such specimens, taking into account, where relevant, the conservation status of the species.

Article 29 – Offences related to the unlawful deterioration of habitats within a protected site

1. Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the causing of deterioration of a habitat within a protected site or the disturbance of protected animal species within a protected site, as defined under domestic law, when this deterioration or disturbance is significant.

2. Parties may identify habitats within a protected site and protected animal species that they decide to make subject to paragraph 1 of this article and notify them to the Secretariat.

Article 30 – Offences related to invasive alien species

Parties shall take the necessary legislative measures to establish as a criminal offence under their domestic law, when committed unlawfully and intentionally, the bringing into the national territory, placing on the market, keeping, breeding, transporting, using, exchanging, permitting to reproduce, grow or cultivate, releasing into the environment or spreading of invasive alien species which are defined in domestic law as species of concern for the environment, when such conduct causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants.

Section 7 – Particularly serious offence

Article 31 – Particularly serious offence

Parties shall take the necessary legislative measures to establish as a particularly serious offence any of the offences established in accordance with this Convention, when committed intentionally, and when such an offence causes destruction or causes irreversible, widespread and substantial damage, or causes long-lasting, widespread and substantial damage to an ecosystem of considerable size or environmental value, or to a habitat within a protected site, or to the quality of air, soil or water.

Section 8 – General provisions of criminal law

Article 32 – Inciting, aiding and abetting and attempt

1. Parties shall take the necessary legislative measures to establish as an offence, when committed unlawfully and intentionally, inciting or aiding and abetting the commission of the offences established in accordance with this Convention.

2. Parties shall take the necessary legislative measures to establish as offences, when committed unlawfully and intentionally, attempts to commit the offences established in accordance with Articles 12 to 21, 23 to 25, 28, paragraph 2, and 30 of this Convention.

3. Parties shall consider taking the necessary legislative measures to establish as offences, when committed unlawfully and intentionally, attempts to commit the offences established in accordance with Articles 27 and 28, paragraph 1, of this Convention.

Article 33 – Jurisdiction

1. Parties shall take the necessary legislative measures to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:

   (a) in their territory;

   (b) on board a ship flying their flag;

   (c) on board an aircraft registered under their laws; or

   (d) by one of their nationals.

2. Parties shall consider taking the necessary legislative measures to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed against one of their nationals.

3. Parties shall take the necessary legislative measures to establish jurisdiction over any offence established in accordance with this Convention, when the alleged offenders are present in their territory and cannot be extradited to another State, solely on the basis of their nationality.

4. Where more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties concerned shall, where appropriate, consult each other with a view to determining the most appropriate jurisdiction for prosecution.

5. Without prejudice to general rules of international law, this Convention shall not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law.

Article 34 – Liability of legal persons

1. Parties shall take the necessary legislative measures to ensure that legal persons can be held liable for offences established in accordance with this Convention, when committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within that legal person, based on:

   (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. Apart from the cases provided for in paragraph 1 of this article, Parties shall take the necessary legislative measures to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 of this article has made possible the commission of an offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.

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

4. Such liability shall be without prejudice to the criminal liability of a natural person who has committed the offence.

Article 35 – Sanctions and measures

1. Parties shall take the necessary legislative measures to ensure that the offences established in accordance with this Convention, when committed by natural persons, are punishable by effective, proportionate and dissuasive sanctions, which take into account the seriousness of the offence. The sanctions available shall include imprisonment and may also include monetary sanctions.

2. Parties shall take the necessary legislative measures to ensure that legal persons held liable in accordance with Article 34 are subject to effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal monetary sanctions, and could include other measures, such as:

   (a) disqualification from exercising commercial activity;

(b) exclusion from entitlement to public benefits or aid;

(c) exclusion from access to public funding, including tender procedures, grants and concessions, and the withdrawal of permits and authorisations;

(d) placing under judicial supervision;

(e) a judicial winding-up order;

(f) suspension, withdrawal or cancellation of permits or authorisations to pursue activities which resulted in the relevant criminal offence;

(g) where there is public interest, the publication of all or part of a judicial decision related to an environmental offence, without prejudice to privacy or data protection rules; or

(h) an obligation to establish due diligence schemes for enhancing compliance with environmental standards.

3. Parties shall adopt, to the greatest extent possible within their domestic legal systems, such legislative and other measures as may be necessary to enable freezing, seizure and confiscation of:

(a) instrumentalities, meaning any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal offences established in accordance with this Convention; and

(b) proceeds of crime derived from offences established in accordance with this Convention, or property whose value corresponds to such proceeds.

