



Cour  
Pénale  
Internationale  
International  
Criminal  
Court



BUREAU DU  
PROCURÉUR  
OFFICE OF THE  
PROSECUTOR

OFFICE OF THE PROSECUTOR

# POLICY ON ADDRESSING ENVIRONMENTAL DAMAGE THROUGH THE ROME STATUTE

December 2025

COUR PÉNALE INTERNATIONALE  
BUREAU DU  
PROCUREUR



INTERNATIONAL CRIMINAL COURT  
OFFICE OF THE  
PROSECUTOR

OFFICE OF THE PROSECUTOR

**POLICY ON ADDRESSING  
ENVIRONMENTAL DAMAGE  
THROUGH THE ROME STATUTE**

December 2025

## PREFACE

The International Criminal Court was established to help end impunity for the most serious crimes of concern to the international community. This mandate extends to Rome Statute crimes when they are committed by means of or result in serious environmental damage.

The natural environment sustains all life, human and non-human alike. Its destruction and degradation often bring untold suffering, displacing communities, eroding cultures, and threatening human survival itself. Yet the burden is not borne equally. Environmental damage strikes hardest at the poor and marginalised, those with the fewest resources to adapt or escape, including Indigenous Peoples, women, children, and peasants. For them, environmental destruction often means the loss of health, livelihoods, and dignity, compounding cycles of inequality and injustice across generations. This Policy and its preparation reflect the Office's recognition of the increasingly urgent need for a comprehensive global effort to combat environmental degradation and its consequences and to seek environmental justice. Through this Policy, the Office intends to ensure that it plays its due role in contributing to those efforts, thus working to ensuring the continued relevance of the Court.

The Policy sets out how the Office of the Prosecutor will, consistent with its mandate and authority, ensure that the Rome Statute is applied to crimes that involve environmental damage. It aligns with our broader strategic vision to enhance the Office's policy framework in thematic areas in order to reinforce its role as a leader in the development and implementation of international criminal justice. Through this Policy, the Office affirms its determination to investigate and prosecute Rome Statute crimes that have an environmental dimension effectively and impartially, while supporting national efforts to prosecute such crimes, consistent with its mandate on complementarity and cooperation. Importantly, the Policy situates the Court's work within the broader landscape of accountability, reinforcing and complementing international efforts toward environmental justice. In so doing, the Office will work alongside intergovernmental organisations, civil society, affected communities, and other partners.

The preparation of this Policy benefited from wide consultation and contributions from experts, practitioners, States, and civil society actors across all regions. We are grateful to all who participated in this process, and to our colleagues in the Office whose expertise and commitment made this work possible.

The implementation of this Policy will require persistence, collaboration, and innovation. The challenges are immense, but so too is the responsibility we carry – to present and future generations, and above all to those most vulnerable to the devastation of environmental damage.

**NAZHAT SHAMEEM KHAN**  
Deputy Prosecutor

**MAME MANDIAYE NIANG**  
Deputy Prosecutor

December 2025

# Table of Contents

<b>I.</b>	<b>EXECUTIVE SUMMARY</b>	<b>1</b>
<b>II.</b>	<b>INTRODUCTION</b>	<b>5</b>
<b>III.</b>	<b>KEY TERMS AND CONCEPTS</b>	<b>10</b>
a.	Environmental crime	10
b.	Natural environment	10
c.	Environmental damage	11
<b>IV.</b>	<b>THE ENVIRONMENT AND ROME STATUTE CRIMES</b>	<b>12</b>
a.	General principles	12
b.	Genocide	14
c.	Crimes Against Humanity	15
d.	War Crimes	19
e.	Aggression	23
<b>V.</b>	<b>PRINCIPLES</b>	<b>25</b>
a.	Intersectionality	25
b.	Interdisciplinarity	25
c.	Intergenerational equity	26
d.	Complementarity	26

<b>VI. PRACTICE</b>	<b>27</b>
a. Preliminary examinations	27
b. Investigations	28
c. Prosecutions	29
d. Sentencing	31
e. Reparations	32
f. Cooperation and complementarity	32
g. Engaging with corporate and other business actors	34
h. Outreach	35
<b>VII. IMPLEMENTATION AND WAY FORWARD</b>	<b>36</b>
a. Implementation of the Policy	36
b. Budgetary issues	37
c. History and methods	37
d. Way forward	39

---

## I. EXECUTIVE SUMMARY

This Policy on Addressing Environmental Damage Through the Rome Statute (“Policy”) sets out how the Office of the Prosecutor of the International Criminal Court (“Office”) will use its mandate and powers to investigate and prosecute crimes within the Court’s jurisdiction that are committed by means of or that result in environmental damage. The Policy collectively refers to these crimes as “environmental crimes.”<sup>1</sup> It also shows how the Office will support national efforts to prosecute illegal conduct that has an environmental dimension.

Although the Rome Statute is largely anthropocentric, primarily protecting human life, it also recognises and protects the inherent value of the natural environment. There are significant synergies between the fight against impunity for international crimes and preventing environmental damage. Destroying, degrading, or polluting the natural environment will often directly impact humans, such as by causing people to be displaced, inflicting great suffering or injury on victims, or even causing death. If a causal link can be established between a perpetrator’s intentional actions and an objective element of a Rome Statute crime, those acts may constitute Rome Statute crimes both during armed conflict and in times of peace.

This Policy articulates the Office of the Prosecutor’s desire to ensure that humanity’s urgent need to protect the environment is reflected in all of the Office’s investigations and cases. Through the implementation of this Policy, the Office will more fully account for crimes within its jurisdiction that involve environmental damage.

This Policy defines “environmental crimes” only for the purposes of the Policy itself. The definition should not be interpreted to limit or prejudice in any way existing or developing rules of international law.<sup>2</sup>

---

<sup>1</sup> See “Key Terms and Concepts” *infra*.

<sup>2</sup> Rome Statute, article 10.

By issuing this Policy, and by highlighting the links between environmental damage and international crimes, the Office seeks to achieve the following objectives:

- a. To emphasise that numerous crimes under the Rome Statute may be committed by means of or may result in damage to the environment<sup>3</sup>;
- b. To affirm the Office's commitment to rigorous investigation and prosecution of Rome Statute crimes that are committed by means of or that result in environmental damage, and to establish an institutional framework that facilitates effective investigation and prosecution of such crimes – including through recruitment, training, external collaboration, and meaningful implementation, monitoring, and evaluation measures;
- c. To encourage and support national efforts to investigate and prosecute environmental crimes and other activities involving unlawful environmental damage;
- d. To cooperate and coordinate with civil society organisations and other non-State actors whose expertise or access to information enables them to support law enforcement action at the international or national level;
- e. To engage with corporate and other business actors in order to put them on notice of legal risks related to their activities and to their supply chains or portfolios, thereby encouraging them to prevent or cease any involvement in illegal activities causing environmental damage;
- f. To contribute to the development of international jurisprudence and best practices concerning the prosecution of environmental crimes at the ICC and beyond.

---

<sup>3</sup> This Policy uses the terms "natural environment" and "environment" interchangeably.

This Policy was developed through an extensive consultation process involving multiple rounds of written input and direct discussion with internal Office staff and external experts and stakeholders from across the globe. It is organised to maximise its utility and implementation by the Office while also optimising relevance and accessibility to those working on other aspects of environmental justice.

Section II of the Policy introduces how the Office understands the relationship between its mandate under the Rome Statute and global efforts to prevent crimes that involve environmental damage. Section III defines key terms and concepts relevant to investigating and prosecuting environmental crimes. Section IV discusses how general principles governing the Office's exercise of its powers apply in the environmental context and provides a systematic overview of how crimes within the Court's jurisdiction can involve environmental damage. Section V of the Policy presents the principles that underlie all aspects of the Office's work on environmental crimes. Section VI discusses how the Office will integrate a focus on environmental damage into each operational phase of its work. Finally, Section VII sets out some information on the implementation of this Policy, as well as the Office's plan for the way forward.

---

## II. INTRODUCTION

1. Law has helped safeguard the natural environment from undue harm since ancient times. Every legal system in the world currently protects the environment against at least some kinds of harm, and multilateral agreements designed to prevent pollution, address climate change, protect biodiversity, and safeguard natural resources have proliferated in the past decades.

2. Despite the importance the international community assigns to the natural environment and legal efforts to protect it, human-induced environmental damage has reached unprecedented levels, resulting in a triple planetary crisis of pollution, climate change, and biodiversity loss.<sup>4</sup> This poses a direct and imminent threat to human life, because the natural environment forms the bedrock of health and life itself.<sup>5</sup> The Secretary-General of the United Nations ("UN") António Guterres has stated that "[t]he climate emergency and unchecked environmental degradation represent an existential threat to the world as we know it,"<sup>6</sup> and the Intergovernmental Panel on Climate Change ("IPCC") has confirmed that "[t]here is a rapidly closing window of opportunity to secure a liveable and sustainable future for all.... The choices and actions implemented in this decade will have impacts now and for thousands of years."<sup>7</sup> The International Court of Justice ("ICJ") recently underscored this reality in its Advisory Opinion on Climate Change, recognising that States have binding obligations under international law to protect the climate system and other parts of the environment from anthropogenic greenhouse gas emissions, and that a State's breach of any such obligations constitutes an internationally wrongful act entailing the responsibility of that State.<sup>8</sup>

---

<sup>4</sup> Intergovernmental Panel on Climate Change (IPCC), [Climate Change 2023 Synthesis Report: Summary for Policymakers](#) (2023), para. A.2.5-2.6.

<sup>5</sup> Air pollution is estimated to kill more than eight million people per year. See Health Effects Institute, [State of Global Air](#) (2024). In addition, the World Health Organization (WHO) estimates that between 2030 and 2050, climate change is expected to cause approximately 250,000 additional deaths per year from undernutrition, malaria, diarrhoea, and heat stress alone. See WHO, [Climate Change: Key Facts](#) (12 October 2023).

<sup>6</sup> United Nations Secretary-General Press Release, [SG/SM/21173](#) (10 March 2022). See also [IPCC Summary Report 2023](#), para. C.1.

<sup>7</sup> [IPCC Summary Report 2023](#), para. C.1.

<sup>8</sup> ICJ, Obligations of States in respect of Climate Change, [Obligations of States in Respect of Climate Change, Advisory Opinion](#) ("ICJ Climate Change Advisory Opinion") (23 July 2025). See also [Summary of the Advisory Opinion](#), pp. 26-27. See also IACtHR [Advisory Opinion OC-32/25](#) (29 May 2025).

