

**THIS IS NOT AN INDEPENDENT REVIEW OF THE LUSAKA
AGREEMENT ON CO-OPERATIVE ENFORCEMENT OPERATIONS
DIRECTED AT ILLEGAL TRADE IN WILD FAUNA AND FLORA**

SORRY CHAPS!!! Can you believe it?? The UN Thought Police have sent me a nasty letter saying that if I do not immediately remove the Lusaka Agreement report from the website then terrible things shall happen to me AND the world will come to an end. I mean, given Darfur, Baghdad, Iran, North Korea, Palestine, Afghanistan, Kofi Anan's family stealing zillions of dollars just to mention a few, it makes us all feel better that their Thought Police are acting on our behalf night and day to keep the world safe and a better place for George Bush.

Anyway, here is the Executive Summary of a completely different report, and if you want the Full Monty then drop me a line to mng5@compuserve.com and I'll email it to you.

EXECUTIVE SUMMARY

BACKGROUND

1. The primary objective of the Lusaka Agreement On Co-Operative Enforcement Operations Directed At Illegal Trade In Wild Fauna And Flora is:

"... to reduce and ultimately eliminate illegal trade in wild fauna and flora ...".

while the Spirit of the Agreement is:

"... to enhance co-operation in enforcement activities directed against the illegal trade in wild flora and fauna between and among party States".

2. The Agreement obliges party States to undertake certain measures at the national level and establishes a three tiered institutional framework comprising a permanent regional body – the Task Force; national implementing bodies - the National Bureaus; and a permanent Ministerial body – the Governing Council.
3. Important milestones for the Lusaka Agreement have been the Lusaka Conference of December 1992; the signing of the Final Act in September 1994 by Kenya, South Africa, Swaziland, Tanzania, Uganda and Zambia, and later by Ethiopia; the Entry into Force in December 1996; and the Task Force becoming operational in July 1999.
4. Six countries - Kenya, Lesotho, Republic of the Congo, Tanzania, Uganda and Zambia - eventually ratified or acceded to the Agreement.
5. The Governing Council is the decision making body of the Agreement. Since the Agreement Entered into Force in December 1996 there have been six meetings of the Governing Council; in March 1997, March 1999, and subsequently in July of 2000, 2001, 2002 and 2003.
6. In response to their obligations under the Agreement, two of the party States - Congo Brazzaville and Uganda - have established specific National Bureaus for the Agreement; three (Kenya, Tanzania and Zambia) have designated an existing institution to be the National Bureau; and all five have seconded Professional Officers to the Task Force. However, Lesotho has yet to either designate or establish a National Bureau or second a Professional Officer to the Task Force.
7. A Headquarters Agreement (HQA) was signed on December 22nd 1999 between the Government of Kenya and the Lusaka Agreement. The HQA is both comprehensive and generous towards meeting the requirements of hosting the Task Force and allowing it to be operational.
8. The Task Force became operational in July 1999 since when it has:-
 - (a) Installed communications equipment linking the Task Force HQ to each National Bureau;

- (b) Organised and/or participated in 27 training courses attended by over 200 field personnel;
 - (c) Carried out 42 field operations with National Bureaus; and
 - (d) Investigated four cases of illegal international wildlife trade.
9. The National Bureaus are working closely with the Task Force to:-
- (a) Exchange information on wildlife crime and illegal trade;
 - (b) Participate in field operations and investigations into illegal international trade; and
 - (c) Participate in Training and Capacity Building programmes.
10. The party States and the National Bureaus are also carrying out joint cross-border exercises with their neighbours.
11. All of the institutional components of the Lusaka Agreement have been implemented and are working towards meeting their obligations and tasks as set out under the Agreement.
12. This is a considerable achievement, and one that reflects well on both the party States themselves and on the supporters of the Agreement – especially the United Nations Environment Programme.