4. Parties shall consider taking the necessary legislative and other measures, in accordance with their domestic law, to include among the sanctions and measures applicable to natural and legal persons the reinstatement of the environment, according to the following provisions:

(a) the competent authority may order the reinstatement of the environment in relation to an offence established in accordance with this Convention, subject to certain conditions; and

(b) the competent authority may make an order for the reinstatement of the environment that has not been complied with executable at the expense of the person subject to the order or that person may be liable to other criminal or non-criminal sanctions instead of or in addition to it.

Article 36 – Aggravating circumstances

1. Parties shall take the necessary legislative measures to ensure that one or several of the following circumstances, insofar as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of domestic law, be taken into consideration as aggravating circumstances in determining the sanctions in relation to the offences established in accordance with this Convention, namely that:

(a) the offence caused severe and widespread, or severe and long-term, or severe and irreversible damage to an ecosystem;

(b) the offence was committed in the framework of a criminal organisation;

(c) the offence involved the use of false or forged documents by the offender;

(d) the offence was committed by a public official or public officials when performing their duties;

(e) the perpetrator has previously been definitively convicted of offences established in accordance with this Convention; or

(f) the offence generated or was expected to generate substantial financial benefits or to avoid substantial expenses directly or indirectly to the extent to which they can be determined.

2. The aggravating circumstance referred to in paragraph 1.a of this article shall not apply to the offence referred to in Article 31 of this Convention.

Article 37 – Previous sentences passed by another Party

Parties shall consider taking the necessary legislative measures to provide for the possibility to take into account final sentences passed by another Party in relation to offences established in accordance with this Convention when determining the sanctions.

Chapter V – Investigation, prosecution and procedural law

Article 38 – Initiation and continuation of proceedings

Parties shall take the necessary legislative measures to ensure that investigations into, or the prosecution of, offences established in accordance with this Convention are not subordinate to a complaint and that the proceedings may continue even if the complaint is withdrawn.

Article 39 – Right to participate in proceedings

Parties shall consider taking the necessary legislative and other measures, in accordance with their domestic law, to grant persons who have sufficient interest or allege a violation of a right, as well as non-governmental organisations promoting environmental protection, the right to participate in criminal proceedings concerning offences established in accordance with this Convention, to the extent that said procedural rights for such persons and organisations exist in the Parties' domestic legal systems in proceedings for other criminal offences, for example as a civil party.

Chapter VI – International co-operation

Article 40 – International co-operation in criminal matters

1. Parties shall co-operate with each other, in accordance with the provisions of this Convention and through the application of relevant international and regional instruments on co-operation in criminal matters and arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:

(a) preventing, combating and prosecuting offences established in accordance with this Convention, including freezing, seizure and confiscation;

(b) protecting and providing assistance to witnesses and persons who report the offences established in accordance with this Convention and co-operate with justice;

(c) investigations or proceedings concerning the offences established in accordance with this Convention; and

(d) enforcing relevant criminal judgments issued by the judicial authorities of the Parties.

2. If a Party that makes extradition or mutual legal assistance in criminal matters conditional on the existence of a treaty receives a request for extradition or legal assistance in criminal matters from a Party with which it has no such treaty, it may, acting in full compliance with its obligations under international law and subject to the conditions provided for by the domestic law of the requested Party, consider this Convention as the legal basis for extradition or mutual legal assistance in criminal matters in respect of the offences established in accordance with this Convention and may apply, mutatis mutandis, Articles 16 and 18 of the United Nations Convention against Transnational Organized Crime to this effect.

Article 41 – Information

1. A Party may, within the limits of its internal law, without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in preventing offences established in accordance with this Convention or in initiating or carrying out investigations or proceedings concerning such offences, or that this disclosure might lead to a request for co-operation by that Party under Article 40 of this Convention.

2. A Party receiving any information in accordance with paragraph 1 of this article shall submit such information to its competent authorities in order that proceedings may be taken if they are considered appropriate, or that this information may be taken into account in relevant civil and criminal proceedings.

3. The providing Party may, pursuant to its national law, impose conditions on the use of such information by the receiving Party. The receiving Party shall be bound by those conditions.

Article 42 – Data protection

Any transfer of personal data by a Party in accordance with Articles 40 and 41 of this Convention shall only take place if the conditions laid down in applicable legislation and international agreements governing the protection of personal data are complied with.