3. The international community has affirmed that effective action to tackle environmental damage and the climate crisis is facilitated, among other things, by “well-aligned multilevel governance.”<sup>9</sup> Because environmental damage is often linked to both international crimes and crimes under national law – such as organised crime, financial crimes, corruption, and the financing of armed non-state actors<sup>10</sup> – States have pledged to leverage all forms of criminal justice to prevent and combat crimes that affect the environment and to work toward the achievement of the 2030 Agenda for Sustainable Development.<sup>11</sup> The UN General Assembly has further urged Member States to label crimes that affect the environment as serious crimes<sup>12</sup> and welcomed the conclusion of the work of the International Law Commission on the protection of the environment in relation to armed conflicts.<sup>13</sup>

4. The International Criminal Court (“Court”) has been established “for the sake of present and future generations,”<sup>14</sup> “[r]ecognizing that... grave crimes threaten the peace, security and well-being of the world.”<sup>15</sup> The term “world” in the Rome Statute’s Preamble is not limited to humanity and includes the natural environment.<sup>16</sup> The Court’s forward-looking mandate is “to contribute to the prevention of such crimes” by putting an end to impunity for their perpetrators.<sup>17</sup> In this context, the Office resolves – within the boundaries of its mandate and authority – to actively contribute to humanity’s coordinated efforts to prevent future crimes that involve environmental damage.

---

<sup>9</sup> [IPCC Summary Report 2023](#), para. C.6.

<sup>10</sup> See, e.g., INTERPOL-UN Environment, [Environment, Peace and Security: A Convergence of Threats](#) (2016); UNEP-INTERPOL, [The Rise of Environmental Crime: A Growing Threat to Natural Resources, Peace, Development and Security](#) (2016). Also see various Reports of the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, such as [S/2001/357](#) (12 April 2001); [S/2002/565](#) (22 May 2002); [S/2002/1146](#) (16 October 2002); [S/2003/1027](#) (23 October 2003).

<sup>11</sup> See, e.g., UN General Assembly, [Res. 76/185](#) (11 January 2022); UN General Assembly, [Res. 76/181](#) (11 January 2022); UN Office on Drugs and Crime, [Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: Towards the Achievement of the 2030 Agenda for Sustainable Development](#) (May 2021); UN Office on Drugs and Crime, [Resolution 11/3](#); UN Office on Drugs and Crime, [Resolution 10/6](#); International Union for Conservation of Nature, [WCC-2020-Res-038 \(2020\)](#).

<sup>12</sup> UN General Assembly, [Res. 76/185](#) (11 January 2022).

<sup>13</sup> UN General Assembly, [Res. 77/104](#) (19 December 2022).

<sup>14</sup> [Rome Statute](#), Preamble, para. 9.

<sup>15</sup> [Rome Statute](#), Preamble, para. 3.

<sup>16</sup> Triffterer, O. et al., “Preamble,” in Ambos, K. (ed.), *Rome Statute of the International Criminal Court: Article-by-Article Commentary* (4th ed., C.H. Beck, 2022), p. 10 mn. 11 (noting that the drafters of the Preamble chose the term “world” because it “includes not only human beings but also the world around them and thus its well-being”).

<sup>17</sup> [Rome Statute](#), Preamble, para. 5.

5. The Court's jurisdiction is limited. The Rome Statute primarily focuses on safeguarding the integrity of human life and property, and it makes only one express reference to the natural environment.<sup>18</sup> Nevertheless, there are numerous provisions in the Rome Statute that may involve harm to both the natural environment and humans, and there are notable synergies between accountability for international crimes within the Court's jurisdiction and preventing and mitigating environmental damage. Destroying, degrading, polluting, or otherwise altering the natural environment will often directly impact human life and human rights, such as by causing people to be displaced, inflicting great suffering or injury on victims, or even causing death. If a causal link<sup>19</sup> exists between a perpetrator's intentional actions<sup>20</sup> and an objective element of a Rome Statute crime, these acts may constitute crimes both during armed conflict and in times of peace.<sup>21</sup>

6. This concept is not new to the Office's strategic outlook. In 2016, the Office stated in its Policy Paper on Case Selection and Prioritisation that it would, when assessing the gravity of a crime, "give particular consideration to prosecuting Rome Statute crimes that are committed by means of, or that result in, *inter alia*, the destruction of the environment, the illegal exploitation of natural resources or the illegal dispossession of land."<sup>22</sup>

7. Conflicts throughout the world, including in ICC situation countries such as the Democratic Republic of the Congo, the Central African Republic, Darfur, Ukraine, and Palestine, indicate that conflicts involving Rome Statute crimes are often motivated by competition over natural resources, such as land, water, and minerals, and routinely result in serious environmental damage. Focusing on Rome Statute crimes with an environmental dimension will thus not only protect the environment, it may also help address the root causes of conflict itself and the factors that exacerbate it, thereby contributing to the prevention of crimes as mandated by the Preamble of the Rome Statute. To address those crimes

---

<sup>18</sup> [Rome Statute](#), article 8(2)(b)(iv).

<sup>19</sup> The requirements of causality are set out in article 25 of the [Rome Statute](#).

<sup>20</sup> The applicable requirements for intent and knowledge are set out in articles 25, 28, and 30 of the [Rome Statute](#).

<sup>21</sup> Some Rome Statute crimes, such as those under article 8(2)(b)(iv), are conduct crimes and do not require proof of a consequence. In such cases, intent relates only to the conduct, and not to the consequence.

<sup>22</sup> [OTP Policy Paper on Case Selection and Prioritisation](#), para. 41. This Policy refers to "environmental damage" instead of to "environmental destruction" to avoid confusion about the amount of harm required by certain crimes in the Rome Statute. Although the illegal exploitation of natural resources and illegal dispossession of land do not necessarily cause environmental damage, in practice they often do. Instances of illegal exploitation of natural resources and land grabbing that do not result in environmental damage are not covered by this Policy.

effectively, the Office will cooperate and coordinate with national authorities in the manner foreseen by the Office's Policy on Complementarity and Cooperation.<sup>23</sup>

8. In analysing environmental crimes, the Office will emphasise the individual and collective rights of members of groups that have a particularly close connection with the natural environment, including but not limited to Indigenous Peoples,<sup>24</sup> people of African descent, and peasants.<sup>25</sup> The Inter-American Court of Human Rights has emphasised, for example, that "the close ties of Indigenous People with the land must be recognized and understood as the fundamental basis of their cultures, their spiritual life, their integrity, and their economic survival," because for Indigenous Peoples the land is "not merely a matter of possession and production but a material and spiritual element which they must fully enjoy... to preserve their cultural legacy and transmit it to future generations."<sup>26</sup>

---

<sup>23</sup> [OTP Policy on Complementarity and Cooperation](#).

<sup>24</sup> The OTP is aware of concerns regarding the use of the term "local communities" in conjunction with "Indigenous Peoples" in various UN processes and instruments, including in the climate context. While such formulations appear in certain multilateral environmental agreements, they risk conflating distinct groups and obscuring the specific, inherent, and collective rights of Indigenous Peoples. As underscored by the UN Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, and the Special Rapporteur on the Rights of Indigenous Peoples, these rights derive from Indigenous Peoples' unique historical, cultural, and political status and cannot be equated with the interests of other communities. Consistent with the UNDRIP, and in order to uphold clarity, legal precision, and the recognition of Indigenous Peoples as rights-holders – not as stakeholders or minorities – this Policy uses the term "Indigenous Peoples." In addition, where relevant, it refers to other legally recognized groups under the Rome Statute framework instead of invoking the category of "local communities." See, e.g., Human Rights Council, Annual Report of the Expert Mechanism on the Rights of Indigenous Peoples, [A/HRC/57/64](#), (6 August 2024), paras. 51, 52; United Nations Expert Mechanism on the Rights of Indigenous Peoples, [Outcome Document](#) (26-28 February 2024).

<sup>25</sup> See [United Nations Declaration on the Rights of Indigenous Peoples](#) (13 September 2007) International Labour Organisation, [Indigenous and Tribal Peoples Convention](#) (1989), article 1. In focusing on these groups and communities, the Office will be sensitive to the fact that they do not speak with one voice. Moreover, in keeping with its commitment to intersectionality, the Office will pay particular attention to how some environmental crimes affect certain members of Indigenous Peoples, such as women and children, more than others. Similarly, the special connection between people of African descent, their territory, and natural resources has been recognised by other tribunals. See, e.g., *Case of the Saramaka People v. Suriname*, [Judgment](#) (28 November 2007), para. 82 ("Land is more than merely a source of subsistence for them; it is also a necessary source for the continuation of the life and cultural identity of the Saramaka people."). See also *Case of the Afro-Descendant Communities Displaced from the Cacarica River Basin (Operation Genesis)*, [Judgment](#) (20 November 2013), paras. 340 & 354. Peasants are another example. See, e.g., [The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas](#) (2018), p. 2 (noting "the special relationship and interaction between peasants and other people working in rural areas and the land, water and nature to which they are attached and on which they depend for their livelihood").

<sup>26</sup> *Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, [Judgment](#) (31 August 2001), para. 149.

9. Everyone has the right to live in a clean, healthy, and sustainable environment,<sup>27</sup> as recently confirmed by the ICJ.<sup>28</sup> The ICJ also stressed that this right is a precondition for the enjoyment of many other human rights, such as the right to life, the right to health, and the right to an adequate standard of living, including access to food, water, and housing.<sup>29</sup> Environmental crimes may exacerbate existing and intersecting vulnerabilities, including those based on characteristics such as race and gender that are discussed in more detail below.<sup>30</sup> Moreover, the ability of many marginalised or vulnerable people to avoid sites of environmental damage is limited by their dependence on access to resources, making it difficult for them to live far from the damage or to quickly escape the effects of environmental crimes.

10. The Office's mandate is structured by the Rome Statute as it currently exists. The prosecution of environmental crimes is thus distinct from proposals to amend the Statute to criminalise ecocide<sup>31</sup> or intentional environmental destruction.<sup>32</sup> The Office nevertheless believes that a clear accounting of Rome Statute crimes that can be committed by means of or that result in environmental damage will help stakeholders prioritise efforts, international and national, that will complement the Office's efforts to combat impunity for environmental crimes.

11. This Policy aligns with the Office's other policy documents. It draws on the experience of the Office, its existing good practices and lessons learned, as well as relevant jurisprudence, including that of the Court and other courts and tribunals. This Policy is subject to revision and does not give rise to legal rights.

---

<sup>27</sup> UN General Assembly, [Res. 76/300](#) (1 August 2022); [ICJ Climate Change Advisory Opinion](#) (23 July 2025), para. 393. For regional human rights systems, see [Advisory Opinion OC-32-2025](#) (29 May 2025), paras. 270-78; [Advisory Opinion OC-23/17](#) (15 November 2017), paras. 56-70; *Case of the Inhabitants of La Oroya v. Peru, Judgment* (27 November 2023), paras. 115-29. See also Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador") (1998), article 11; *Case of Ligue Ivorienne des droits de l'homme (LIDHO) and others v. Republic of Côte D'Ivoire, Judgment* (5 September 2023), paras.175-86; [African Charter on Human and Peoples' Rights](#) (1981), article 24; [Arab Charter on Human Rights](#) (2004), article 38; [ASEAN Human Rights Declaration](#) (2012), article 28.

<sup>28</sup> [ICJ Climate Change Advisory Opinion](#) (23 July 2025), paras. 387-93.

<sup>29</sup> *Ibid.*, para. 393.