THE CASE FOR CHANGE

13. It must be emphasised that the Lusaka Agreement is still relatively new. Although signed in September 1994 it only Entered Into Force in December 1996; and its most significant part, the Task Force, only became operational in July 1999. The Agreement, and especially the Task Force, are still finding their feet and it may still be early days to expect major impacts and achievements.
14. Nonetheless, Agreement has yet to achieve its full potential. Specifically:-
- (a) The Lusaka Agreement itself has not achieved notable success as an enabling authority: either in attracting new party States, or in acting as a model for other regional MEAs, or in promoting co-operative enforcement activities between and among its party States, or in promoting co-operation with other MEAs with similar regional objectives.
 - (b) Administratively, the Governing Council has yet to put in place the effective monitoring and enforcement of compliance with the Decisions of the Governing Council, especially those concerning the obligations of party States; or to develop effective strategic plans for budget control, funding, devising work plans, prioritising activities and staff recruitment.
 - (c) At the regional scale, the Lusaka Agreement Task Force has not succeeded in promoting co-operative enforcement activities at either national, bilateral or

multilateral scales; neither is there significant Value Added from its training programmes, field operations or investigations of illegal trade.

(d) At the national scale, the lack of clear guidelines as to what the National Bureaus should do or what their objectives should be has hindered their operational development. The National Bureaus have basically continued to do what they were doing anyway, with no clear Added Value or new initiatives.

15. Furthermore, there are few unambiguous signs that either the Agreement or the Task Force has had any significant impact in disrupting or eliminating the illegal trade in wild fauna and flora in the Region. For example, in the financial year 2002/03, and for a cost of between \$300,000-\$350,000, the Task Force made 16 arrests; seized 116kg of ivory, 46 assorted skins and one firearm; and carried out one investigation of illegal cross-border trade.

MAJOR PROBLEMS AND CONSTRAINTS

16. The most important issues facing the Agreement as an enabling authority are:-

- (a) The "single issue" nature of the Agreement.
- (b) The restricted geographical mandate.
- (c) The barriers to recruiting new party States, which include the size of the annual contribution, changes to national law, membership of other MEAs and the perception of a lack of neutrality.

17. The most important issues facing the Governing Council are:-

1. Monitoring and enforcing compliance with the Decisions of the Governing Council, especially those concerning the obligations of party States.
2. Administrative supervision of the Task Force, in terms of strategic planning, budgets, work plans, prioritisation of activities and recruitment.
3. Procedures to ensure that the priorities and requirements of the National Bureaus are integrated into the work plan and budgets of the Task Force.

18. The most important issues facing the Task Force are:-

1. Recruitment: Officers are being recruited with the wrong skills and a lack of Parity (seniority and experience).
2. Chronic under-manning to carry out the mandated tasks.
3. No assessment of how best to tackle illegal trade given the resources to hand.
4. Poor prioritisation of activities and work plan.
5. Little capacity for expansion, especially into a multi-lingual operation.
6. Insensitivity to the requirements of the National Bureaus.

19. The most important issues facing the National Bureaus are:-

- (a) Little guidance from the Agreement or the Governing Council as to what their role should be.
- (b) Little value added when a National Bureau is designated rather than established (created).

NEW APPROACHES TO FIGHTING WILDLIFE CRIME

20. The basic premise behind the Lusaka Agreement is that an international Task Force, made up from wildlife enforcement officers and able to move between party States to pursue investigations, is the best way to disrupt and eliminate the illegal trade in wild fauna and flora. However, in operational terms the Task Force is simply emulating the enforcement activities of the National Bureaus. It is clear that this strategy, dating as it does from the conditions prevailing in the early 1990s, is proving ineffective and must be re-evaluated.
21. Today, the entire nature of the illegal trade in wildlife has changed. Wildlife crime is much more sophisticated and has largely gone underground in response to more efficient national and international enforcement and regulation. The creation of the Wildlife Crime Working Group of Interpol, and the tracking of CITES related crimes by the WCO, testify to the changing nature of the problem. Clearly, the Agreement must adopt a new approach.
22. Experience gained worldwide from institutions with similar remits to the Agreement shows that the successful fight against wildlife crime depends upon a number of critical components. First, a multi-agency approach in which all agencies involved directly or indirectly with the fight against wildlife crime become genuinely involved with a genuine commitment. Building such co-operation and commitment is not easy and requires much effort. Second, the absolute necessity for detailed, critical and in depth analysis of the patterns of wildlife crime, of the networks supporting them and of their interconnectedness - in other words for good intelligence. Third, concerted action against targets specifically selected to cause the maximum disruption and dislocation to these networks.
23. Taking these considerations into account suggests that the first priority for the Agreement should be at the national level, to strengthen the capabilities of the National Bureaus to establish effective and committed co-operation and co-ordination between all relevant agencies including the police, customs and immigration, and with international agencies such as Interpol, the WCO, CITES and NGOs.
24. The second priority should be for the Task Force to carry out an in-depth analysis of the regional and international patterns of wildlife crime in its widest sense and of the illegal trade networks in wildlife products. This intelligence gathering and assessment exercise is an absolute prerequisite for the Task Force to prioritise its activities and identify key targets.
25. The third priority should be to establish effective operational modalities to set up joint, multi agency investigation teams to tackle these identified key targets and inflict the maximum disruption possible to these illegal trade networks.

