



## The Assembly of States Parties to the Rome Statute

Sponsors: French Republic, Kingdom of Sweden

Signatories: The Czech Republic, Federal Republic of Germany

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*Eleventh session*

**Agenda Item: 1**

### **Addition of the crime of “Ecocide” into the Rome Statute of the International Criminal Court**

THE ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE,

*Concerned* by the catastrophic effects of climate change on ecosystems and the livelihoods of humans,

*Aware of* the Assembly’s and the ICC’s capability to contribute to the fight against climate change,

*Convinced* that humanity must not only change its relationship to the environment in a political and economic, but also in a penal way,

*Taking into account* the preventive function of international criminal law, as well as its justice function for victims of Ecocide,

*Fully aware* that the consequences of climate change most affect people in the global south,

*Convinced* that Ecocide actions cannot remain unpunished,

*Noting further* that an international legal framework for the punishment of Ecocide is necessary,

*Guided by* the definition proposal of Stop Ecocide Foundation’s Independent Expert Panel on the Legal Definition of Ecocide,

*Recognizing* the importance of the current agreements addressing the climate crisis, such as the Kyoto protocol and the Paris Agreement,

*Concerned* not only by climate change, but all destruction of nature caused by mankind,

*Taking into account* the importance of the Agenda 2030 Sustainable Development Goals,

1. Declares accordingly to add to the Rome Statute of the International Criminal Court (“Rome Statute” in the following) a preambular paragraph 2bis with the wording: ‘Concerned that the environment is daily threatened by severe destruction and deterioration, gravely endangering natural and human systems worldwide,’;
2. Further resolves to add to Art. 5 Rome Statute the wording: ‘(e) The crime of ecocide.’;
3. Solemnly affirms to add to the Rome Statute an Art. 8ter Ecocide with the wording:
  1. For the purpose of this Statute, “ecocide” means unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts.
  2. For the purpose of paragraph 1:
    - a) “Wanton” means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated whereby “excessive” means going beyond all standards and needs of a current society and economy;
    - b) “Severe” means damage which involves very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life or natural, cultural or economic resources;
    - c) “Widespread” means damage which extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings:
      - i. “Limited geographic area” means a scientifically reasonable area size determined by scientific experts screened by the United Nations in the case law of the International Criminal Court,
    - d) “Long-term” means damage which is irreversible or which cannot be redressed through natural recovery within a reasonable period of time:
      - i. “Reasonable period of time” means 25 years,
      - ii. The Court shall hear scientific experts screened by the United Nations or the International Criminal Court on the question if the natural recovery of an alleged Ecocide action can be expected within 25 years,

- iii. Paragraph (i.) does not mean that Ecocide actions can only be penalized after 25 years,
  - iv. The action is only punishable if said scientific experts state that the natural recovery cannot be expected within 25 years after the action,
  - e) “Environment” means the earth, its biosphere, cryosphere, lithosphere, hydrosphere and atmosphere, as well as outer space;
4. Considers that the application of the amendment should enter into force according to Annexes I and II;
  5. Calls upon the international law community to debate commentaries on the interpretation of the present definition and its thresholds based on the proposal of the Independent Expert Panel for the Legal Definition of Ecocide;
  6. Considers that damaging consequences of Ecocide can occur a long time after the action and thus no consequence has yet to be occurred for the action to be punishable, therefore in this case, the examination of the “wanton” criterion must be taken with additional care;
  7. Considers that international criminal law cannot be applied to legal persons, but to natural persons acting through the capacity of legal persons;
  8. Encourages the International Law Commission to submit a report on the opportunities of applying international criminal law to legal persons;
  9. Requests all States Parties to adopt the criminal offense of Ecocide into their domestic law in order to create a system of complementarity in accordance with Art. 17 of the Rome Statute of the International Criminal Court;
  10. Encourages all States that are not yet Parties to the Rome Statute to join it;
  11. Encourages the IAEA General Assembly to pass a convention concerning the risk of wars for nuclear power plants and the impact of their destruction for the environment as well as regarding global security standards of said plants such as, but not limited to, the Russian war against Ukraine;
  12. Decides on a transition period of three years in which the ICC will receive, but not decide Ecocide cases. After the transition period, the ICC will evaluate if either:
    - a) The influx of cases is manageable, which would lead to the Ecocide definition being permanently added to the Rome Statute or,
    - b) The influx is not manageable which would lead to the Ecocide definition being recognized in the Rome Statute without ICC competence to punish it;

13. Decides that individuals acting through the capacities of legal persons such as, but not limited to, States and companies, are exempted from being punished for Ecocide for emitting greenhouse gasses if they emit less greenhouse gasses than foreseen by their Nationally Determined Contributions (NDCs) under the Paris Agreement or by their company reduction goal;

- a) That this paragraph does not exclude said individuals from being punished for Ecocide actions other than greenhouse gas emission,
- b) That if the individual acting through the capacity of a legal person has no NDC according to the Paris Agreement or no company reduction goal, it is only punishable if the legal person does not reduce its greenhouse gas emissions;

14. Decides to stay aware of the matter.

#### **Annex I: Timeline for industrialized countries**

Date	Application
Immediately after ratification	Application to all sectors except energy production, mobility and agriculture
Three years after ratification	Application to all sectors except energy production and mobility
Ten years after ratification	Application to all sectors except energy production
13 years after ratification	Application to all sectors

#### **Annex II: Timeline for developing countries**

Date	Application
Immediately after ratification	Application to all sectors except energy production, mobility and agriculture

Seven years after ratification	Application to all sectors except energy production and mobility
12 years after ratification	Application to all sectors except energy production
20 years after ratification	Application to all sectors