

A collaborative initiative to support ongoing efforts to end wildlife crime

# Stopping poaching and wildlife trafficking through strengthened laws and improved application

**Phase I: An analysis of Criminal Justice Interventions across African Range States and Proposals for Action**

Initiating partners: Stop Ivory and the International Conservation Caucus Foundation (ICCF) Group

Author: Shamini Jayanathan  
July 2016

---

## Contents

1. LIST OF ACRONYMS .....	2
2. INTRODUCTION .....	8
3. METHODOLOGY .....	9
4. EXECUTIVE SUMMARY.....	10
5. KENYA.....	24
6. KEY RECOMMENDATIONS .....	27
7. UGANDA.....	29
8. KEY RECOMMENDATIONS .....	31
9. GABON .....	33
10. KEY RECOMMENDATIONS .....	36
11. TANZANIA.....	37
12. KEY RECOMMENDATIONS .....	39
13. SOUTH AFRICA.....	41
14. KEY RECOMMENDATIONS .....	44
15. MALAWI .....	45
16. KEY RECOMMENDATIONS .....	47
17. ZAMBIA.....	50
18. KEY RECOMMENDATIONS .....	53
19. MOZAMBIQUE.....	55
20. KEY RECOMMENDATIONS .....	57
21. BOTSWANA .....	58
22. KEY RECOMMENDATIONS .....	60
23. REPUBLIC OF CONGO (BRAZZAVILLE) .....	62
24. KEY RECOMMENDATIONS .....	65
25. NAMIBIA.....	66
26. KEY RECOMMENDATIONS .....	69
27. ETHIOPIA .....	71
28. KEY RECOMMENDATIONS .....	74
29. OTHER EPI COUNTRIES – GAMBIA, LIBERIA, CHAD, DEMOCRATIC REPUBLIC OF CONGO (KINSASHA).....	75
30. NON – EPI COUNTRIES .....	76

---

## 1. LIST OF ACRONYMS

AALF	Appuia L'application de la Loi sir la Faune (Support for the Application of Wildlife Law)
ACB	Anti-Corruption Bureau
AEAP	African Elephant Action Plan
AGO	Attorney General's Office
ANAC Agency	The National Administration for Conservation
ANAW	Africa Network for Animal Welfare
ANPN	Agence Nationale des Parcs Nationaux
ARREST	Asia's/Africa's Regional Response to Endangered Species Trafficking
AWF	African Wildlife Foundation
BFF	Born Free Foundation
CAR	Central African Republic
CCN	Conservation Council of Nations (program of The ICCF Group)
CI	Conservation International
CNLCCF	National Commission for the Fight against Corruption, Embezzlement, and Fraud (Rep. of Congo)
DEA	Department of Environmental Affairs
DEFRA	The Department for Environment, Food & Rural Affairs
DFID	Department of International Development
DNPW	The Department of Animal Health and Livestock Development
DNTF	The Mozambican National Directorate of Land and Forestry
DoI	Department of Immigration
DPCI	Directorate of Priority Crime Investigations

---

DPP	Director of Public Prosecutions
DSWF	David Shepherd Wildlife Foundation
EAGLE Network	Eco Activists for Governance and Law Enforcement
EAPCCO	East Africa Police Chiefs Cooperation Organisation
ECCAS	Economic Community of Central African States
ECF	Elephant Crisis Fund
EIA	Environmental Investigation Agency
EMIs	Environmental Management Inspectors
EPI	Elephant Protection Initiative
ERCA	The Ethiopian Revenue and Customs Authority
EU	European Union
EWCA	Ethiopian Wildlife Conservation Authority
EWT	Endangered Wildlife Trust
FAO	Food and Agricultural Organisation
FIU	Financial Intelligence Unit
FZS	Frankfurt Zoological Society
CGI	Clinton Global Initiative
GEF-UNEP	Global Environment Facility - United National Environment Program
GIZ	Deutsche Gesellschaft für International Zusammenarbeit
GRI-WCPP	Game Rangers International, Wildlife Crime Prevention Project
HA-WEN	Horn of Africa Wildlife Enforcement Network
IACCWC (Malawi)	The Inter-Agency Committee to Combat Wildlife Crime
ICCF	International Conservation Caucus Foundation
ICCN (DRC)	Institute Congolaise pour la Conservations de la Nature