Operational and Institutional Considerations

26. Adopting such a radically new approach to fighting the illegal trade in wildlife products will require a number of operational and institutional changes to the Agreement. Operational changes include the prioritising of activities within the Work Plan, the recruitment of Officers to the Task Force, and the procedures for budgeting, donor programmes and annual contributions. Institutional changes will involve the issues of neutrality and the annual contributions, and how to ensure that the priorities and requirements of the National Bureaus are fully factored into the work plan of the Task Force.

Prioritisation of Activities in the Work Plan

27. Before a Work Plan can be finalised, the Task Force must carry out detailed assessments of the patterns of illegal trade, on the range of commodities being traded, on their relative dollar values, on their importance to party States in terms of conservation objectives, and on the actual workings of the trade networks.

28. Only then can medium and long term Enforcement Strategies in the fight against illegal trade be drawn up. With inputs from the National Bureaus, these Enforcement Strategies will identify and set objectives and targets.

29. The annual Work Plan would then reflect the clear and agreed prioritisation of activities to achieve the identified objectives of the Enforcement Strategies, both in terms of which aspect of illegal trade to concentrate on and how best to disrupt it. An important aspect of the Work Plan would be to set annual targets and performance indicators.

Recruitment Policy

30. A new recruitment policy must address the two key problems facing the Task Force. First, that a much wider range of skills is required than is currently available, and second, that the Officers in the Task Force must have Parity with those they are expected to work with as colleagues.

31. Recruitment must be based on a prior assessment of the specific skills and seniority required by the Task Force to achieve their agreed objectives and work plan; for example in police and customs work, in training, in building intelligence networks, in creating data bases, in analysing patterns of wildlife crime and illegal trade¹.

32. Recruitment should then be proactive rather than reactive, and posts should be advertised widely within the party States - even outside if necessary. In

¹ The definition of a Field Officer under Article 1 of the Agreement would have to be widened to include Officers with backgrounds other than law enforcement.

particular, the post of Director should be opened to a much wider pool of applicants to attract a senior person with recognised international standing².

Budgeting and Donor Programmes

33. Reform of the budgeting process must start with the adoption of a Financial Strategy to reflect the medium and long term objectives and goals identified in the Enforcement Strategy of the Task Force and the demands of the annual Work Plan. Donor programmes must be developed, in which donors are targeted to support specific parts of the Work Plan. Finally, the annual budget must be cost effective and reflect income both pledged and anticipated from party States and donors alike. Activities must be prioritised to allow for budget shortfalls.
34. Contributions from party States would be assessed only once the budget was adopted and the sources of income identified.

Neutrality

35. The damage done to the credibility of the Lusaka Agreement by the widespread perception of a lack of neutrality cannot be underestimated or understated. Neutrality and objectivity are fundamental to attracting new member States and in forging co-operation with other MEAs with similar regional objectives.
36. This perception of a lack of neutrality stems from the close involvement of NGOs with extreme anti-utilisation and anti ivory trade agendas from the very inception of the Agreement. A close association persists between the Task Force and this same NGO community. Furthermore, the Task Force is hosted at the KWS which is itself seen to be close to these same NGOs and to support anti-utilisation and anti ivory trade policies.
37. This problem of neutrality can be addressed by completely separating the funds provided by a donor to the Task Force and any specific agenda that the donor might support. The Task Force should also be distanced from the KWS by seeking, at the very least, alternative office accommodation.

1 Annual Contributions

38. The annual contributions set by the Governing Council have clearly proved too steep for most party States. This is causing all sorts of operational problems to the Task Force as well as creating unwelcome tensions.
39. First, it should be accepted that while the arrears will never be paid off, the amounts contributed thus far must be evened up among the party States. It is

² The salaries and benefits currently paid to the Officers of the Task Force compare well those of experienced police and intelligence officers in the Americas, Europe and Far East: so senior and experienced people will be attracted to these jobs.

simply no longer acceptable that just two of the party States, Kenya and Tanzania, should on their own have contributed such a large proportion of the funds. Annex 5 suggests a way to do this.