<sup>30</sup> See *infra*, para. 48.

<sup>31</sup> See, for example, the 2024 [proposal](#) by Vanuatu, Fiji, and Samoa to amend the Rome Statute to include a crime of Ecocide, as well as the [proposal](#) put forward by the Stop Ecocide Foundation.

<sup>32</sup> See, e.g., Freeland, S., *Addressing the Intentional Destruction of the Environment During Warfare Under the Rome Statute of the International Criminal Court* (Intersentia, 2015), p. 2.

### III. KEY TERMS AND CONCEPTS

12. The terms set out in this Section of the Policy are defined only for purposes of the Policy itself. The definitions are not intended to limit the development of these concepts for any other purpose.<sup>33</sup>

#### a. Environmental crime

13. “Environmental crimes” are crimes in article 5 of the Rome Statute<sup>34</sup> that are committed by means of or that result in environmental damage.<sup>35</sup> The following types of acts are thus covered by the Policy:

- a. The crime in article 8(2)(b)(iv) of the Rome Statute, which expressly refers to environmental damage as part of its *legal elements*.
- b. Rome Statute crimes committed by means of environmental damage, making the damage a *material fact* relevant to establishing an element of the crime and/or the *actus reus* of a mode of liability.
- c. Rome Statute crimes resulting in environmental damage, making the damage *contextual information* relevant to assessing the gravity or the impact of the crime and for informing selection and prioritisation,<sup>36</sup> sentencing, and reparations.

#### b. Natural environment

14. There is currently no generally accepted definition of “natural environment” in international law. For the purposes of this Policy, “natural environment” refers to the Earth system as a whole, including Earth’s biosphere, cryosphere, lithosphere, hydrosphere, and atmosphere. This definition draws upon scientific recognition of the interactions that make up the environment.<sup>37</sup>

---

<sup>33</sup> [Rome Statute](#), article 10.

<sup>34</sup> The specific crimes are identified in articles 6-8bis of the [Rome Statute](#).

<sup>35</sup> See, e.g., UN Office on Drugs and Crime, [Environmental Crime: A Threat to Our Future](#) (October 2008), p. 1 (“Environmental crimes can be broadly defined as illegal acts which directly harm the environment.”).

<sup>36</sup> See, e.g., [OTP Policy Paper on Case Selection and Prioritisation](#), para. 41.

<sup>37</sup> See, e.g., Sandoz, Y. et al. (eds.), [Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949](#) (ICRC, 1987), p. 415, para. 1451; p. 662, para. 2126.

15. In general, the term “natural environment” should be “understood in the widest possible sense, in line with the meaning States have given it in the context of IHL,” because the concept of the environment “may evolve over time as knowledge about it increases” and because “the environment itself is constantly changing.”<sup>38</sup>

### c. Environmental damage

16. “Environmental damage” refers to any serious anthropogenic destruction, deterioration, or loss of the natural environment, as defined above, including the impact on the health and well-being of a particular ecosystem and its non-human inhabitants.<sup>39</sup>

---

<sup>38</sup> ICRC, [Guidelines on the Protection of the Natural Environment in Armed Conflict](#), p. 16.

<sup>39</sup> See, e.g., Gillett, M., *Prosecuting Environmental Harm before the International Criminal Court* (Cambridge University Press, 2022), pp. 11-12.

## IV. THE ENVIRONMENT AND ROME STATUTE CRIMES

### a. General principles

17. The prosecution of environmental crimes takes place within a prescribed legal framework, namely the Rome Statute, with assistance in interpretation and application provided by the Elements of Crimes ("Elements") and the Rules of Procedure and Evidence ("Rules").<sup>40</sup> In interpreting these primary documents, the Court will also consider applicable treaties and principles and, where appropriate, rules of international law, including the established principles of the international law of armed conflicts, international human rights law, and international environmental law.

18. Article 21(3) of the Rome Statute governs all aspects of the Office's work. It mandates that both the application and interpretation of the Statute must be consistent with internationally recognised human rights law. Rights particularly relevant to the investigation and prosecution of environmental crimes include, *inter alia*, the right to life, the right to physical integrity, the right to physical and mental health, the right to a clean, healthy and sustainable environment, the right to adequate food and water, the right to adequate housing, the right to privacy and family life, the right to freedom of movement and choice of residence, the right to participate in cultural life, Indigenous rights, and the rights of the child.

19. Any case involving environmental crimes that the Office investigates must fulfil the Rome Statute's regular jurisdictional requirements: temporal jurisdiction; either territorial or nationality jurisdiction; and subject-matter jurisdiction. In terms of territorial jurisdiction, the Court can prosecute crimes committed not only on the territory of a State Party – which includes its territorial sea and airspace – but also "on board a vessel or aircraft" registered to a State Party. In terms of personal jurisdiction, although the Office cannot bring environmental-crime charges against a corporation on the basis of its legal personhood<sup>41</sup> because the Rome Statute limits the Court's jurisdiction to natural persons,<sup>42</sup> it can prosecute individual corporate officers who satisfy the requirements of territorial or nationality

---

<sup>40</sup> [Rome Statute](#), article 9.

<sup>41</sup> Proposals to extend the Court's jurisdiction to legal persons were rejected during the drafting of the Statute. See, e.g., Saland, P., "International Criminal Law Principles," in Lee, R. (ed.), *The International Criminal Court: The Making of the Rome Statute* (Kluwer, 1999), p. 199.

<sup>42</sup> [Rome Statute](#), article 25(1).

jurisdiction and are personally responsible for the commission of an environmental crime pursuant to articles 25 or 28 of the Statute.<sup>43</sup>

20. In addition, to be admissible, each case must be “of sufficient gravity to justify further action before the Court.”<sup>44</sup> This excludes the “unusual case[] in which the specific facts are only of marginal gravity.”<sup>45</sup> The Office will consider the environmental damage caused by a crime when making admissibility assessments. Although assessing the gravity of environmental crimes often focuses on harms caused to humans through environmental damage, the assessment may also consider damage to the environment as such, as when a crime leads to large-scale damage to an ecosystem that is not being used by humans for subsistence purposes. The Office will also consider environment-specific factors when assessing gravity, including the interrelated factors of scale, nature and impact:

- **Scale:** the number of direct and indirect human and non-human victims and/or the geographical or temporal spread of the environmental damage.
- **Nature:** whether the environmental crimes were committed against or affected particularly marginalised victims or in vulnerable situations, including but not limited to women, children, the elderly, the disabled, Indigenous People, people of African descent, and peasants.
- **Impact:** the extent of the damage – viewed holistically and including long-term and irreversible damage, and viewed cumulatively where there have been multiple acts of environmental damage – caused to the natural environment regardless of its anthropocentric effect; the intergenerational effect of environmental damage on human life; and the specific social, cultural, psychological, religious, spiritual, or socioeconomic harm inflicted by the environmental crimes, particularly on groups or individuals with intersecting vulnerabilities.

21. As set out below, environmental crimes may be prosecuted under a variety of provisions in the Rome Statute.<sup>46</sup>

---

<sup>43</sup> See, e.g., ICRC, French Red Cross, and Australian Red Cross, [Private Businesses and Armed Conflict: An Introduction to Relevant Rules of International Humanitarian Law](#) (ICRC, 2024).

<sup>44</sup> [Rome Statute](#), article 17(1)(d).

<sup>45</sup> [Prosecutor v. Al Hassan](#), [ICC-01/12-01/18-601-Red](#), paras. 53, 56.

<sup>46</sup> See, e.g., Brady, H. & Re, D., “Environmental and Cultural Heritage Crimes: The Possibilities under the Rome Statute” in Bose, M. *et al.* (eds), *Justice Without Borders: Essays in Honour of Wolfgang Schomburg* (Brill, 2018), pp. 125-35.

## b. Genocide

22. As long as the requisite intent to destroy, in whole or in part, a national, ethnic, racial, or religious group as such is present, genocide can be committed by means of environmental damage or through acts that cause environmental damage. Any act under article 6 of the Rome Statute must be accompanied by this specific intent.

23. Article 6(b) of the Rome Statute criminalises as genocide “[c]ausing serious bodily or mental harm to members of the group.” Given the central role that the natural environment plays in the social, cultural, religious, and spiritual life of many groups – particularly Indigenous People, people of African descent, and peasants – intentionally damaging the environment may cause members of a protected group sufficiently serious bodily or mental harm to qualify as genocide under this provision.

24. Article 6(c) of the Rome Statute criminalises as genocide “[d]eliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.”<sup>47</sup> This form of genocide can be committed through environmental damage, illegal exploitation of natural resources, or illegal dispossession of land if the acts in question deprive the affected group of the means of their survival.<sup>48</sup> In the Darfur situation, for example, the Office alleges that Omar Al-Bashir has committed genocide under article 6(c) through, *inter alia*, the destruction of the targeted groups’ “food, wells and water pumping machines, shelter, crops and livestock”<sup>49</sup> and the “[u]surpation of the[ir] land.”<sup>50</sup>

25. Article 6(d) of the Rome Statute criminalises as genocide “[i]mposing measures intended to prevent births within the group.” This form of genocide can be committed by means of acts that damage the environment, such as where the perpetrator sprays subsistence crops with a chemical known to cause sterility in humans intending to destroy the protected group that depends on those crops for survival.

---

<sup>47</sup> [Rome Statute](#), article 6. The Special Rapporteur on the rights of Indigenous Peoples has warned that environmental destruction and the degradation of natural resources can threaten the very “physical and cultural survival” of Indigenous groups: United Nations Human Rights Office of the High Commissioner, “[Peru: Changes to Forestry Law Will Threaten Survival of Indigenous Peoples, UN Expert Warns](#)” (31 January 2024).

<sup>48</sup> The ICTY Appeals Chamber has noted, for example, that this form of genocide “typically relate[s] to the deliberate withholding or taking away of the basic necessities of life over an extended period of time,” *Prosecutor v. Tolimir*, [Appeal Judgment](#) (8 April 2015), para. 234, such as “deprivation of food,” *ibid.*, para. 228.

<sup>49</sup> *Prosecutor v. Al Bashir*, [ICC-02/05-157-AnxA](#) (14 July 2008), para. 174.

<sup>50</sup> *Ibid.*, para. 179.

### c. Crimes Against Humanity

#### CONTEXTUAL ELEMENTS

26. An act prohibited under article 7(1) that involves or results in environmental damage may be charged as a crime against humanity as long as it was committed “as part of a widespread or systematic attack directed against any civilian population”<sup>51</sup> and “pursuant to or in furtherance of a State or organizational policy to commit such attack.”<sup>52</sup> Environmental damage, the illegal exploitation of natural resources, and the illegal dispossession of land may contribute to the existence of a widespread or systematic attack whenever they amount to acts listed in article 7(1), such as murder, persecution, or other inhumane acts. Crimes against humanity can be prosecuted during wartime or in times of peace; no connection to armed conflict is required.