---

ICCWC Crime	International Consortium on Combating Wildlife
IELP	Lewis & Clark's International Environmental Law Project
IFAW	International Fund for Animal Welfare
IIU	Investigations and Intelligence Unit
INL	International Narcotics and Law Enforcement Affairs
INTERPOL	International Criminal Police Organization
IOC	The Indian Ocean Commission
IPOA	The Independent Police Oversight Authority
IUCN	International Union for Conservation of Nature
IWT	Illegal wildlife trade
JTI	Judicial Training Institute
KAZA	Kavango Zambezi Transfrontier Conservation Area
KWCA	Kenya Conservancy Management Association
KWCA	Kenya Wildlife Conservancies Association
KWS	Kenya Wildlife Services
LAC	Legal Assistance Centre
LAGA	The Last Great Ape Organization
LATF	Lusaka Agreement Task Force
LWB	Lawyers without Borders
LWT	Lilongwe Wildlife Trust
MATT	Multi-Agency Task Team
MDF	Malawi Defense Force
MEFDD	Congolese Ministry of Forest Economy and Sustainable Development
MICOA	The Ministry of Coordination and Environmental Affairs

---

MLA	Mutual Legal Assistance
MoU	Memorandum of understanding
MPS	Malawi Police Services
MRA	Malawi Revenue Authority
MTWA	Ministry of Tourism, Wildlife, and Antiquities
MTWA	The Ministry of Tourism Wildlife and Antiquities
NACSO	Namibian Association of Community-Based Natural Resource Management Support Organization
NamPol	The Protected Resources Unit of the Namibian Police
NatJoints	National Joints Committee
NEAP	National Elephant Action Plan
NGO	Non-governmental organisations
NIAP	National Ivory Action Plan
NIB	National Intelligence Bureau
NIRAP	National Ivory and Rhino Action Place (NIRAP)
NPA	National Prosecuting Authority
NRCN	The Natural Resource Conservation Network
NRT	Northern Rangelands Trust
NTSCIU	National and Transnational Serious Crimes Investigation Unit
NWCRU	National Wildlife Crime Reaction Unit
ODPP	Office Of The Director of Public Prosecutions
PALF	Project for the Application of Law of Fauna
PAMS Foundation	Protected Area Management Solutions
PPF	Peace Parks Foundation (PPF)
RESG	Rhino and Elephant Security Group/INTERPOL - Environmental Crime Working Group

---

RhoDIS	DNA Indexing Systems
RSPCA	Royal Society for the Prevention of Cruelty to Animals
SADC	Southern African Development Community
SANDF	South African National Defence Force
SAPS	South African Police Service
SAPU	Special Anti-Poaching Units
SFG	Space for Giants
SIASIC	Strathmore Institute of Advanced Studies in International Criminal Justice
SLCS	South Luangwa Conservation Society
TAF	The Aspinal Foundation
TANAPA	Tanzania National Parks Authority
TFF	The Freeland Foundation
TNC	The Nature Conservancy
UN	United Nations
UNDP	United Nations Development Programme
UNEP	United National Environment Programme
UNODC	United Nations Office on Drugs and Crime
US	Unites States
USAID	United States Agency for International Development
USFWS	US Fish and Wildlife Service
UWA	Uganda Wildlife Authority
WCMA	Wildlife Conservation and Management Act 2013
WCPP	Wildlife Crime Prevention Project
WCS	Wildlife Conservation Society
WESM	Wildlife and Environmental Society of Malawi

---

WLD	Wildlife Direct
WRI	World Resources Institute
WWF	World Wildlife Fund
ZAWA	Zambian Wildlife Authority
ZIIU	Zambia's Investigation and Intelligence Unit



---

## 2. INTRODUCTION

This report sets out the findings of Phase 1 of a project to further Sustainable Development Goal 15 and in particular, 15.7 “Take urgent action to end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illegal wildlife products”

The project supports the Elephant Protection Initiative’s (EPI) primary objective to enable full and timely implementation of the African Elephant Action Plan (AEAP). It is focused on the AEAP’s Priority Objective 1: REDUCE ILLEGAL KILLING OF ELEPHANTS AND ILLEGAL TRADE IN ELEPHANT PRODUCTS and its key strategies:

- Harmonize national policies and laws relevant to conservation and management of African elephants within and across range States where possible.
- Strengthen the laws relevant to conservation and management of African elephants.
- Strengthen the enforcement of laws relevant to conservation and management of African elephants.