40. Second, even though in future the size of the contributions will be fixed on a more rigorous budgeting procedure, nonetheless some form of graduated contribution system should be considered so that those party States and National Bureaus with more modest resources can still make a contribution.

2 Requirements and Priorities of the National Bureaus

41. A constant irritation to the National Bureaus is their inability to influence in any meaningful way either the work plan or the priorities of the Task Force, be it for law enforcement, training or whatever. While in theory the Agreement was set up to provide an almost seamless integration between the National Bureaus, the Task Force and the Governing Council, in practice this is not working.
42. Neither the Governing Council nor its Bureau provide appropriate fora where the National Bureaus and the Task Force can hammer out technical details of work plans, training requirements, enforcement activities and expenditures.
43. Inputs from the National Bureaus are vitally important: some new institutional format is required to ensure the Task Force and the Agreement remains relevant and focussed.

Permanent (Technical) Standing Committee

44. These requirement would be met by some form of Permanent (Technical) Standing Committee of the Governing Council, charged with strategic planning for recruitment, budgeting, and donor programmes; establishing priorities and developing work plans; and ensuring the priorities and requirements of the National Bureaus receive full attention.
45. Specifically, the Permanent (Technical) Standing Committee would:-
 - (a) Implement a new recruitment policy for the Task Force.
 - (b) In consultation with the National Bureaus, review the work plan of the Task Force, prioritise activities, select targets, and adopt medium to long term strategies and objectives.
 - (c) Review and adopt new budgeting procedures for the Task Force; review salaries and benefits; and develop medium to long term financial strategies; and set annual contributions from party States.
 - (d) Develop contingency plans for expanding the Task Force as and when new party States join.
 - (e) Develop and implement medium to long term financing arrangements with donors, thus shielding the Task Force from any possible conflicts of interest.

46. Membership of the Committee should include senior officers drawn from the National Bureaus and their co-operating institutions and should reflect the range of skills of the Task Force. Membership should be on a medium rather than a short term basis, to enhance institutional memory and meet targets.

A STRATEGY TO RESTRUCTURE AND STRENGTHEN THE AGREEMENT

47. A Strategy to restructure and strengthen the Agreement focuses on modifying the role of the National Bureaus, on redefining the role of the Task Force, and on establishing more effective administration and supervision by the Governing Council.

48. The National Bureaus would retain their identity as the focal points of the Agreement but would adopt an additional key role of multi-agency co-ordination units.

49. The Task Force would become more of a technical and intelligence support unit to the National Bureaus, in terms of sourcing specialist training courses, assisting with multi-agency linkages, making regular strategic assessments of wildlife crime, selecting targets, setting up joint investigation teams, and maintaining a regional wildlife crime data base.

50. The Governing Council would continue to support national level initiatives in multi-agency co-operation, co-operation among and between party States in joint investigations, and bilateral and multi-lateral co-operation with other regional MEAs; but would establish a Permanent (Technical) Standing Committee to administer and supervise the Task Force and ensure that the priorities of the National Bureaus are reflected in their activities and work plans.