27. A group qualifies as an “organization” for purposes of article 7 as long as it has “sufficient resources, means and capacity to bring about the course of conduct or the operation involving the multiple commission of acts referred to in article 7(2)(a) of the Rome Statute.”<sup>53</sup> Crimes against humanity can thus be committed not only by government officials but also by non-state actors, such as members of organised armed groups or other armed actors (whether they are designated as terrorist, rebel, criminal, or otherwise by States) and – critical in the environmental context – corporations.<sup>54</sup>

#### EXAMPLES OF UNDERLYING CRIMES

28. Assuming the contextual elements are satisfied, a number of crimes against humanity in the Statute may be committed either by means of environmental damage or result in environmental damage.

---

<sup>51</sup> [Rome Statute](#), article 7(1), Chapeau.

<sup>52</sup> [Rome Statute](#), article 7(2)(a).

<sup>53</sup> [Katanga Trial Judgment](#), para. 1119; [Ongwen Trial Judgment](#), para. 2677.

<sup>54</sup> All war crimes require a nexus between the allegedly criminal act and the armed conflict. The nexus requirement, however, is broad: “[t]he perpetrator’s conduct need not have taken place as part of hostilities, or at a time or place where fighting was actually taking place, but must have been closely linked to the hostilities or be related to the control carried out over a certain part of the territory by the relevant party to the conflict. The existence of an armed conflict must have, at a minimum, played a substantial part in the perpetrator’s ability to commit the crime, the decision to commit it, the purpose of the commission, or the manner in which the crime was committed.” [Ntaganda Trial Judgment](#), para. 731.

29. Article 7(1)(a) of the Rome Statute criminalises murder. This includes the intentional causing of death through indirect means, such as deliberate environmental damage. For example, a person may commit murder by poisoning a well that provides drinking water for a community, intending to kill or being aware that death would occur in the ordinary course of events.

30. Article 7(1)(b) of the Rome Statute criminalises extermination. Extermination can be committed “by different methods of killing, either directly or indirectly,”<sup>55</sup> and includes “the intentional infliction of conditions of life, *inter alia*, the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population.”<sup>56</sup> As noted in the Policy on Cultural Heritage, “when the survival and cultural heritage of members of a group are intricately linked to, and depend upon, their territory, including certain natural formations, attacks that make the territory uninhabitable may be... acts of extermination.”<sup>57</sup> In the Darfur situation, the Office has charged Omar Al-Bashir with extermination, in the alternative with genocide, on the basis of the environmentally damaging acts described above.<sup>58</sup>

31. Article 7(1)(d) of the Rome Statute criminalises deportation or forcible transfer of population, defined as the “forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.”<sup>59</sup> In some situations, a perpetrator may unlawfully coerce civilians to leave their homes in order to obtain access to land, water, or similar natural resources. In other situations, a perpetrator may unlawfully coerce civilians to leave their homes by destroying or polluting the environment. Such acts could qualify as the crime against humanity of deportation or forcible transfer if the perpetrator intended to

---

<sup>55</sup> [Elements of Crimes](#), article 7(1)(b), element 1 n. 8.

<sup>56</sup> [Rome Statute](#), article 7(2)(b).

<sup>57</sup> [OTP Policy on Cultural Heritage](#), para. 68.

<sup>58</sup> *Situation in Darfur*, [ICC-02/05-157-AnxA](#) (12 September 2008), para. 236 n. 293. The IACtHR has found that “[l]ack of access to the territories may prevent indigenous communities from using and enjoying the natural resources required to provide their subsistence through their traditional activities, and to practice their traditional health care systems, and other socio-cultural functions. This may expose them to precarious and infrathuman living conditions, to greater vulnerability to diseases and epidemics, and subject them to situations of extreme lack of protection.” *Case of the Afro-Descendant Communities Displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*, [Judgment](#) (20 November 2013), para. 354.

<sup>59</sup> [Rome Statute](#), article 7(2)(d).

cause civilians to leave their homes or was aware that their actions would, in the ordinary course of events, compel the civilians to leave them.<sup>60</sup>

32. Article 7(1)(h) of the Rome Statute criminalises “[p]ersecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court.”<sup>61</sup> The act of persecution is defined as “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.”<sup>62</sup> A group or collectivity may potentially be deprived of various fundamental rights through environmental damage, the illegal exploitation of natural resources, or the illegal dispossession of land, including but not limited to the right to life, the right to a clean, healthy and sustainable environment, the right to physical integrity, the right to physical and mental health, the right to adequate food and water, the right to adequate housing, the right to privacy and family life, the right to freedom of movement and choice of residence, the right to participate in cultural life, and the rights of the child. It is particularly important to take an intersectional approach to persecution in the environmental context because a persecutory act involving or resulting in environmental damage may be committed on multiple or intersecting grounds,<sup>63</sup> including gender, political, racial, ethnic, cultural,<sup>64</sup> religious, or other grounds that are universally recognised as impermissible under international law.

33. Unlike the other crimes against humanity, persecution requires proof of discriminatory intent: “The perpetrator harms the victim *because* the perpetrator perceives the victim as belonging to a particular group or collectivity.”<sup>65</sup> This

---

<sup>60</sup> [Ntaganda Trial Judgment](#), para. 1046. In some cases, the act causing environmental damage will be unlawful under either national or international law. Article 7(1)(d), however, does not require the act that displaces civilians from the area in which they are lawfully present to be unlawful. The act must simply be “forcible,” understood as the “threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.” [Elements of Crimes](#), article 7(1)(d), element 1 n. 12.

<sup>61</sup> [Rome Statute](#), article 7(1)(h). For an explanation of how the “in connection” requirement functions in the context of the crime against humanity of persecution, see [OTP Policy on the Crime of Gender Persecution](#), paras. 56-58.

<sup>62</sup> [Rome Statute](#), article 7(2)(g).

<sup>63</sup> [OTP Policy on the Crime of Gender Persecution](#), para. 55.

<sup>64</sup> The “cultural spiritual and social identity” of Indigenous Peoples is often closely tied to their ancestral homelands, meaning the very existence of these groups can be targeted through environmental damage. See UN Department of Economic and Social Affairs, [UNPFII Mandated Areas-Environment](#).

<sup>65</sup> [Yekatom & Ngaissona Trial Judgment](#), para. 3845, citing [Ongwen Trial Judgment](#) para. 2739.

intent may be inferred from the general behaviour of the perpetrator as well as from the circumstances surrounding the commission of the crime.<sup>66</sup> Dumping toxic chemicals into a river on which a particular Indigenous People depends for food and water would thus, by itself, not amount to the crime against humanity of persecution. Such pollution would amount to persecution, however, if the perpetrator chose to pollute the river in question specifically intending to deprive those particular Indigenous persons of their fundamental rights.

34. Article 7(1)(k) of the Rome Statute criminalises “[o]ther inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”<sup>67</sup> The provision is a residual clause intended to capture conduct that is similar in nature and gravity to the other crimes listed in article 7(1). Given the central role that the environment plays in the social, cultural, religious, and spiritual life of many people, particularly members of Indigenous Peoples, people of African descent, and peasants, environmental damage, illegal exploitation of natural resources, and illegal dispossession of land may often cause great physical or mental suffering even when they do not amount to one of the other crimes against humanity enumerated in article 7(1).<sup>68</sup> As long as the perpetrator who caused the suffering was aware that this harm would occur in the ordinary course of events, such acts may qualify as the crime against humanity of other inhumane acts.

---

<sup>66</sup> *Ibid.* See also [OTP Policy on the Crime of Gender Persecution](#), para. 55.

<sup>67</sup> [Rome Statute](#), article 7(1)(k).

<sup>68</sup> Empirical studies have documented a variety of specific types of mental harm caused by environmental damage, such as ecological grief, environmental melancholia, and solastalgia. “Ecological grief” refers to “the grief felt in relation to experienced or anticipated ecological losses, including the loss of species, ecosystems, and meaningful landscapes due to acute or chronic environmental change.” Cunsolo A. & Ellis, N.R., “Ecological Grief as a Mental Health Response to Climate Change-Related Loss,” *Nature Climate Change*, Vol. 8 (2018), p. 275. “Environmental melancholia” refers to “[t]he state of loss of relation with “nonhuman objects” in nature (eg, rivers, fields, lakes, natural setting, etc.).” Cianconi, P., *et al.*, “Eco-Emotions and Psychoterratic Syndromes: Reshaping Mental Health Assessment Under Climate Change,” *Yale Journal of Biological Medicine*, Vol. 96(2) (2023), p. 215. “Solastalgia” refers to “a sense of desolation, detachment and grieving in response to losing an important place which is similar to homesickness whilst one is still at home” that occurs “when people are confronted with irrevocable changes to landscapes that they feel connected to.” Comtesse, H., *et al.*, “Ecological Grief as a Response to Environmental Change: A Mental Health Risk or Functional Response?” *International Journal of Environmental Research and Public Health*, Vol. 18 (2021), p. 736.

## d. War Crimes

### CONTEXTUAL ELEMENTS

35. An act that involves or results in environmental damage in a manner prohibited by article 8(2) may be charged as a war crime as long as the act “took place in the context of and was associated with” an armed conflict, whether international or non-international.<sup>69</sup> There is no requirement that the perpetrator intended the act in question to further the armed conflict; it is enough that the conflict “played a substantial part in the perpetrator’s ability to commit the crime, the decision to commit it, the purpose of the commission, or the manner in which the crime was committed.”<sup>70</sup> The absence of an intent requirement is important in the environmental context because non-state actors may take advantage of the existence of an armed conflict to engage in environmental damage, illegal exploitation of natural resources, or illegal dispossession of land without its members intending these acts to further the conflict.

### EXAMPLES OF UNDERLYING CRIMES

36. The only crime in the Rome Statute that explicitly protects the environment from the effects of armed conflict is article 8(2)(b)(iv), which criminalises “intentionally launching an attack<sup>71</sup> in the knowledge that such attack will cause... widespread, long-term and severe damage<sup>72</sup> to the natural environment which would be clearly excessive in relation to the concrete and direct overall

---

<sup>69</sup> [Elements of Crimes](#), article 8, Chapeau.

<sup>70</sup> [Ntaganda Trial Judgment](#), para. 731.

<sup>71</sup> In the context of this provision, and consistent with the Chapeau of articles 8(2)(b) and 21(1)(b) of the Rome Statute, the Office understands “attack” in the sense of article 49(1) of [AP I](#): as an “act[] of violence against the adversary, whether in offence or in defence.” Thus defined, the term “attack” may exclude conduct that does not occur during the “conduct of hostilities,” such as conduct against persons or objects that have already fallen into the hands of the party to the conflict carrying out the relevant conduct. *See, e.g.*, [Katanga Trial Judgment](#), paras. 797-98; [Ntaganda Trial Judgment](#), paras. 904, 916, 920, 1136; *Ntaganda* Appeal Judgment, [Separate Opinion of Judges Morrison and Hofmański](#), paras. 1-4, 27-29, 43. Whether conduct is part of the “conduct of hostilities” is, however, a question of fact. *See, e.g.*, *Ntaganda* Appeal Judgment, [Separate Opinion of Judge Bossa](#), paras. 7-10; *Ntaganda* Appeal Judgment, [Partly Concurring Opinion of Judge Eboe-Osuji](#), paras. 131-32.