The project focuses on the passage of wildlife crime along the ‘criminal justice pathway’: beginning with the legislative framework for prosecuting wildlife crime; turning to the investigator to prosecution ‘handover’; prosecution capability, judicial handling of such cases at trial, sentencing and mutual legal assistance (MLA). It does not consider intelligence handling initiatives, policing per se or frontline protection projects.

This report aims to:

- present a snapshot of the status of the criminal justice pathway; and past, current and planned interventions by various stakeholders including government and non-government organisations and development partners; and
- propose a scope of work for Phase 2: identifying existing and new cross-cutting tools and initiatives, including best practice laws and standard operating procedures, that are of general application across jurisdictions; cross-overs and opportunities for better partnerships and collaborations; and some country-specific observations and recommendations for action within the context of global, regional and national strategies (where they exist). The aim of Phase 2 will be to enable more effective government and non-government collaborations to deliver change in the criminal justice pathway, measurable by increased rates of conviction and stronger deterrent penalties.

Stop Ivory, The ICCF Group and the author thank all those who have contributed so fully and generously to Phase 1 of this project and look forward to working with them – and others – to develop and implement effective interventions together through Phase 2.

*CCN COUNTRIES:  
BOTSWANA,  
TANZANIA,  
GABON, KENYA,  
MALAWI,  
UGANDA,  
MOZAMBIQUE,  
NAMIBIA, CONGO,  
SOUTH AFRICA,  
ZAMBIA*

---

### 3. METHODOLOGY

Phase 1 of this project has been carried out through a participatory consultative process with key African elephant range States and partner organisations who are working on the criminal justice pathway.

This report was compiled through the integration of stakeholder discussions and desk research in relation to the criminal justice arena in the range states included in the study. The information-gathering phase of the project took 6 weeks, between January 25th and March 4th 2016. The author of this report has had regard to the African Elephant Action Plan (AEAP) and, where developed, National Ivory Action Plans (NIAP) and National Elephant Action Plans (NEAP). Contact has been made with numerous government and non-governmental agencies and development partners with collection of information and data primarily gathered through direct stakeholder discussions, conducted via face to face meetings, telephone calls, Skype or email discussions, focussing upon capturing past, current and planned interventions within the scope of the stakeholders' knowledge and ability and willingness to comment. Accordingly, this report is limited to what those entities were willing to share. Not all contributors wanted to be identified. The report also relied upon open source online reports that highlighted relevant projects.

This report is not meant to be all encompassing, and will have (for constraints of time and resources), missed initiatives and organisations. It does not cover all relevant countries, and those highlighted in this report are included because their committed efforts are known to the initiative organisations, author and partner organisations involved in Phase 1.

The author is a lawyer with 15 years of experience at the UK criminal Bar, and nearly four years' experience working in prosecutorial and judicial capacity building in East Africa, all of which has been brought to bear upon the content of this report.

Special thanks must go to Greta Francesca Iori, in her role as principal research assistant to the author and for her contribution in the compiling of this report. Finally, the author expresses her gratitude to all of the individuals and entities that willingly shared their plans, hopes and concerns with Stop Ivory and The ICCF Group for the preparation of this report.

---

#### 4. EXECUTIVE SUMMARY

In seeking to capture a snapshot of on-going and planned interventions in the field of criminal justice, looking specifically from a prosecution angle and towards trial and sentencing, it has become clear that there are relatively few organisations involved in delivering change in those areas as compared to policing, intelligence capacity building and frontline protection. What is also clear is that corruption is viewed as a significant challenge in improving the criminal justice pathway for wildlife crime. For that reason, any interventions, in order to have sustainable impact, must address the issue of corruption into their design and delivery of projects.