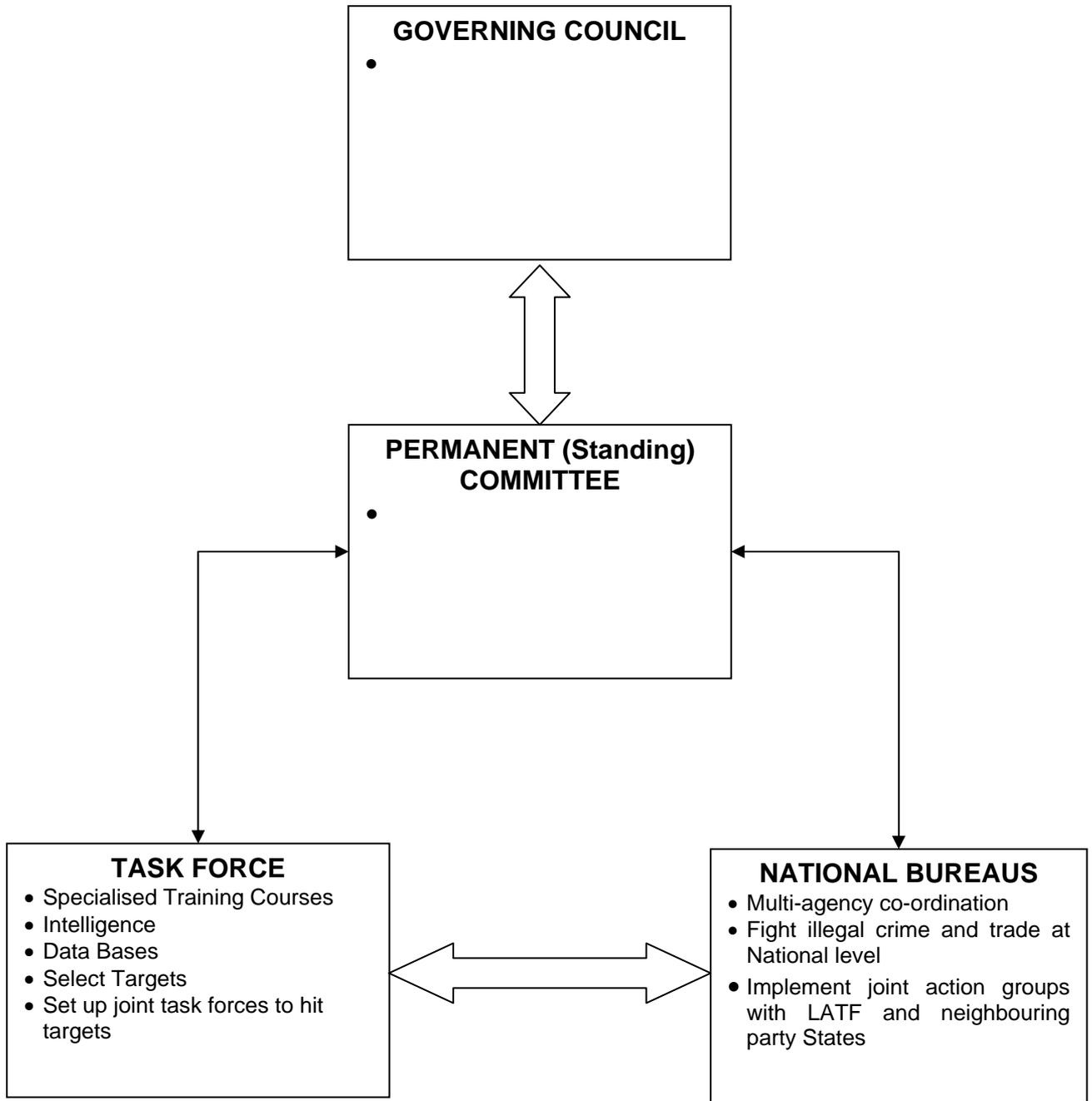
MAJOR RECOMMENDATIONS

51. These recommendations will redefine and refocus the policies, objectives and strategies of the Lusaka Agreement to bring it more into line with contemporary conditions. Most would be implemented by Decisions of the Governing Council.

Recommended Changes to Policy and Objectives

52. Policy changes to be considered include:-

- (a) Widen the objectives of the Agreement, perhaps to acknowledge the roles of conservation and sustainable utilisation as weapons in the fight against wildlife crime and illegal trade.



(b) Consider the concept of sub-regionalisation under the umbrella of the Lusaka Agreement. Though controversial, the advantages of sub-regionalisation are

many: it fosters common approaches to common problems while recognising and building upon sub-regional capabilities.

- (c) Seek a broader mandate among African states, not through renegotiation but by seeking endorsement from a recognised Africa-wide authority such as the African Ministerial Conference on the Environment (AMCEN). AMCEN would also be an excellent platform from which to launch a recruitment campaign.
- (d) Address the problem of neutrality, which may require moving the seat of the Task Force away from the Kenya Wildlife Service.