<sup>72</sup> The Rome Statute does not define “widespread,” “long-term,” or “severe.” For a discussion of how those terms have generally been understood in international law, see ICRC, [Guidelines on the Protection of the Natural Environment in Armed Conflict](#), paras. 51-72. As the ICRC notes, “[w]hat is certain is that in assessing the degree to which damage is widespread, long-term and severe, contemporary (i.e. current) knowledge about the effects of harm on the natural environment must be taken into account.” *Ibid.*, para. 54.

military advantage anticipated.”<sup>73</sup> The Office will charge violations of article 8(2)(b)(iv) when appropriate, taking into account the fragile state of the environment and relying on the best available scientific knowledge when determining whether environmental damage caused by an attack qualifies as “widespread,” “long-term,” and “severe.” The applicability of the provision is limited, however, in that even environmental damage meeting this threshold must be disproportionate – that is, “clearly excessive in relation to the concrete and direct overall military advantage anticipated.”<sup>74</sup> Moreover, the war crime applies only in international armed conflict.

37. A number of other war crimes in the Rome Statute may either be committed by means of or result in environmental damage. For example, acts such as wilful killing,<sup>75</sup> wilfully causing severe physical or mental pain or suffering,<sup>76</sup> and unlawful deportation or transfer<sup>77</sup> may qualify not only as crimes against humanity but also as war crimes when committed in international or non-international armed conflict. War crimes involving prohibited weapons may also result in damage to the environment.<sup>78</sup> The following paragraphs thus set out additional examples of war crimes that may involve environmental damage.<sup>79</sup>

38. Article 8(2)(a)(iv) criminalises the “[e]xtensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.” The property destroyed or appropriated must be protected under the 1949 Geneva Conventions. Property protected under the Geneva Conventions is understood to cover all property regardless of form (tangible or intangible) and including all types of property (real and personal

---

<sup>73</sup> [Rome Statute](#), article 8(2)(b)(iv). It is important to note that the corresponding provision of IHL, article 35(3) of [API](#) does not take into account the military advantage gained by an attack that harms the environment. Instead, it categorically prohibits employing “methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.”

<sup>74</sup> See generally Lawrence, J., & Heller, K.J., “The Limits of Article 8(2)(b)(iv) of the Rome Statute, the First Ecocentric War Crime,” *Georgetown International Environmental Law Review*, Vol. 20 (2007).

<sup>75</sup> [Rome Statute](#), articles 8(2)(a)(i) and 8(2)(c)(i).

<sup>76</sup> [Rome Statute](#), articles 8(2)(a)(ii) (torture or inhuman treatment) and 8(2)(c)(i) (cruel treatment). Although the war crimes have different names, they each criminalise the infliction of such pain or suffering.

<sup>77</sup> [Rome Statute](#), articles 8(2)(a)(vii) and 8(2)(e)(viii).

<sup>78</sup> See, e.g., articles 8(2)(b)(xvii), 8(2)(b)(xviii), 8(2)(b)(xx), 8(2)(e)(xiii), and 8(2)(e)(xiv). The use of such weapons is criminal regardless of whether or to what extent environmental damage results, but the Office may additionally take into account the environmental damage caused by the use of a specific prohibited weapon, *inter alia*, when assessing the gravity of a crime or advocating for a particular sentence.

<sup>79</sup> The list is not meant to be exhaustive. The focus is on war crimes in which environmental damage is central to the prohibited act.

or movable and immovable) and all modes of ownership.<sup>80</sup> The war crime thus provides broad protection for natural resources such as land, water, and food,<sup>81</sup> as well as for the means used to utilise such resources.<sup>82</sup> Moreover, prohibited destruction or appropriation of property can be indirect as well as direct. For example, crops may be indirectly destroyed by arbitrarily preventing a farmer from tending to them.

39. Similarly, article 8(2)(b)(xiii) of the Rome Statute criminalises in international armed conflict “[d]estroying or seizing the enemy’s property unless such destruction or seizure be imperatively demanded by the necessities of war,”<sup>83</sup> while article 8(2)(e)(xii) of the Statute criminalises in non-international armed conflict “[d]estroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict.”<sup>84</sup> These war crimes have significant applicability in the environmental context, because they prohibit *any* destruction or seizure of enemy or adversary property,<sup>85</sup> public or private, that is not justified by military necessity; extensive destruction or appropriation is not required. Prohibited destruction would include a State’s armed forces destroying a nuclear power station being used for civilian purposes with the intent to cause damage.<sup>86</sup> Prohibited seizure would include an armed force appropriating for non-military purposes land, water, food, or any other natural resource that belonged to Indigenous persons whose allegiance was to the attacking State’s adversary.

---

<sup>80</sup> The concept of “property protected by the Geneva Conventions” is the subject of the grave breach of destruction and appropriation of property. *See, e.g.*, [Fourth Geneva Convention](#), article 53; Pictet, J.S. (ed.), [The Geneva Conventions of 12 August 1949: Commentary, Vol. IV](#) (ICRC, 1958), p. 301. This broad understanding of “property” is also reflected in the draft commentary on articles 53 and 147 in the forthcoming update of the Commentary on the Fourth Geneva Convention.

<sup>81</sup> The category of natural resources also includes timber, wildlife, minerals, metals, stones, and hydrocarbons. *See* United Nations Environment Programme, [From Conflict to Peacebuilding: The Role of Natural Resources and the Environment \(2009\)](#), p. 7.

<sup>82</sup> In some States, land and resources not owned by natural or legal persons are owned by the government. In other States, Indigenous Peoples hold native title to a significant amount of land and natural resources. *See* Gillett, M., [Prosecuting Environmental Harm before the International Criminal Court](#) (Cambridge University Press, 2022), p. 120.

<sup>83</sup> [Rome Statute](#), article 8(2)(b)(xiii).

<sup>84</sup> [Rome Statute](#), article 8(2)(e)(xii).

<sup>85</sup> Echoing article 53 of the Fourth Geneva Convention, the Trial Chamber held in *Katanga* that the property in question “whether moveable or immovable, private or public – must belong to individuals or entities aligned with or with allegiance to a party to the conflict adverse or hostile to the perpetrator, which can be established in the light of the ethnicity or place of residence of such individuals or entities.” [Katanga Trial Judgment](#), para. 892. *See also* [Ongwen Trial Judgment](#) paras. 2775-76.

<sup>86</sup> According to the ICTY, “a single act, such as the destruction of a hospital, may suffice to characterise” this war crime. *Prosecutor v. Blaškić, Trial Judgment* (3 March 2000), para. 157.

40. With regard to all three war crimes involving property – articles 8(2)(a) (iv), 8(2)(b)(xiii), and 8(2)(e)(xii) – the “military necessity” exception cannot be invoked by an individual acting solely in a private capacity, whether on their own behalf or on behalf of a corporate entity, to justify the otherwise criminal destruction or appropriation of enemy or adversary property.

41. Article 8(2)(b)(ii) criminalises in international armed conflict “[i]ntentionally directing attacks against civilian objects, that is, objects which are not military objectives.”<sup>87</sup> Because the natural environment is generally recognised as civilian in character,<sup>88</sup> intentionally attacking any element of the environment, such as a field or forest or body of water, would be a war crime unless the attacked object was a military objective at the time of the attack.

42. Articles 8(2)(b)(xvi) and 8(2)(e)(v) criminalise, in international and non-international armed conflict respectively, “[p]illaging a town or place, even when taken by assault.” Because pillaging protects both private and public property, appropriating components of the natural environment that are subject to ownership – for example, land or natural resources owned by a government, a community, or a private individual – can qualify as pillaging as long as the appropriation was “for private or personal use.”<sup>89</sup> Public officials, corporate actors, or private individuals may thus commit the war crime of pillaging, such as by engaging in the illegal exploitation of natural resources or the illegal dispossession of land.

43. Article 8(2)(b)(xxv) criminalises in international armed conflict “[i]ntentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions.” Article 8(2)(e)(xix) criminalises the same acts in non-international armed conflict pursuant to an amendment to the Rome Statute adopted in 2019.<sup>90</sup> Objects indispensable to survival include “foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.”<sup>91</sup> Environmental damage, illegal exploitation of natural resources, or illegal dispossession of land intended to starve civilians may thus qualify as the war crime of starvation if those actions deprive the civilians of objects indispensable for

---

<sup>87</sup> [Rome Statute](#), article 8(2)(b)(ii).

<sup>88</sup> See ICRC, International Humanitarian Law Databases, [Rule 43](#); ICRC, [Guidelines on the Protection of the Natural Environment in Armed Conflict](#), para. 18.

<sup>89</sup> See, e.g., [Elements of Crimes](#), article 8(2)(b)(xvi), element 2.

<sup>90</sup> The amendment was adopted pursuant to article 121(5) of the [Rome Statute](#). As of October 2025, it has been ratified by [18 States](#).

<sup>91</sup> [AP II](#), article 14. See also [AP I](#), article 54(2).

their survival. Importantly, there is no requirement that the deprivation actually result in starvation; the intent to starve is sufficient for criminal responsibility.

44. Articles 8(2)(b)(ix) and 8(2)(e)(iv) criminalise, in international and non-international armed conflict respectively, “[i]ntentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives.”<sup>92</sup> As stated in the Office’s Policy on Cultural Heritage, these war crimes protect from attack “the cultural and spiritual heritage of peoples,”<sup>93</sup> which includes “natural sites of cultural value, including certain natural or cultivated landscapes and physical, biological, or geological formations.”<sup>94</sup> The war crimes may thus be committed by relevant “attacks” (appropriately defined) that are directed against natural sites and mixed natural/cultural sites that have important meaning for human groups, such as Indigenous Peoples, even if they are not buildings or monuments within the traditional meaning of those terms.<sup>95</sup> In determining which natural sites are protected under articles 8(2)(b)(ix) and 8(2)(e)(iv), the Office will rely, *inter alia*, on UNESCO’s criteria for inclusion in the list of World Heritage sites, as well as on the World Heritage List itself.

#### e. Aggression

45. The crime of aggression poses a unique threat to the natural environment not only because the military force involved in the aggressive act will normally cause environmental damage, but also because acts of aggression often trigger armed conflicts that cause additional damage to the environment.

46. Article 8bis(1) of the Rome Statute criminalises aggression, defined as “the planning, preparation, initiation or execution... of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the

---

<sup>92</sup> [Rome Statute](#), articles 8(2)(b)(ix) and 8(2)(e)(iv).

<sup>93</sup> See *Situation in Mali*, Article 53(1) Report, para 155.

<sup>94</sup> [OTP Policy on Cultural Heritage](#), para. 16.