At present, it appears that government and non-government attention on tackling illegal wildlife crime has not adequately focussed on the issue of corruption within the judicial sphere. Organisations such as the Eco Activists for Governance and Law Enforcement (EAGLE) Network (operating in Cameroon, Guinea, Chad, Senegal, Benin, Togo and Uganda) take a direct and operational approach with less emphasis on capacity building. Conversely, Protected Area Management Solutions (PAMS) Foundation take the approach of direct operational support through capacity building within national institutions. However, generally speaking, capacity building within the judicial sphere, e.g. training and sensitisation of prosecutors and judges, rarely (in the author's experience) tackles the issue of corruption within the context of a criminal trial and many cases are still being lost in the courtroom either through lack of competence or corruption – whether one 'masks' the other is unclear. General capacity building has a part to play in mitigating corruption but until the perception that those who corrupt the prosecution and trial process will never face justice is changed, we will continue to see a lack of vigour in the pursuit of high-level traffickers. The track record of the National and Transnational Serious Crimes Investigation Unit (<sup>1</sup>NCTSIU) supported by the PAMS Foundation in Tanzania, and the prosecution of an ivory 'kingpin'<sup>2</sup> in Kenya perhaps indicates a turn in the tide but much of the capacity building focus remains on the frontline support, and intelligence/investigation capacity with less attention paid to the passage through the criminal justice pathway from the point of charge. This is a weak point in the delivery of a criminal justice solution to wildlife crime and as long as training of prosecutors and judges remains focused on legal training and sensitisation as opposed to developing frameworks and interventions that can make it harder for corruption to flourish, we will continue to see cases flounder with corruption and/or incompetence manifesting in the form of repeated adjournments, lengthy delay, lost exhibits and witness attrition.

The United National Office on Drugs and Crime (UNODC) promotes a corruption prevention approach, targeting investigators and prosecutors; initiatives like its container control programme seek to implement measures that mitigate the risks of corruption through a close inter-agency partnership. Through better working together in pursuit of SDG15 and the specific aims of the EPI and AEAP, with strong government

---

<sup>1</sup> More than 40 people have now received sentences of more than 15 years in Tanzania.

<sup>2</sup> Feisal Mohamed Ali, Mombasa Law Courts <http://www.nation.co.ke/news/Feisal-Mohammed-freed-on-Sh10m-bail/-/1056/2841246/-/12wxp4u/-/index.html>

---

leadership, partners to this project can shift appropriate focus onto tackling the challenges of corruption in the criminal justice pathway for IWT.

The overwhelming indication from exchanges within organisations willing to discuss their plans is that collaboration with Stop Ivory and The ICCF Group would be welcomed, either on a technical front or in terms of financial assistance. Memorandums of understanding (MoUs) with Stop Ivory are in process with some organisations and the UNODC would welcome collaboration on the International Consortium on Combating Wildlife Crime (ICWC) 'Wildlife and Forest Crime Analytic Toolkit' analyses that are outstanding bearing in mind that such analyses are government led. The UNODC also welcomes partnership in planned activities across the continent. Wildlife Direct, Kenya; the EAGLE Network; Space for Giants (SFG), Kenya, Lilongwe Wildlife Trust (LWT) in Malawi, PAMS Foundation in Tanzania, African Wildlife Foundation (AWF) and United States Agency for International Development (USAID) Kenya to name a few, are organisations with whom Stop Ivory and The ICCF Group will continue further discussion on possible areas for collaboration.

In some jurisdictions there is a need to undertake direct research and gap analysis of the policy and procedures currently in place relating to wildlife crime and the prosecution and management of such cases in the criminal justice system with particular focus upon operational gaps in prosecution and judicial handling of such cases. Stop Ivory and The ICCF Group can support such endeavours through the provision of technical expertise and the execution of national workshops and stakeholder engagements. Having conducted an East African regional workshop in Nairobi in 2015 bringing together the judiciary, prosecutors, law enforcement and policy makers from across East Africa, the ICCF Group plans similar workshops for Southern and Central Africa that will provide an opportunity to catalyse the recommendations contained herein.

Where USAID and the United Nations Development Program (UNDP) are still finalising project activities, there is an opportunity to help them shape their delivery.