Chapter VII – Measures for protection

Article 43 – The standing of victims in criminal investigations and proceedings

1. Parties shall take the necessary legislative and other measures to protect the rights and interests of victims at all stages of criminal investigations and proceedings, in accordance with their domestic law, in particular by:

   (a) informing them of their rights and the services at their disposal and, upon request, the follow-up given to their complaint, the charges retained and the state of the criminal proceedings unless in exceptional cases the proper handling of the case may be adversely affected by such notification, and their role therein as well as the outcome of their cases;

   (b) enabling them, in a manner consistent with the procedural rules of domestic law, to be heard, to supply evidence and to choose the means of having their views, needs and concerns presented and considered, directly or through an intermediary;

(c) providing them with appropriate support services so that their rights and interests are duly presented and taken into account; and

(d) ensuring that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation.

2. Parties shall take the necessary legislative and other measures to ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings.

3. Parties shall ensure that victims have access to legal aid where they have the status of parties to criminal proceedings. The conditions or procedural rules under which victims have access to legal aid shall be determined by domestic law.

4. Parties shall take the necessary legislative and other measures to ensure that victims of an offence established in accordance with this Convention committed in the territory of a Party other than the one where they reside can make a complaint before the competent authorities of their State of residence if they are unable to do so in the Party where the criminal offence was committed or, in the case of a serious offence within the meaning of the domestic law of that Party, where they do not wish to do so.

5. Parties shall take the necessary legislative and other measures to provide the possibility for members of groups, foundations, associations or governmental or non-governmental organisations to assist and/or support the victims with their consent during criminal proceedings concerning the offences established in accordance with this Convention, unless a reasoned decision has been made to the contrary.

Article 44 – Protection of witnesses

1. Parties shall take the necessary legislative and other measures to provide effective and appropriate protection against any form of potential retaliation or intimidation for witnesses in criminal proceedings concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

2. Paragraph 1 of this article shall also apply to victims insofar as they are witnesses.

Article 45 – Protection of persons who report offences or co-operate with justice

Parties shall take the necessary legislative and other measures to provide effective and appropriate protection for those who report the offences established in accordance with this Convention or otherwise co-operate with the investigating or prosecuting authorities.

Chapter VIII – Monitoring mechanism

Article 46 – Committee of the Parties

1. The Committee of the Parties shall be composed of representatives of the Parties to this Convention.

2. The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention in respect of the 10th Signatory having ratified it. It shall subsequently meet whenever at least one third of the Parties or the Secretary General so requests.

3. The Committee of the Parties shall adopt its own rules of procedure.

4. Any Party which is not a member of the Council of Europe shall contribute to the funding of the activities of the Committee of the Parties. The contribution of a non-member of the Council of Europe shall be established jointly by the Committee of Ministers and that non-member.

Article 47 – Other representatives

1. The Parliamentary Assembly of the Council of Europe, the Commissioner for Human Rights, the European Committee on Crime Problems (CDPC), as well as other relevant Council of Europe intergovernmental committees, shall each appoint a representative to the Committee of the Parties.

2. The Committee of Ministers may invite other Council of Europe bodies to appoint a representative to the Committee of the Parties after consulting the latter.

3. Representatives of civil society, and in particular non-governmental organisations, may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

4. Representatives appointed under paragraphs 1 to 3 of this article shall participate in meetings of the Committee of the Parties without the right to vote.

Article 48 – Functions of the Committee of the Parties

1. The Committee of the Parties shall monitor the implementation of this Convention. The rules of procedure of the Committee of the Parties shall determine the procedure for evaluating the implementation of this Convention.

2. The Committee of the Parties shall facilitate the collection, analysis and exchange of information, experience and good practice between States to improve their capacity to protect the environment through criminal law.

3. The Committee of the Parties shall also, where appropriate:

   (a) facilitate the effective use and implementation of this Convention, including the identification of any problems and the effects of any declaration or reservation made under this Convention; and

   (b) express an opinion on any question concerning the application of this Convention and facilitate the exchange of information on significant legal, policy or technological developments.

4. The Committee of the Parties shall be assisted by the Secretariat of the Council of Europe in carrying out its functions pursuant to this article.

5. The CDPC shall be kept periodically informed regarding the activities mentioned in paragraphs 1 to 3 of this article.

Chapter IX – Relationship with other sources of international law

Article 49 – Relationship with other sources of international law

1. This Convention shall not affect rights and obligations arising from customary international law and other international conventions to which Parties to this Convention are Parties or shall become Parties and which contain provisions on matters governed by this Convention.

2. The Parties to this Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.

3. Nothing in this Convention shall affect the rights, obligations and responsibilities of States and individuals under international law.

Chapter X – Amendments to the Convention

Article 50 – Amendments to the Convention

1. Any proposal for an amendment to this Convention presented by a Party shall be communicated to the Secretary General of the Council of Europe, who will forward it to the member States of the Council of Europe, any Signatory, any Party, the European Union, any State invited to sign this Convention in accordance with the provisions of Article 53 and any State invited to accede to this Convention in accordance with the provisions of Article 54.