<sup>95</sup> For example, the Special Jurisdiction for Peace (JEP) has broadly interpreted the term “building” to reflect the worldviews of different “ethnic peoples.” The Chamber for Acknowledgment of Truth, Responsibility, and Determination of Facts and Conducts (SRVR) stated that article 8(2)(e)(iv) of the Rome Statute, while referring to “buildings” from a Western perspective, “must be understood more broadly as ‘places’ according to the beliefs and worldviews of each people.” While citing the ICRC, the Chamber emphasised that the destruction of cultural property is not only about physical structures, such as churches or libraries, but also about the cultural identity of entire communities, and that the defence of such property is integral to humanitarian efforts to protect those people. See JEP, [Auto No. 03 de la SRVR](#) (5 July 2023), para. 1782.

Charter of the United Nations.”<sup>96</sup> An act of aggression is defined by article 8bis(2) as “the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations.” Examples of aggressive acts listed in article 8bis(2) include invasion, military occupation, and bombardment.

47. Nearly all of the acts of aggression enumerated in article 8bis(2) can either be directed against or damage the environment.<sup>97</sup> Bombing the territory of a State, for example, will often cause the death of animals, destroy and pollute fields, forests, and bodies of water, contaminate the air, and impact safe climate. Similarly, the invasion of a State may lead to the illegal exploitation of natural resources or the illegal dispossession of land – including its formal annexation.

48. Whether an act of aggression constitutes “a manifest violation of the Charter of the United Nations” is determined by its “character, gravity, and scale.”<sup>98</sup> In assessing those factors, the Office will take into account, *inter alia*, the damage to the environment caused by the aggressive act, the number and kind of the act’s human and non-human victims, and whether the environmental damage is potentially irreversible. The Office considers intentionally destroying or damaging the environment in another State to be a use of force that is particularly grave, because the natural environment should not be instrumentalised in the conduct of international relations.

---

<sup>96</sup> [Rome Statute](#), 8bis(2).

<sup>97</sup> Environmentally destructive acts in one State, such as the pollution of waterways, often have effects in another State. Such transboundary harm cannot qualify as an act of aggression, because article 8bis(2) of the [Rome Statute](#) specifies that such acts must involve “armed force.”

<sup>98</sup> [Rome Statute](#), article 8bis(1).

## V. PRINCIPLES

49. The Office's strategic and operational approach to environmental crimes is guided by certain fundamental principles. This Section of the Policy presents the Office's understanding of those principles, which inform the practical aspects of its work at every stage.

### a. Intersectionality

50. Consistent with its other policies,<sup>99</sup> the Office will apply an intersectional approach to environmental crimes, including when selecting and prioritising cases for prosecution, when conducting investigations and prosecutions, and when making submissions on reparations. An intersectional approach acknowledges both historical and ongoing patterns of discrimination and marginalisation, recognising that individuals and communities can have disparate positions of power and vulnerabilities to harm due to multiple, compounding grounds of identity. Such grounds include, but are not limited to, race, ethnicity, nationality, socio-economic status, religion, age, sex characteristics, gender (including sexual orientation, identity and expression), caste, Indigenous identity, legal or displacement status, and disability. An intersectional approach considers such grounds and their relationship to be structural drivers of violence and environmental damage in a given context and recognises the differential impact environmental damage has on people's conditions, opportunities, and interactions. For example, the Office will be alert to the ways in which exposure to chemical or biological weapons may cause specific reproductive harms to women and girls in a politically targeted community. Similarly, many Environmental Human Rights Defenders face unique and heightened risks of harm due to the intersection of multiple identity-based vulnerabilities.

### b. Interdisciplinarity

51. The Office acknowledges that environmental crimes are inherently complex, often involving multifaceted interactions between ecological systems, human societies, and legal frameworks. To effectively investigate and prosecute such crimes, an interdisciplinary approach is essential. This requires integrating

---

<sup>99</sup> See, e.g., [OTP Policy on Children](#); [Policy on the Crime of Gender Persecution](#); [OTP Policy on Gender-Based Crimes](#); [OTP Policy on Cultural Heritage](#).

diverse fields of expertise, including but not limited to law, technology, environmental science, public health, economics, sociology, and Indigenous knowledge systems. By fostering collaboration across these disciplines, the Office aims to deepen its understanding of environmental damage, its root causes, and its impact on both humans and non-humans. This holistic perspective will inform all stages of the Office's work, ensuring that environmental crimes are addressed with the nuance and depth they require.

### c. Intergenerational equity

52. Cognisant of the fact that environmental damage frequently extends over time and is thus likely to affect how future generations will live, the Office will pay particular attention to the demands of intergenerational equity. This aligns with the Court's mission, stated in the Preamble of the Rome Statute, to operate "for the sake of present and future generations."<sup>100</sup> The Office will particularly focus on the long-term consequences of environmental damage when assessing the gravity of harm and will seek, in accordance with its Policy on Children, to give an active voice to youth and children when investigating and prosecuting crimes involving long-term environmental damage.

### d. Complementarity

53. Consistent with its Policy on Complementarity and Cooperation,<sup>101</sup> and in line with its intention to serve as a hub for international justice, the Office takes a dynamic approach to the principle of complementarity. Where possible under its mandate, the Office will encourage and support efforts by national authorities and other stakeholders to deter, prevent, and punish environmental crimes.

---

<sup>100</sup> See [Rome Statute](#), Preamble, para. 9. See also [Maastricht Principles on the Human Rights of Future Generations](#) (3 February 2023).

<sup>101</sup> [OTP Policy on Complementarity and Cooperation](#).

## VI. PRACTICE

54. The Office will endeavour to address environmental crimes throughout all phases of its operations: preliminary examination, investigation, prosecution, sentencing, and reparations. Whenever evidence permits, the Office will strive to include charges that encompass the environmental damage resulting from alleged Rome Statute crimes.

55. The Office will use its mandate and powers under the Rome Statute to combat impunity for offences related to the environment, in accordance with this Policy and the Policy on Complementarity and Cooperation.<sup>102</sup>

### a. Preliminary examinations

56. In conducting preliminary examinations, the Office will pay attention to information concerning alleged Rome Statute crimes committed by means of or resulting in environmental damage.<sup>103</sup> When conducting a preliminary examination, the Office will seek to encourage and support genuine national proceedings.

57. The Office is committed to reacting promptly to upsurges in the commission of environmental crimes. At an early stage, the Office will engage with government authorities, civil society organisations, scientific and technological institutions, and other stakeholders to preserve and verify information on alleged crimes. It may also seek additional information from States, organs of the United Nations, intergovernmental and non-governmental organisations, and other reliable sources. The Office may receive written or oral testimony at the seat of the Court and undertake field missions to the territory concerned in order to consult with the competent national authorities, the affected communities and other relevant stakeholders.<sup>104</sup> Information on alleged crimes committed by means of or resulting in environmental damage can be submitted through the Office's [OTPLink](#) Portal.

---

<sup>102</sup> [OTP Policy on Complementarity and Cooperation](#).

<sup>103</sup> [OTP Policy Paper on Case Selection and Prioritisation](#), para. 41.

<sup>104</sup> [Rome Statute](#), article 15(2); [Rules of Procedure and Evidence](#), rules 47, 104; [OTP Policy Paper on Preliminary Examinations](#), para. 85.

## b. Investigations

58. The Office will proactively seek to determine whether there is an environmental dimension to alleged crimes. If so, it will include specific lines of inquiry in the relevant situation strategies, information requirements, and investigation plans. This approach is designed to optimise the use of resources, allow for sufficient time for evidence collection and analysis, and facilitate strategic planning and decision-making.

59. The Office will seek to rely on diverse sources of evidence, making use of the best available scientific knowledge and technological tools, to establish environmental damage, assess its impact, and determine individual criminal responsibility for environmental crimes under the Rome Statute. In line with its interdisciplinary and intersectional approach, the Office will ensure that it takes into account a variety of perspectives and experiences related to environmental damage and its impact throughout the course of its investigations.<sup>105</sup> This will include seeking input from women, Indigenous Peoples, people of African descent, peasants, youth, persons with disabilities, displaced persons, and other groups that are marginalised or in vulnerable situations. Children may also be engaged by qualified experts,<sup>106</sup> where appropriate.

60. To conduct effective investigations into environmental crimes, the Office will actively cooperate with external partners who have access to critical information or specialised expertise. Such partners may include government agencies; specialised accountability mechanisms; relevant international and regional organisations, including UN agencies; universities; scientific and technology institutions; corporations; individual experts; and other relevant actors. It also specifically includes civil society organisations and grassroots communities.<sup>107</sup> The Office has issued specific guidelines in cooperation with various partners to support civil society organisations and others in collecting and preserving information for potential use as evidence in accountability efforts.<sup>108</sup>

---

<sup>105</sup> For example, the JEP in Colombia adopted an intercultural ontological approach for identifying, measuring, and understanding environmental damage, one that recognises the Colombian armed conflict impacted not only individuals and collectivities but also the natural environment itself. To implement this approach, the tribunal collected evidence of socio-environmental and territorial harm through a *diálogo de saberes* (dialogue of knowledge) that involved collective interviews and social mapping with Indigenous Peoples, Afro-descendant communities, and rural communities. See JEP, *Auto No. 03 de la SRVR* (5 July 2023), paras. 1239-43.

<sup>106</sup> See [OTP Policy on Children](#), para. 114.

<sup>107</sup> [OTP Policy on Complementarity and Cooperation](#), paras. 82-85.

<sup>108</sup> In this context, see ICC/OTP-Eurojust, [Documenting International Crimes and Human Rights Violations for Accountability Purposes: Guidelines for Civil Society Organisations](#) (21 September 2022).

61. In conducting investigations of environmental crimes, the Office will employ its full set of investigative powers under the Rome Statute. It will cooperate with domestic authorities pursuant to Part 9 of the Statute and, when necessary, will seek the Pre-Trial Chamber's authorisation to carry out discrete investigative steps.<sup>109</sup> The Office recently established a Financial Investigation Unit to strengthen its capacity for conducting financial investigations, including those involving corporate actors.

62. To manage the unprecedented amount of digital and other evidence that may be collected during investigations, the Office has made substantial investments in staff, tools, and methodologies. This is designed to ensure the efficient collection, storage, analysis, disclosure, and presentation of information, as well as its efficient transmission to other jurisdictions.<sup>110</sup>

63. Where appropriate and possible, the Office will consider participating in joint investigations with national authorities.<sup>111</sup>

### C. Prosecutions

64. The Office will select and pursue cases only if doing so is justified by the information and evidence available or accessible to the Prosecution, including upon investigation.<sup>112</sup> In making those determinations, the Office will follow the criteria set out in its Policy Paper on Case Selection and Prioritisation.<sup>113</sup>

65. The Office will consider the broader socio-economic context in which Rome Statute crimes are committed and seek to identify not only the principal perpetrators of the crimes, but also those who are responsible for facilitating or materially supporting them. Such persons may include the financiers of the principal perpetrators, including their investors, lenders, insurers, and supply chain actors, when those persons act with the requisite intent and knowledge.

66. The Office will consider the full range of crimes in article 5 and modes of liability under articles 25 and 28 of the Rome Statute when examining environmental damage that potentially violates the Statute.