Following the adoption of the London Declaration in 2014, the Environmental Investigation Agency (EIA) is in the process of conducting research and analysis on legal frameworks and enforcement mechanisms that exist in 15 countries for tackling illegal wildlife trade. In Africa, those countries comprise: Botswana, Kenya, Malawi, Mozambique, South Africa, Tanzania and Uganda.

TRAFFIC has also been a valuable resource partner for various EPI countries, carrying out regional training of prosecutors and judiciary from South Africa, Namibia, Botswana, Zambia, Mozambique, Central African Republic, Republic of Congo, Gabon, Chad and Malawi. They have also supported training of prosecutors at a national level in Cameroon and the Democratic Republic of Congo. In Tanzania, they have been focusing on the legal review of legislation and the subsequent training of prosecutors/judiciary is soon to follow. In Kenya and Uganda, although

---

there are no concrete plans as of yet, they have plans on identifying law enforcement training needs before proceeding towards capacity building, as has been carried out in other range states. Additionally, an initiative expected to begin in mid-2016 is USAID's "ROUTES" project: 'Catalysing Transformation of the Wildlife Trafficking Transport Sector Nexus', which will be developed and implemented in partnership with TRAFFIC, WWF and national stakeholders. TRAFFIC, in collaboration with IUCN, has devised the Wildlife TRAPS project to develop partnerships and pioneering approaches to tackle wildlife crime between Africa and Asia and finally, TRAFFIC is mandated by governments to manage the Africa Trade in Wildlife Information Exchange (AFRICA-TWIX) to be piloted in four countries in central Africa. AFRICA-TWIX is based upon the EU-TWIX database and information exchange system<sup>3</sup>.

The ICCF Group's Conservation Council of Nations, working with The United Nations Environmental Programme (UNEP), in a joint project with the Global Environment Facility, has developed a work plan that in many places corresponds closely with the key recommendations below. They plan a number of regional workshops (East, South and Central Africa) and are also supportive of developing a database for courtroom outcomes in target countries.

In terms of pro bono support, Arnold & Porter LLP and Sive, Paget and Riesel P.C. are working with The ICCF Group/CCN in the conduct of regional workshops; Lewis and Clark Law School (Portland USA) and Mishcon de Reya (UK) have contributed to this report and indicated their interest and willingness to offer support on some of the themes listed below.

As an aside, the recommendations that follow should address endangered species but also poaching generally. With growing population pressures, there is an opportunity to have crimes such as the bush meat trade included within such capacity building in recognition of what is already a crisis in some jurisdictions. This would be little added cost including such crimes to the repertoire at this stage rather than waiting to launch a whole new initiative at a later point.

*Priority Areas for Intervention – this is put forward on the basis of 'themes'. See the rest of the report for country specific recommendations.*

- I. **LEGISLATION:** Draft bills are often kept close to the ministry involved and achieving disclosure can be a challenge. Some countries are struggling to amend/harmonise or draft wildlife laws from scratch but at the same time there is a desire to keep the drafting within a secure and small circle. Countries that are in the process of drafting legislation include: Rwanda, Uganda, Ethiopia, Malawi, Mozambique, and Kenya (amendments).

— Proposal 1:

---

<sup>3</sup> <http://www.traffic.org/home/2016/2/16/platform-to-enhance-collaboration-in-counteracting-illegal-wild.html>

---

Expertise in drafting should be offered to governments given that even simple errors in drafting can undermine the best intentions. This proposal is to develop a model law on wildlife crime in open consultation with other organisations, in particular the UNODC. This will focus upon definitions, crimes and investigatory and ancillary powers relevant to IWT. Harnessing the goodwill of pro-bono support from legal experts has been discussed and already agreed. The creation of a 'model law' on wildlife crimes can be used as a benchmark for countries seeking to amend/update their laws, such as Rwanda, and can be made available online. A common law and civil version should be developed bearing in mind the different legal systems in Africa. Model laws do have a value as demonstrated in Somalia where the UNODC model laws on terrorism were used as basis for their draft.