Recommended Changes to the Governing Council

53. The changes recommended here recognise the need for the Governing Council to improve the way it conducts its business. Specifically:-

- (a) The Governing Council should become more pro-active in creating political will. The initial impetus for action must come from the highest, Ministerial level, after which proposals can be implemented at the technical level. This applies equally to national level initiatives such as creating multi-agency co-ordination; to bilateral and multilateral initiatives like forging cross-border co-operation between National Bureaus; to forging co-operation with other MEAs; and to recruiting new party States to the Agreement.
- (b) The Governing Council should also become much more proactive in monitoring and enforcing compliance with Governing Council decisions, and compliance by the party States to their obligations under the Agreement, especially over recruitment, finance and creating/designating National Bureaus.
- (c) The Governing Council should appoint (under Rule 25) a Permanent standing Committee to oversee and administer the work of the Task Force. The membership of the Committee should reflect the range of activities that the Task Force carries out, and include those with experience of law enforcement and intelligence as well as wildlife trade. A more permanent membership will allow for institutional memory and more efficient monitoring and evaluation of programmes, milestones and objectives.

Recommendations for the Work of the Permanent Standing Committee

54. Working with both the Task Force and the National Bureaus, the Permanent Standing Committee to the Governing Council would:-

- (a) Implement a new recruitment policy for the Task Force to attract Officers with a much wider range of skills and with Parity with those they are expected to work with as colleagues.

- (b) In consultation with the National Bureaus, review the work plans of the Task Force, adopt medium to long term strategies and objectives, and prioritise activities.
- (c) Review and adopt new budgeting procedures for the Task Force; review salaries and benefits; develop medium to long term financial strategies; and set annual contributions from party States.
- (d) Develop contingency plans for expanding the Task Force as and when new party States join.
- (e) Develop and implement medium to long term financing arrangements with donors, thus shielding the Task Force from any possible conflicts of interest.

Recommendations for the Task Force

55. These recommendations recognise a fundamental reorientation of the Task Force from a field based anti-poaching unit to a technical and intelligence support unit to the National Bureaus and other enforcement agencies. Specifically:-

- (a) The Task Force will provide technical and intelligence support to the National Bureaus through regular regional assessments of the patterns of wildlife crime and illegal trade, investigations of cross-border and international cases of illegal wildlife trade, and targeted investigations of illegal trade networks.
- (b) The range of investigations and activities will be broadened to include all aspects of illegal wildlife trade, not just elephants and ivory – important though they may be.
- (c) The Task Force will consult closely with the National Bureaus and with the Permanent Committee to prioritise their activities.

56. Support to the National Bureaus will include:-

- (a) Focus all training and capacity building towards the agreed requirements of the National Bureaus for specialist training courses.
- (b) Assist the National Bureaus to develop effective and operational inter-agency coordination and co-operation to gather, exchange and disseminate intelligence and information, and implement field operations.
- (c) Develop wildlife crime data bases to support the agreed requirements of National Bureaus for information and intelligence.
- (d) Actively promote the regular exchange of information and intelligence between the Task Force, the National Bureaus and sub-regional, regional and international agencies such as Interpol, WCO, CITES .. etc.

57. The Task Force should carry out Wildlife Crime Assessments for the National Bureaus. These will provide regular analyses of wildlife crime intelligence and of the patterns of wildlife crime and illegal trade at sub-regional, regional and (as appropriate) international scales.
58. The actual investigations of Illegal Wildlife Trade by the Task Force should have the specific objective of causing the maximum disruption and dislocation possible to the illegal trade networks and the syndicates behind them. All illegal wildlife trade, as defined in the Agreement, must be considered, not just ivory. To be effective the work will have to be highly prioritised and targeted. This calls for dedicated police work, and close interaction with other agencies including customs and immigration, Interpol and the WCO. Where appropriate the Task Force will form joint investigation teams with the National Bureaus of the countries involved.

Recommendations for the National Bureaus

59. The key recommendation here is to encourage the National Bureaus to evolve into multi-agency co-ordination units. Specifically:-
- (a) Have wide inter-agency and multi-sectoral membership from all agencies involved directly or indirectly with wildlife crime.
 - (b) Develop effective inter-agency coordination to gather, exchange, integrate and disseminate intelligence and information, and implement field operations.
 - (c) Establish effective coordination and co-operation with the National offices of other MEAs with enforcement responsibilities (e.g. CITES, CITES/MIKE ... etc.), IPO and WCO; the LATF; and the enforcement units of neighbouring countries (even if they are not parties to the Lusaka Agreement).
 - (d) Hold regular bilateral and multilateral meetings with the National Bureaus or enforcement agencies of neighbouring countries, even if they are not members of the Agreement.