---

<sup>109</sup> [Rome Statute](#), articles 56 and 57(3)(d).

<sup>110</sup> [OTP Strategic Plan 2023-2025](#), paras. 25-29, 42-45, 73-77. [OTP Policy on Complementarity and Cooperation](#), paras. 59-71.

<sup>111</sup> [OTP Strategic Plan 2023-2025](#), para. 37; [OTP Policy on Complementarity and Cooperation](#), paras. 102-12.

<sup>112</sup> [OTP Policy Paper on Case Selection and Prioritisation](#), para. 21.

<sup>113</sup> See [OTP Policy Paper on Case Selection and Prioritisation](#), paras. 34-55.

67. Under article 25 of the Rome Statute, individuals are responsible for crimes that they commit either as individuals or jointly with and/or through another person, or if they order, solicit, induce, aid, abet, otherwise assist in, or in any way contribute to, the commission or attempted commission of those crimes by an individual or group. Complicity is particularly important in the context of environmental crimes because the persons contributing to those crimes may include actors who are geographically removed from the crimes themselves. It is also important to note that criminal responsibility may arise from failures to act as well as from overt, positive acts.<sup>114</sup>

68. In general, the motives for committing Rome Statute crimes are legally irrelevant.<sup>115</sup> It is thus immaterial whether environmental crimes are carried out, or assistance is provided to them, for political, ideological, or economic reasons – or for no clear reason at all. What matters for the purposes of article 30(2) of the Rome Statute is that the perpetrators meant to engage in their conduct, that they either meant to cause a particular consequence or were aware that the consequence would occur in the ordinary course of events, and that they acted with the mental state(s) required by the crime(s) charged.

69. Under article 28 of the Rome Statute, individuals can also be held responsible for environmental crimes on the basis of superior responsibility. If environmental crimes are committed through corporate structures, senior corporate officers may potentially qualify as non-military superiors for purposes of article 28(b).<sup>116</sup>

70. Upon the issuance of a warrant of arrest or a summons to appear against a person by a Pre-Trial Chamber,<sup>117</sup> the Office may request the Chamber

---

<sup>114</sup> See, e.g., *Prosecutor v. Muthaura, Kenyatta & Ali, Decision on the Confirmation of Charges Pursuant to Article 6(1)(7)(a) and (b) of the Rome Statute* (23 January 2012) para. 46 ("[The] contention that a case concerning omission does not, as a matter of law, rise to the level of sufficient gravity is untenable. In fact, there is nothing in the Statute that can be interpreted to exclude acts by omission from the purview of the Court, and it would be contrary to its object and purpose to interpret article 17(l)(d) of the Statute in a way which would reduce, as a matter of law, the subject-matter jurisdiction of the Court.").

<sup>115</sup> Specific intent crimes, such as persecution or genocide, are an exception to this principle.

<sup>116</sup> Article 28(b)(ii) of the [Rome Statute](#) provides that a non-military superior may be responsible for crimes of his or her subordinates if, among other requirements, "[t]he crimes concerned activities that were within the effective responsibility and control of the superior." See also *Prosecutor v. Musema, ICTR-96-13-T, Judgment and Sentence* (27 January 2000), paras. 127-48 (holding, in convicting a director of a company for failing to prevent and punish his subordinates for their participation in the Rwandan genocide, that command responsibility may also apply to civilian superiors who exercise *de jure* or *de facto* power over the actions of their subordinates).

<sup>117</sup> [Rome Statute](#), article 58.

to seek the cooperation of States to take protective measures for the purpose of forfeiture. Specifically, a State may be requested to trace and freeze or seize the proceeds, property, assets, and instrumentalities of the crimes.<sup>118</sup> Given that there is no requirement that property and assets subject to a Chamber's request for cooperation be derived from, or be otherwise linked to, alleged crimes within the Court's jurisdiction,<sup>119</sup> the Office may seek the freezing or seizure of a suspect's assets worldwide.

#### d. Sentencing

71. In determining an appropriate sentence, the Court is required to consider various factors, including the gravity of the crime, the extent of the damage caused – in particular the harm caused to victims and their families – and the nature of the unlawful behaviour.<sup>120</sup>

72. The Office will consider the views of the victims and will advocate for sentences that reflect the seriousness of the crimes for which convictions are entered, including the extent of the harm they cause to victims, affected communities, and the environment itself. For sentencing purposes, environmental damage directly caused by the perpetrator's acts may be treated either as increasing the gravity of the charged crimes<sup>121</sup> or, when proven beyond a reasonable doubt, as a separate aggravating factor.<sup>122</sup> Where appropriate, the Office will present expert and other evidence that illuminates the impact of the crimes on the environment, as well as on victims, their families, the community, and humanity as a whole, including future generations.

---

<sup>118</sup> [Rome Statute](#), articles 57(3)(e) and 93(1)(k).

<sup>119</sup> Public Redacted Document, [ICC-ACRed-01/16](#), paras. 1, 63.

<sup>120</sup> [Rome Statute](#), article 78(1). Rule 145(1)(c) of the [Rules of Procedure and Evidence](#) provides that, in determining sentence, the Court shall, “[i]n addition to the factors mentioned in article 78, paragraph 1, give consideration, *inter alia*, to the extent of the damage caused, in particular the harm caused to the victims and their families, the nature of the unlawful behaviour and the means employed to execute the crime; the degree of participation of the convicted person; the degree of intent; the circumstances of manner, time and location; and the age, education, social and economic condition of the convicted person.”

<sup>121</sup> [Ntaganda Sentencing Judgment](#), para. 16 (“As long as they relate to the elements of the offence and mode(s) of liability, the factors stipulated in Rule 145(1)(c) will be considered in the evaluation of gravity, including the extent of the damage caused.”).

<sup>122</sup> [Ntaganda Sentencing Judgment](#), para. 18 (“For a factor to be considered as aggravating, there must be a sufficiently proximate link between the factor and the crime or crimes that form the basis of the conviction.”).

## e. Reparations

73. Although the Office is not a party to reparations proceedings under article 75 of the Rome Statute, it may seek leave to make a submission on reparations or a Chamber may invite it to do so.<sup>123</sup> In such instances, the Office will adopt an environment-inclusive approach to reparations, taking into account the scale and degree of the environmental damage and its impact on affected communities. The Office will also take a broad approach to the interpretation of victims as defined under rule 85(b), one that includes organisations or institutions that have sustained harm to any of their property through environmental damage.

74. The Office will advocate for transformative collective and individual reparations aimed at both repairing the environmental damage caused by the crimes in question and mitigating their impact on affected communities. To that end, the Office will support consultations with victims and experts to tailor the most effective and appropriate forms of reparations for a specific community.<sup>124</sup>

## f. Cooperation and complementarity

75. Consistent with the Office's Policy on Complementarity and Cooperation,<sup>125</sup> the Office will actively collaborate with competent national authorities, encouraging them to conduct genuine national investigations and prosecutions of Rome Statute crimes or other serious crimes under national law that are committed by means of or that result in environmental damage, and providing them with all possible support to do so.<sup>126</sup> The Office will also advocate for and assist relevant national authorities and other entities in addressing barriers that may impede genuine proceedings. The Court's regulatory framework makes clear

---

<sup>123</sup> *Prosecutor v. Lubanga*, [ICC-01/04-01/06-2953](#) (14 December 2012), para. 74.

<sup>124</sup> The Trust Fund for Victims has recognised that environmental goals are compatible with reparations under the Rome Statute. The Trust Fund's most recent strategic goals provide that reparations programs may take guidance from the Sustainable Development Goals related to the environment. See Trust Fund For Victims, [Strategic Plan 2023-2025](#), p. 4.

<sup>125</sup> [OTP Policy on Complementarity and Cooperation](#).

<sup>126</sup> [OTP Policy Paper on Case Selection and Prioritisation](#), para. 7. Rome Statute crimes involving environmental damage are also often linked to other crimes under national law, such as atrocity crimes not amounting to violations of the Statute; organised crime, money laundering, or other financial crimes; corruption; fraud; and the financing of armed groups or terrorism. They are also often associated with other kinds of violations of national law, including regulatory or administrative offences or violations of sanction mechanisms. See, e.g., INTERPOL-UN Environment, [Strategic Report: Environment, Peace and Security: A Convergence of Threats](#) (2016); UNEP-INTERPOL, [The Rise of Environmental Crime: A Growing Threat to Natural Resources, Peace, Development and Security](#) (2016).

that cooperation between States and the Court can occur irrespective of whether a State is a party to the Rome Statute.<sup>127</sup>

76. When engaging with national authorities, the Office will adopt a two-track approach: namely, coordinating with national authorities to promote cooperation and complementarity while remaining committed to independently and impartially investigate and prosecute Rome Statute crimes when national authorities are unwilling or unable to act.<sup>128</sup> The Office may also work in tandem with national partners to share the burden of delivering justice for the victims of Rome Statute crimes.<sup>129</sup>

77. The Office's assistance to national authorities in their efforts to investigate and prosecute environmental crimes or other serious crimes under national law may include the sharing of intelligence, evidence, or situation briefs; offering expertise and support to enhance the capacity of national authorities; undertaking joint investigative activities; holding strategic consultations on case selection and prioritisation to share the burden of investigating and prosecuting Rome Statute crimes; and providing assistance concerning legislation in the realm of environmental justice.<sup>130</sup>

78. If the Office obtains information indicating that individuals or organisations involved in ongoing environmental crimes are enabled in their activities by receiving support or financing from third persons or corporations, it will analyse that information and may share it with national law enforcement authorities. This includes criminal jurisdictions, regulatory or administrative enforcement mechanisms, and government authorities responsible for dealing with violations of sanction mechanisms. Through such actions, the Office, in collaboration with its national enforcement partners, may target individual supply chain actors (both upstream and downstream) and financiers (including investors, lenders, and insurers) whose actions contribute to the commission of environmental crimes, thus encouraging them to disengage from those committing such crimes.

---

<sup>127</sup> See, e.g., [Rome Statute](#), articles 87(5), 93(1)(c), and 99(5); [Rules of Procedure and Evidence](#), rule 44. See also [OTP Policy on Complementarity and Cooperation](#), para. 42.

<sup>128</sup> [OTP Policy on Complementarity and Cooperation](#), paras. 3-6, 140. See, for example, the Office's engagement with the authorities of Venezuela, Colombia and Guinea.

<sup>129</sup> See, for example, the Office's collaboration with authorities from multiple national jurisdictions in the context of its investigations in Ukraine, Central African Republic, and Democratic Republic of the Congo. [OTP Policy on Complementarity and Cooperation](#), paras. 131-38.

<sup>130</sup> [Rome Statute](#), article 93(10); [OTP Policy on Complementarity and Cooperation](#), paras. 46-47; 54-58, 86-91, 131-38.

