On 24 February 2022 in Vienna, Northumbria University, the [Global Initiative to End Wildlife Crime](https://endwildlifecrime.org/) (EWC), and the [Global Initiative against Transnational Organised Crime](https://globalinitiative.net/) (GI-TOC) hosted a discussion about an additional protocol to the United Nations Convention on Transnational Organised Crime (UNTOC) designed to combat illicit wildlife trafficking. The discussion was a hybrid event with 30 people attending in person while online and in-person presentations were streamed via the [British Society of Criminology’s Green Criminology Research Group’s YouTube channel.](https://www.youtube.com/watch?v=UOk0D3BDCU0)

The global wildlife trade (which includes all fauna and flora) has been drawing more attention for several years and was thrust further into the international discourse because of the corona virus pandemic. Debates are ongoing as to how to reform/strengthen the current international legal framework, to mitigate the risks connected with the legal trade and effectively tackle the illegal dimension. The UK Arts and Humanities Research Council (AHRC) funded [Professor Tanya Wyatt](https://researchportal.northumbria.ac.uk/en/persons/tanya-wyatt) of Northumbria University to research the [legal implementation of and compliance with](http://drtwyatt.weebly.com/cites-implementation-and-compliance.html) the Convention on the International trade in Endangered Species of Wild Fauna and Flora (CITES - the main global instrument for regulating wildlife trade). This discussion is one of four funded by AHRC ‘Follow on Funding’ to share the findings of the original research, but also to explore in more depth how wildlife can better be protected[[1]](#footnote-1).

**Why does illicit wildlife trafficking need to be urgently addressed?**

Mr John Scanlon AO, the former Secretary General to CITES and the current Chair of EWC, made the case that whilst CITES has been successful, it is not—nor was it meant to be—a convention to tackle crime, particularly crime that is serious and organised like many forms of wildlife trafficking. Further, CITES lists in its appendices less than 1% of the species of wildlife on Earth, yet many more than that are traded. One million species are facing extinction and overexploitation and illegal trade are the second cause after habitat destruction (IPBES 2019). Professor Wyatt explained that this has significant consequences for environmental health, economic and food security, human livelihoods, culture, and heritage as well as causing the suffering and death of non-humans.

Wildlife trafficking also needs to be urgently addressed because of its convergence with other crimes. As [Dr Daan van Uhm](https://www.uu.nl/medewerkers/DPvanUhm) noted, drug, human and weapons trafficking, illegal mining, land grabs, insurgency and other crimes can be intertwined with wildlife trafficking. This poses further security concerns for local and Indigenous people in wildlife source areas, law enforcement, and governments. And underpinning much of the trafficking are corrupt actors from both the public and the private sectors. Tackling wildlife trafficking is critical to stopping biodiversity and combatting climate change.

**What are the international approaches available to address illicit wildlife trafficking?**

CITES has been the tool used to combat illegal wildlife trade. For it to be a better fit to combat crime, [Dr Angus Nurse](https://www.ntu.ac.uk/staff-profiles/social-sciences/angus-nurse) proposed it would need to be reconfigured to be preventive and more punitive (currently, CITES does not require criminalisation of violations or suggest appropriate sanctions). He presented that there are other international approaches that might be used. For instance, there is perhaps scope to use the International Criminal Court (ICC) and/or the International Court of Justice (ICJ) though there is no specific international criminal law that protects wildlife. The Rome Statute, which governs what cases go to the ICC, sets out war crimes, crimes against humanity, genocide, crimes of aggression, and torture as the crimes against peace that can be brought to the court. Environmental crimes (including perhaps wildlife crime) in the context of the crimes against peace would be considered. However, this appears to be limited in scope and likely difficult to reach the necessary justifications for consideration. It was suggested by a participant that environmental crime should be considered within crimes against humanity as environmental crimes are often systematic in nature, though this may be difficult to prove.

The other international approach that Dr Nurse raised is the ICJ. The limitation of this approach is that the ICJ is confined to cases where there are possible violations of UN conventions. Furthermore, the ICJ is adversarial in that it requires states to accuse other states of these violations. Still, two examples of such cases are Australia raising the issue of Japanese whaling as a violation of the International Whaling Convention to the ICJ and Costa Rica asking for compensation because Nicaragua had caused environmental damage in Costa Rica’s territory. Thus, the ICJ relies on states being willing to challenge each other, the enforcement is case specific and crucially, the outcome is reliant on a state’s willingness to abide by the judgement.

With the current options for addressing illegal wildlife trade at the international level being limited in their scope, an additional protocol to UNTOC is worth discussion. As Ian Tennant of GI-TOC shared, UNTOC appears to be one if not the only mechanism to address wildlife trafficking from a crime approach.

**What are the benefits of the additional UNTOC protocol, and what issues and elements would an additional protocol cover?**

EWC’s proposed draft of an additional protocol has several benefits. As Mr Scanlon noted, it would include all species that states have listed as protected species, so provides protection far beyond CITES. This is critical for marine species, as Mr Daniel Kachelreiss of [Sea Shepherd Legal](https://seashepherd.org/laws-and-charters/) noted. Marine species are not well protected in CITES or within international law; furthermore, since the proposed protocol includes violations of the UN Convention on Law of the Sea, this could improve protection of marine species. The way in which the species are included could also be powerful as it is a similar approach to the [US Lacey Act](chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/viewer.html?pdfurl=https%3A%2F%2Fwww.ofdc.org.tw%3A8181%2Fweb%2Fcomponents%2FEditor%2Fwebs%2Ffiles%2FUSA_Lacey_Act.pdf&clen=120773&chunk=true) where what is illegal in the country from where the wildlife was taken is recognised as also being illegal in the country through which the wildlife transits and/or to which they arrive. As supporters of the proposed protocol such as Secretary of the Environment of Angola Dr Paula Coehlo noted, international cooperation is urgently needed to save wildlife and the additional protocol provides this mechanism.

There was consensus that discussions about an additional protocol should continue in terms of both its contents and as the way forward in combatting wildlife trafficking. As Mr Tennant rightly pointed out, UNTOC is ‘part of a holistic range of political and practical responses’, which must also include poverty alleviation and increased resources to combat wildlife trafficking and corruption amongst other activities. UNTOC could, however, do more to increase international cooperation, to raise awareness of the convention by practitioners in some parts of the world, and to make efforts to better integrate with other relevant bodies in the UN. As Mr Tennant also noted, legislation is not always implemented in accordance with UNTOC and a review mechanism for implementation only was agreed in 2018. Furthermore, Dr Nurse presented that combatting wildlife trafficking may not be hindered by poor legislation, but by poor enforcement. Thus, whilst the international community should continue strategising on ways to improve efforts to tackle wildlife trafficking, this should include discussions of how to improve existing instruments and practical action and cooperation as well as the possibility of an additional protocol to UNTOC. It is worth watching what happens in May 2022, when the governments of Angola, Costa Rica, Gabon, and Malawi have indicated that they will be proposing a draft resolution for the additional protocol.

1. The other discussions are: ‘Are Plants Wildlife?’ in Cambridge, UK in partnership with TRAFFIC International date TBC; ‘Are Fish Wildlife?’ in Portland, Oregon in partnership with Lewis and Clark College’s Centre for Animal Law Studies - 15 April; and ‘Wildlife Trade and Public Health’ online in partnership with the Wildlife Conservation Society date TBC. [↑](#footnote-ref-1)