

31st SPREP MEETING OF OFFICIALS

5, 6, and 7 September 2023, Apia, Samoa

AGENDA ITEM 12.2: Other Business:

Joining the Coalition of Environment Ministers for the inclusion of the Crime of Ecocide into the Rome Statute of the International Criminal Court

(Paper presented by the Government of Vanuatu)



Background Paper

Purpose of Paper

1. To introduce SPREP members to the global Coalition of Environment Ministers who are calling for the inclusion of the Crime of Ecocide into the Rome Statute of the International Criminal Court
2. Seek endorsement of the proposal to amend the Rome Statute of the International Criminal Court to include the Crime of Ecocide
3. Seek an agreement by Ministers to request a formal agenda item on the Crime of Ecocide at the 52nd Pacific Islands Forum Leaders Meeting (PIFLM52) from 06 – 10 November 2023 in Rarotonga, Cook Islands

Background

4. During the 2005 United Nations World Summit, heads of state and government accepted the responsibility of every state to protect its population from four crimes: **genocide, war crimes, crimes against humanity** and **ethnic cleansing**.
5. The International Criminal Court (ICC) created to help end impunity for the perpetrators of the most serious crimes affecting the international community, builds on the Geneva Conventions and its protocol, which were designed specifically to define the rules that apply during armed conflicts. The ICC, and the four crimes of the Rome Statute, however, do not cover the widespread, long-term and severe damage to the natural environment caused by activities outside the context of an armed conflict.
6. These crimes were created as a result of wars in Europe, however, and are not historically applicable to Pacific nations. Human-induced climate change, on the other hand, is directly negatively impacting the lives and human rights of Pacific people, and is the direct result of massive environmental destruction including massive carbon emissions undertaken by other state parties.
7. Vanuatu has been at the forefront of efforts to raise awareness of the need for “**ecocide**” to become a fifth international crime under the Rome Statute. The implementation of ecocide as an international criminal law would assist to:
 - a. **protect** climate vulnerable territories globally from ecological, climate and cultural ecocide;
 - b. **prevent** Carbon Major dangerous industrial activity; and
 - c. **prohibit** State sanctioned commercial ecocide.
8. In 2021, an Independent Expert Panel convened by the Stop Ecocide Foundation announced a proposed consensus definition of ecocide, as follows:
 - “Ecocide” means unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts.
 - a) “Wanton” means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated;

- b) “Severe” means damage which involves very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life or natural, cultural or economic resources;
 - c) “Widespread” means damage which extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings;
 - d) “Long-term” means damage which is irreversible or which cannot be redressed through natural recovery within a reasonable period of time;
 - e) “Environment” means the earth, its biosphere, cryosphere, lithosphere, hydrosphere and atmosphere, as well as outer space.
9. To muster sufficient international support for amendment of the Rome Statute at the ICC’s Assembly of State Parties, Belgium has spearheaded a Coalition of Environment Ministers for the inclusion of the Crime of Ecocide into the Rome Statute of the International Criminal Court
10. Pacific support for Ecocide to become an international crime will also complement and support the Pacific’s International Court of Justice Advisory Proceeding by making State accountability for their rapid reduction of carbon emissions answerable in a criminal court of law.

Recommendation

11. The Meeting is invited to:

- 1) **Accept** the invitation of Belgium for Pacific nations to join the “Coalition of Environment Ministers for The Inclusion Of The Crime Of Ecocide Into The Rome Statute Of The International Criminal Court” and to add the names of Pacific Environment Ministers to the Declaration of the Coalition;
- 2) **Agree to encourage** other State Parties of the ICC to join this Coalition, with the objective of raising the momentum for the inclusion of the crime of ecocide in the Rome Statute of the ICC; and
- 3) **Invite** Leaders to **agree** to the inclusion of the Crime of Ecocide in the Rome Statute at the 52nd Pacific Islands Forum Leaders Meeting (PIFLM52) from 06 – 10 November 2023 in Rarotonga, Cook Islands

29 August, 2023