79. The Office will cooperate with national authorities either bilaterally or through the envisaged Cooperation and Complementarity Forum. The Forum will serve as a platform for the two-way sharing of information and expertise between the Office and national authorities, aiming to enhance coordination, harmonisation, and cohesion, and will identify areas where mutual support can be provided.<sup>131</sup>

80. The Office's renewed technological architecture enables it not only to receive, process, and preserve larger data sets, but also to categorise and analyse such information. This positions the Office to function, as appropriate, as a hub at the centre of accountability efforts, including for environmental crimes, capable of providing intelligence, evidence, and analytical products to support national proceedings.<sup>132</sup>

81. To maximise its impact on preventing environmental damage related to Rome Statute crimes, the Office will coordinate and cooperate around the world with a broad range of international, regional, and specialised rule of law and accountability actors.<sup>133</sup>

### g. Engaging with corporate and other business actors

82. If the Office obtains information indicating that a corporation, an individual corporate actor, or other private actor is involved in environmental crimes, the Office may, if appropriate and consistent with its powers under the Rome Statute, directly engage with that corporation or actor, or with other relevant corporations or actors.<sup>134</sup>

83. Such engagement has various advantages:

- a. Generating evidence indicating that the relevant actors have knowledge of the allegations about their involvement in environmental crimes.
- b. Ensuring that individual actors or corporations who have come into possession of proceeds, property, or assets and instrumentalities of crimes are not deemed *bona fide* third parties protected from forfeiture.<sup>135</sup>

---

<sup>131</sup> [OTP Strategic Plan 2023-2025](#), para. 35; [OTP Policy on Complementarity and Cooperation](#), paras. 38-45.

<sup>132</sup> [OTP Strategic Plan 2023-2025](#), para. 36; [OTP Policy on Complementarity and Cooperation](#), paras. 59-71.

<sup>133</sup> [OTP Policy on Complementarity and Cooperation](#), paras. 113-18. See also [OTP Policy Paper on the Interests of Justice](#), pp. 7-9.

<sup>134</sup> Such engagement will be conducted with full regard for the rights and protections given to suspected perpetrators under article 55(1) of the [Rome Statute](#).

<sup>135</sup> [Rome Statute](#), articles 77(2)(b) and 93(1)(k).

- c. Prompting the relevant corporations to conduct further investigations into the matter, pursuant to their legally binding due-diligence obligations.<sup>136</sup>
- d. Informing individual actors or corporations of the legal, financial, and reputational risks associated with their activities, thereby encouraging them to cease the illegal activities causing environmental damage or to disengage from those involved in such activities.

84. Corporate and other business actors may also be a source of evidence or provide technology or other expertise in support of an investigation<sup>137</sup>. Consequently, the Office may, under articles 54(3)(c) and (d) of the Rome Statute, engage with such actors just as it may seek the cooperation of any State, intergovernmental organisation, or person and may enter into arrangements or agreements to facilitate cooperation that are not inconsistent with the Statute.

**h. Outreach**

85. The Office's public information activities will create and take advantage of opportunities to highlight the impact of environmental crimes and increase awareness of them among its stakeholders, victims, affected communities, the media, and the general public. This effort will employ diverse communication methods, including public events, press releases, social-media campaigns, and documentary projects.

86. Outreach initiatives play a pivotal role in realising these outreach objectives. While the Registry is responsible for and leads the planning and implementation of outreach-related activities, the Office will support the Registry and participate in appropriate outreach activities that are focused on the environment.

---

<sup>136</sup> See, e.g., [Directive \(EU\) 2024/1760 of the European Parliament and of the Council](#) (13 June 2024).

<sup>137</sup> See IUCN, [Motion 048/052 – Crimes that Affect the Environment \(CAE\)](#) (7 July 2025), preamble (recognizing that addressing crimes affecting the environment requires multi-stakeholder collaboration and under-scoring “the need for more active engagement of the private sector”).

## VII. IMPLEMENTATION AND WAY FORWARD

### a. Implementation of the Policy

87. The Office is committed to ensuring that it possesses the necessary competencies and support to effectively implement this Policy.

88. The Office will appoint Focal Points who will have ownership of the implementation of this Policy for recommendations to the Prosecutor and who will interact with external stakeholders.

89. The Office will integrate the principles, objectives, and procedures set out in this Policy into its internal regulatory and operational framework. This is to ensure that policy decisions regarding environmental crimes under the Rome Statute are comprehensively implemented at each stage of the Office's work and in its day-to-day operations. Such integration will also promote strict adherence to applicable law and evolving jurisprudence concerning environmental crimes and maintains consistency in the Office's activities across all teams and other parts of the Office.

90. Staff involved in the implementation of this Policy will receive training organised by the Focal Points that is aimed at enhancing their capacity to identify instances of Rome Statute crimes committed by means of or that result in environmental damage. This training will bolster their effectiveness in investigating and prosecuting environmental crimes. Staff will also receive training aimed at strengthening the Office's cooperation with domestic authorities to encourage and support domestic prosecution of environmental crimes and to assist domestic enforcement actions against associated illegal conduct, in close cooperation and coordination with relevant international and regional organisations.

91. The Office recognises the need to strengthen its in-house expertise on environmental crimes committed in both conflict and non-conflict situations. It will continue to recruit persons with the required expertise and experience in this field as appropriate, while benefiting from external expertise where needed.

92. The Office will consistently monitor its practices and procedures in accordance with this Policy. Utilising its standardised institutionalised "lessons learned" process, the Office will identify, document, and implement best practices. This will facilitate continuous learning and the preservation of institutional knowledge derived from practical experience.

93. The Office also aims to minimise its own ecological footprint. In particular, video conferencing and other technologies that can reduce the Office's environmental impact without compromising the effectiveness of its investigations and prosecutions will be prioritised.

### b. Budgetary issues

94. The Office's regular programme budget remains the primary source of funding with respect to its investigations, prosecutorial activities, and related support functions under this Policy.<sup>138</sup> The Office has also created a Trust Fund for Complementarity and Cooperation that allows it to promote the Office's dynamic complementarity approach by increasing its engagement with and support to specific programmatic activities in selected situations and thematic areas of work.

95. Any voluntary contributions to this Trust Fund by governments, international organisations, individuals, corporations, and other entities in accordance with article 116 of the Rome Statute<sup>139</sup> will enable the Office to further strengthen its capacity to implement this Policy. Similarly, State Parties and other partners may second expert personnel to the Office with a view to support the implementation of this Policy.<sup>140</sup>

### c. History and methods

96. In April 2023, the Prosecutor announced his intention to issue a Policy on Environmental Crimes. In June 2023, the Office launched its Strategic Plan 2023-2025, which included an announcement concerning the development of the Policy.

97. The Office undertook a series of review activities that began in June 2023 and ended with the launch of the Policy in December 2025. The process was led by the Special Adviser on War Crimes, Prof. Kevin Jon Heller, with direction from Deputy Prosecutor Nazhat Shameem Khan. The Special Adviser worked closely

---

<sup>138</sup> [Proposed Program Budget for 2025 of the International Criminal Court](#) (31 July 2024), para. 226.

<sup>139</sup> See [Financial Regulations and Rules](#), regulations 7.2-7.4. As the Prosecutor informed the States Parties in his Note Verbale of 7 March 2022, donations from States Parties are to be used to enhance the capacity of the OTP across all situations. Earmarking donations for certain situations is not possible, but donors may direct the funds to one of the specific priority areas, which were listed in the Note Verbale and repeated in several documents thereafter. See [Report of the Committee on Budget and Finance on the Work of Its Thirty-Ninth Session](#) (29 November 2022), paras. 248-52.

<sup>140</sup> See [OTP Strategic Plan 2023-2025](#), para. 41; [OTP Policy on Complementarity and Cooperation](#), paras. 48-53.

with Focal Points Reinhold Gallmetzer, Appeals Counsel, and Helen Worsnop, Trial Lawyer, as well as with Laura Baron-Mendoza, Legal Consultant.<sup>141</sup>

98. In February 2024, the Office launched a public consultation on the Policy, requesting input from any interested persons, States, or organisations concerning the specific crimes that should be included in the Policy, how to understand the applicable modes of participation in those crimes, best practices for investigating and prosecuting environmental crimes, and how to consider environmental crimes in terms of cooperation and complementarity. The Office received nearly 80 submissions, including from States, IGOs, CSOs, legal scholars and practitioners, business leaders, and religious institutions.

99. Based on the input from external stakeholders and its own research, the core writing team produced a series of drafts of the Policy between April 2024 and September 2025. Those drafts received feedback from staff in various divisions of the Office, including international cooperation and complementarity, policy drafting and gender issues, preliminary examinations, investigations, and prosecutions. The team also consulted with relevant Special Advisers and Advisory Group members to ensure the Policy harmonised with other relevant Office Policies and guidance documents.

100. In November 2024, the Office appointed a multi-regional expert Advisory Group to assist in the development of the Policy.<sup>142</sup> On 18 December 2024, the Office released a draft of the Policy for public consultation. It received nearly 60 written submissions. The Office also held bilateral consultations with more than a dozen key stakeholders and conducted four regional consultations with CSOs from Africa, Asia-Pacific, Europe, Latin America, and the Caribbean. The core writing team then produced a final draft of the Policy. Deputy Prosecutor Khan reviewed and approved that final draft in September 2025.

101. The Policy was launched in English, Spanish and French at The Hague in December 2025.

---

<sup>141</sup> Additional support was provided by UCLA's Promise Institute Europe. Proofreading and cite-checking of the Policy was provided by Bianca Dillon.

<sup>142</sup> The members were David Boyd, Renata Giannini, Ana María Mondragón, Patricia Kameri-Mbote, Kate Mackintosh, Robyn-Ann Mani, Masrur Salekin, Jean-Marc Thouvenin, and Margaretha Wewerinke-Singh.

#### **d. Way forward**

102. With this Policy, the Office commits to ensuring that environmental crimes – Rome Statute crimes that are committed by means of or that result in environmental damage – are a strategic priority at the heart of its investigations and prosecutions. The Office will continue to strengthen its understanding of and approach to these crimes.

103. Ultimately, the test of this Policy lies in its rigorous and consistent implementation. To this end, the Office will ensure that the key principles articulated above are reflected in every layer of its internal operational guidance and throughout its hiring, training, and evaluation efforts.

104. This Policy and the operational guidance that underpins it are living documents. As the Office absorbs relevant expertise and developments, these documents will evolve as necessary.

105. The Office of the Prosecutor is grateful for the robust support it received as it created this Policy. Staff and external colleagues from all regions of the world have generously given their time and expertise to this process.

106. It is the Office's hope that this marks a new chapter in the establishment of the global partnership that is necessary to ensure success in the investigation and prosecution of environmental crimes. The victims of such crimes, human and non-human alike, deserve no less.

---



---

-  [www.icc-cpi.int](http://www.icc-cpi.int)
-  [InternationalCriminalCourt](https://www.facebook.com/InternationalCriminalCourt)
-  [IntlCrimCourt](https://twitter.com/IntlCrimCourt)
-  [icc-cpi](https://flickr.com/photos/icc-cpi)
-  [IntlCriminalCourt](https://www.youtube.com/IntlCriminalCourt)
-  [InternationalCriminalCourt](https://www.instagram.com/InternationalCriminalCourt)