2. The Committee of Ministers of the Council of Europe shall consider the proposed amendment and, after having consulted the Parties to this Convention that are not members of the Council of Europe, may adopt the amendment by the majority provided for in Article 20.d of the Statute of the Council of Europe.

3. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 2 of this article shall be forwarded to the Parties for acceptance.

4. Any amendment adopted in accordance with paragraph 2 of this article shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General of the Council of Europe of their acceptance.

Chapter XI – Final clauses

Article 51 – Effects of this Convention

1. The provisions of this Convention shall not prejudice the provisions of domestic law and binding international instruments which are already in force or may come into force, under which more favourable rights are or would be accorded to persons in preventing and combating environmental crime.

2. Parties which are member States of the European Union shall, in their mutual relations, apply European Union rules governing the matters within the scope of this Convention. This is without prejudice to the full application of this Convention in their relations with other Parties.

Article 52 – Dispute settlement

1. The Parties to any dispute which may arise concerning the application or interpretation of the provisions of this Convention shall first seek to resolve it by means of negotiation, conciliation, arbitration or by any other methods of peaceful settlement accepted by mutual agreement between them.

2. The Committee of Ministers of the Council of Europe may establish procedures of settlement to be available for use by the Parties in dispute if they should so agree.

Article 53 – Signature and entry into force

1. This Convention shall be open for signature by the member States of the Council of Europe, the non-member States which have participated in its elaboration and the European Union.

2. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which 10 Signatories, including at least eight member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with paragraph 2 of this article.

4. In respect of any State referred to in paragraph 1 of this article or the European Union, which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 54 – Accession to the Convention

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, after consultation of the Parties to this Convention and obtaining their unanimous consent, invite any non-member State of the Council of Europe which has not participated in the elaboration of the Convention to accede to this Convention by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, and by unanimous vote of the representatives of the Parties entitled to sit on the Committee of Ministers.

2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 55 – Territorial application

1. Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in any such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 56 – Reservations

1. No reservation may be made in respect of any provision of this Convention, with the exception of those provided for in paragraphs 2 and 3 of this article.

2. Any State or the European Union may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the provisions laid down in Article 33, paragraph 1.d of this Convention.

3. Based on its harmonised law, a regional integration organisation and member States of that organisation may, at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, specify:

   (a) the scope of the term "unlawful" in Article 3.a of this Convention; and

   (b) the scope of the notions "domestic law", "domestic provisions", "protected" and "requirement" used for the purpose of defining offences under Articles 13 and 14, 19 to 22 and 26 to 30 of this Convention.

4. Any Party may wholly or partly withdraw a reservation by means of a declaration addressed to the Secretary General of the Council of Europe. This declaration shall become effective as from its date of receipt by the Secretary General.

Article 57 – Denunciation

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

Article 58 – Notification

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the non-member States which have participated in its elaboration, any Signatory, any Party, the European Union and any State invited to accede to this Convention of:

   (a) any signature;

   (b) the deposit of any instrument of ratification, acceptance, approval or accession;

   (c) any date of entry into force of this Convention in accordance with Articles 53 and 54;

   (d) any amendment adopted in accordance with Article 50 and the date on which such an amendment enters into force;

   (e) any reservation and withdrawal of reservation made in pursuance of Article 56;

   (f) any denunciation made in pursuance of the provisions of Article 57; or

   (g) any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at […], this […] day of […] [202x], in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe.

The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention, to the European Union and to any State invited to accede to this Convention.

ANNEX 2

Reservation concerning the definition of certain terms under the Council of Europe Convention on the Protection of the Environment through Criminal Law

In accordance with Article 56, paragraph 3, of the Convention on the Protection of the Environment through Criminal Law ("the Convention"), the European Union declares that, for the European Union, the notion "domestic law" used for defining the term "unlawful" in Article 3(a) of the Convention shall mean Union law which contributes to the pursuit of one of the objectives of the Union's policy on the environment as set out in Article 191(1) of the Treaty on the Functioning of the European Union, as well as a law, regulation or administrative provision of a Member State of the European Union, or a decision taken by a competent authority of a Member State, which gives effect to the relevant Union law. The same meaning shall apply to the notions "domestic law" and "domestic provisions" used for the purposes of defining the relevant conduct under Articles 14, 19, 20, 21, 26, 29 and 30 of the Convention. Furthermore, the notions "protected" and "requirement" used for the purposes of defining the relevant conduct under Articles 13, 22, 27, 28 and 29 of the Convention shall be interpreted in accordance with domestic law, as defined above.