2. **INVESTIGATOR / PROSECUTOR COOPERATION:** Experience shows that early engagement between investigators and prosecutors leads to better charging decisions, better case preparation and better outcomes at court as evidenced by the work of the NCTSIU in Tanzania, and the EAGLE Network generally. Pre-arrest conferences can ensure that arrests take place at the right stage of an investigation; post-arrest conferences can ensure that a review (and amendment if necessary) of any earlier decision is made in a timely way, and pre-trial and post-trial engagement ensure better preparation and allow for lessons learned. As an anti-corruption mechanism, it provides a check and balance on the decisions made on a file and encourages an investment by both agencies through to the conclusion of a trial.
3. Poor case analysis and a failure to appreciate the necessary 'ingredients' of an offence can often lead to acquittals. The Independent Police Oversight Authority (IPOA) in Kenya found in 2013 that over 64% of felony cases did not meet the minimum evidentiary threshold for charging and only 36% of those cases were able to rectify the defect by the time the trial concluded.<sup>4</sup> Developing 'points to prove' guidance has seen an improvement in pre-charge decision making by investigators and prosecutors in Kenya in the context of counter-terrorism<sup>5</sup>; a formal impact assessment is awaited regarding a similar initiative in Kenya for IWT but informal feedback is very positive.
4. The UNODC, UNEP and Space for Giants (SFG) plan to replicate the 'Kenya model' on development of a 'points to prove' guidance on wildlife crime together with protocols on inter-agency cooperation in Uganda and Tanzania; other projects supporting inter-agency cooperation are planned for Malawi, Zambia, Mozambique and Botswana. Malawi has already developed a legal guidance with the support of the Royal Society for the Prevention of Cruelty to Animals (RSPCA), Stop Ivory, the Department of National Parks and Wildlife

---

<sup>4</sup> Independent Police Oversight Authority Report "Baseline Survey on Policing Gaps and Standards" 2013

<sup>5</sup> Author's experience with anti-terrorism police unit and the ODPP 2014 to 2015 and supported by impact assessment conducted by UK in 2016.

---

and funded by The Department for Environment, Food & Rural Affairs (DEFRA). Feedback from practitioners is awaited on both the Kenya and Malawi publications.

— Proposal 2:

Develop a “Points to Prove” guide alongside the model wildlife crime law. This can then be adapted according to country specific laws (e.g. to include anti-money laundering laws) and procedures. If the model provisions are adopted in law, this will provide a ready-made practitioners guide. In countries where plans are in progress to develop similar guidance e.g. Malawi, this can complement those efforts.

— Proposal 3:

Develop a “Best Practice Guidance” on investigation/prosecution cooperation identifying common principles that would work across any jurisdiction. This should highlight the need for the earliest possible engagement between the two agencies and the need to consider alternative laws that could be applied to a prosecution of wildlife crime (including corruption and prosecution of public officers where appropriate). This can then be adapted in accordance with country specific concerns and procedures. For example, in some jurisdictions, referral of ALL ivory and rhino cases to the ODPP may be the best option; in others, where capacity is not sufficient, identifying ‘trigger points’ for such a referral may be a better option. Separately, a ‘living document’ of relevant contacts within key agencies can be developed and maintained online e.g. forensic labs, airport enforcement, prosecution agencies etc.

5. The real challenge of course lies in implementation. In Kenya for example, application of protocols on inter-agency cooperation remains inconsistent across the nation. Stop Ivory and The ICCF Group can provide support on implementing those protocols (or “standard operating procedures”) through national roll out, something that UNODC is already doing in Kenya.
6. A common challenge expressed by those engaged in frontline protection relates to identification of suspects who escape the scene of the crime but are later apprehended. Identification as a matter of law is an extremely challenging issue and mistaken identity has often led to severe injustice to individuals. Conversely, failure to get the identification procedures right can lead to acquittals of guilty parties. Crime scene training is an often-repeated request across nearly all range states.

— Proposal 4:

It is proposed to develop written guidance on ‘best practice’ identification procedures and protocols that should be followed in order to shore up a later capture. Where this has already been

---

done, feedback should be obtained from investigators and prosecutors in those jurisdictions to see if any improvement is required. Stop Ivory and The ICCF Group can work with stakeholders that have addressed this in order to get feedback and assist in any amendments. On crime scene training, there already exists a lot of guidance and information regarding best practice; feedback may be a useful starting point on that topic, in particular whether such training focuses upon ‘crime scene investigators’ alone or whether it extends to rangers generally engaged in frontline protection. If focussed mainly on the former, there is a need for some basic sensitisation for the latter.

