3. Considers that both Community legislation and international conventions were clearly violated in the case of the exporting of hazardous waste to Abidjan, and therefore calls on the Commission and the Member States to take all necessary measures to ensure full enforcement of the existing waste shipment legislation;

4. Asks the Commission and the Member States concerned to make public all the bilateral agreements they have concluded with non-OECD countries for the shipping of waste;

5. Calls on the Commission to make legislative proposals to close the loopholes in the current regime on hazardous waste so as to end shipments to non-OECD countries of waste electrical and electronic equipment and obsolete ships and vessels;

6. Calls on the Commission to collect information on the illicit trafficking in, and dumping of, such hazardous wastes and products in African and other developing countries, to come forward with proposals for measures to control, reduce and eradicate this illicit trafficking, transfer and dumping of such products in African and other developing countries and to produce annually a list of countries and transnational corporations engaged in the illicit dumping of toxic waste and products in African and other developing countries;

7. Instructs its President to forward this resolution to the Council and the Commission, the governments of the Member States, the Secretary-General of the United Nations, the government of Côte d’Ivoire and the secretariat of the Basel Convention.

P6_TA(2006)0458

Use of criminal law to protect the environment

European Parliament resolution on the follow-up to Parliament’s opinion on environmental protection: combating crime, criminal offences and penalties

The European Parliament,

— having regard to the proposal for a directive of the European Parliament and of the Council on the protection of the environment through criminal law (1),

— having regard to its position of 9 April 2002 with a view to the adoption of a directive of the European Parliament and of the Council on the protection of the environment through criminal law (2),

— having regard to its position of 9 April 2002 on the proposal for a Council decision establishing a framework programme on the basis of Title VI of the Treaty on European Union — Police and judicial cooperation in criminal matters (3),

— having regard to the judgment of the Court of Justice of 13 September 2005 in Case C-176/03, Commission v Council (4),

— having regard to the communication from the Commission to the European Parliament and the Council on the implications of the Court’s judgment of 13 September 2005 (Case C-176/03, Commission v Council) (COM(2005)0583),

— having regard to its resolution of 14 June 2006 on the consequences of the judgment of the Court of 13 September 2005 (C-176/03, Commission v. Council) (5),

— having regard to Rule 108(5) of its Rules of Procedure,

(2) OJ C 127 E, 29.5.2003, p. 119.
(3) OJ C 127 E, 29.5.2003, p. 132.
(4) [2005] ECR I-7879.
A. whereas the Court of Justice, in its judgment of 13 September 2005, ruled that the Community legislature is entitled to take measures which relate to the criminal law of the Member States which it considers necessary in order to ensure that the rules which it lays down on environmental protection are fully effective,

B. whereas the Court of Justice considers that the provisions of Articles 135 and 280(4) of the EC Treaty do not prevent, for the purposes of the implementation of environmental policy, any harmonisation of criminal law,

C. whereas the Court of Justice considers that 'the entire framework decision, being indivisible, infringes Article 47 of the EU Treaty as it encroaches on the powers which Article 175 of the EC Treaty confers on the Community',

D. whereas the Commission, in its abovementioned communication on the implications of the Court's judgment of 13 September 2005, stated that the provisions of criminal law required for the effective implementation of Community law are a matter for the EC Treaty,

E. whereas the position taken by the Court of Justice, as re-interpreted by the Commission, is to be welcomed as it endorses the position already taken by the European Parliament in its resolution of 3 September 2003 on legal bases and compliance with Community law (1),

1. Welcomes the judgment of the Court of Justice, which annulled the framework decision on environmental protection which had been adopted mistakenly under the third, rather than the first, pillar;

2. Notes that the Court of Justice decision leads to a legal vacuum regarding the protection of the environment through criminal law;

3. Considers that the adoption of the framework decision by the Council shows that the Member States recognise that criminal law instruments are necessary to strengthen the enforcement of environmental protection laws;

4. Considers that the adoption of the framework decision by the Council shows that the Member States recognise the need for a certain harmonisation in the field of the protection of the environment through criminal law;

5. Notes that the Court clearly stated that Articles 1 to 7 of the framework decision could have been properly adopted under Article 175 of the EC Treaty;

6. Regrets that the Commission, in its abovementioned communication on the implications of the Court's judgment of 13 September 2005, is not more explicit on the action it intends to take in relation to the existing proposal for a directive of the European Parliament and of the Council on the protection of the environment through criminal law;

7. Calls on the Council to examine the Commission's original proposal with a view to amending it or providing guidance for a new proposal on the protection of the environment through criminal law on the basis of Article 175 of the EC Treaty;

8. Requests that, unless the Council is determined to make progress in adopting a common position on the original Commission proposal, the Commission draw up a new proposal on the protection of the environment through criminal law on the basis of Article 175 of the EC Treaty, taking into account the Court of Justice's judgment and incorporating the result of the European Parliament's vote at first reading on the original proposal for a directive;

9. Instructs its President to forward this resolution to the Council, the Commission and the Governments and Parliaments of the Member States.