7. The increased militarisation of frontline conservation strategies has been raised as a concern. Rangers on private and community land and even state owned outfits that operate on patrols may be exposed on three fronts. The first is that **IF** they are not legally mandated to bear arms in that capacity, they are potentially liable on both a criminal and civil front; secondly, as a source of direct evidence (e.g. on identification of suspects or eye witness accounts), unless they are legally mandated to investigate, arrest and/or secure a scene of crime, their potential contribution to the criminal justice process is not always maximised (though some jurisdictions may be more advanced than others). Thirdly, with no oversight on how they conduct their operations, or without clear rules of engagement with poachers, negative perceptions of how such units operate can rapidly undermine their efforts. Of course as a matter of a public policy it is essential that armed militias (however well intentioned) are not operating outside of the legal frameworks. To leave this unaddressed could leave their funders/supporters exposed to civil liability. Further, corruption of such units can rapidly lead to a “gamekeepers turn poachers” scenario. NGOs and development partners may find themselves having to consider their own due diligence, duty of care and issues of assurances in relation to support for such groups if these issues are not addressed with careful consideration of all of the legal ramifications.

— Proposal 5:

To bring together stakeholders to begin a dialogue relating to the issue of frontline protection in order to ensure adequate legal protection for those units and their supporters and proper independent oversight. This will involve a scoping of the relevant laws applicable nationally and identification of the correct ministries and private/community stakeholders responsible. This is a complicated issue but both the risks to frontline units and the organised and corrupt nature of IWT demand that this be addressed.

8. The approach of embedding mentors within willing agencies (more likely to be wildlife agencies than national prosecution authorities owing in part to independence provisions commonly cited in constitutions) or within non-governmental organisations that can then



---

support those agencies, is one way of delivering both the necessary frameworks that can ensure accountability and transparency but also deliver results in the form of well prepared and executed prosecutions and, if appetite allows, pursuit and prosecution of those within the system who seek to corrupt the trial process. LWT in Malawi is one organisation seeking to provide support to the prosecution services via their own mentor, and have indicated that technical expertise would be welcomed. Mentoring on a one-to-one basis, e.g. to a wildlife authority prosecutor, can also be an extremely valuable source of support and guidance that can improve confidence and encourage a sense of professionalism and pride.

— Proposal 6:

To develop a list of potential mentors, drawing on Stop Ivory and The ICCF Group's network of criminal justice advisors, the EAGLE Network and other interested stakeholders where an expression of interest is indicated. Those mentors may be available for embedding; could simply provide support and assistance to other embedded mentors or provide mentoring directly to prosecutors on a one-to-one pro-bono basis. Stop Ivory and The ICCF Group will not vet those mentors but will provide guidance on what qualifications and experience should be demanded according to the type of mentorship envisaged. Ideally mentors should be nationals within each jurisdiction; for more complex cases, international assistance and support can be considered on an ad-hoc basis. Stop Ivory and The ICCF Group can also potentially access materials for prosecution authority structures and frameworks in other jurisdictions that can be adapted and made fit for purpose with the help of those mentors.

9. **PROSECUTIONS:** There are many regional and national training events planned for 2016 across Africa. Stop Ivory and The ICCF Group can assist in the delivery of an anti-corruption component within those events. Opening up dialogue with these practitioners on how corruption affects IWT in the context of a criminal trial needs to be done both sensitively but with unwavering resolve to address the issue. Inclusion of this topic will also sensitise and reassure practitioners of the increasing scrutiny regarding the judicial process.
10. The UNODC is a strong supporter of anti-corruption efforts for training of prosecutors and investigators; the EAGLE Network and PAMS Foundation have indicated that they could provide case studies of arrests; prosecution and conviction of those 'within' the system; anti-corruption bodies (where they exist) should also be encouraged to attend these events. Sensitisation to the importance and increasing prevalence of courtroom monitoring should also be included. Where other organisations have similar work they can share, this would also be welcomed.

---

— Proposal 7:

Provision of a training pack, available online, that can address the issue of corruption and that can be modified on a country – specific basis. This training pack will focus entirely upon corruption within the prosecution and judicial component of wildlife crime. Stop Ivory and The ICCF Group would welcome collaboration from stakeholders on the ground that may have training materials on this issue to be incorporated into that online resource.

11. There is a need to support the adoption of minimum standards within prosecution agencies relating to decision to charge. e.g. written reviews for every decision on a file; requirement for authorisation to offer no evidence or enter a nolle prosequi, quality assurance of decisions and, rather ambitiously, the establishment of an independent oversight inspectorate over the prosecution agencies – these are public bodies after all, spending public funds and there appears to be no independent oversight over the way in which they conduct their function. This would have to be handled sensitively and is a longer term, more challenging goal.

— Proposal 8:

“Best Practice Guidance” will be issued regarding prosecution frameworks that if adopted can address the issue of corruption in the context of a criminal trial. As indicated above, Stop Ivory and The ICCF Group can potentially access materials from other prosecution authority structures to assist in-country delivery following issue of those general principles.

12. Finally, in several jurisdictions, prosecutions are not just carried out by the national prosecution service but also by in-house wildlife agency prosecutors or police prosecutors. These prosecutors are often under-qualified and under-supported though some individuals do build up an impressive wealth of experience. Unlike national prosecutors who are often legally qualified having completed a law degree and post-graduate qualification, police prosecutors and wildlife agency officers undergo a relatively short course in training and then enter the criminal court system with the expectation that they manage trials that may involve, for example, money laundering, forfeiture powers, MLA, asset restraint and heavy minimum terms of imprisonment – without necessarily applying the same standard on charging as their national prosecution counterparts. For police prosecutors this may be in addition to other types of cases and other policing duties that can present a heavy burden on those individuals. Long term, there may have to be an acceptance and willingness to start recruiting in-house prosecutors from the Bar – perhaps the junior end – and acceptance of a high rate of turnover; or to establish a register of external counsel that might be persuaded to offer their services pro bono or at a reduced rate. Agencies may well want to consider redistributing financial allocations on this front. In the meantime, however, given that it is much lauded that IWT involves organised criminal syndicates,

---

this may be a blind spot in terms of ensuring strong prosecutions particularly given the need to use existing international mechanisms such as MLA, and the need to improve communication through INTERPOL and the World Customs Organisation (WCO) (for example). There are short-term interventions that may mitigate these challenges and, combined with the mentoring proposal above, provide stronger support to these prosecutors who may currently be at a disadvantage when pitted against a strong defence team.

— Proposal 9:

In relation to in-house prosecutors and police prosecutors, the proposal is to offer a review service of their existing curriculum and develop with them (in country) a robust set of processes and frameworks that fit in with the existing structures and are in accord with national prosecution policy; and to then commit to supporting implementation of strong legal training. Further, it is recommended that the option of private prosecution be explored with relevant prosecution agencies as an additional resource for the prosecution of certain types of crime.

13. **JUDICIAL CAPACITY:** Proposal 7 above is of equal application. In addition awareness of the seriousness of wildlife crime does require attention as reflected by low sentencing in a number of countries. Furthermore, sentencing of wildlife crime offenders remains inconsistent with most countries suffering from a lack of guidance on where to ‘pitch’ a particular penalty. There is also a lack of data in some jurisdictions regarding previous convictions. Some countries have opted for high minimum penalties; however, as observed at the International Symposium on “Beyond Enforcement’ held in February 2016, <sup>6</sup>‘increasing sanctions for illegal activity can also increase the opportunities for corruption, and undermine legitimacy for the legal system due to perceived unfairness’. Sentencing guidelines can provide a way of navigating the issue of sentencing fairly and proportionately.

— Proposal 10:

To develop model sentencing guidelines for adaptation according to country specific laws. In essence, these guidelines will set a ‘band-width’ for sentencing in accordance with identified aggravating and mitigating features in the context of wildlife – and organised - crime. The ‘entry point’ on sentence will have to then be determined in accordance with sentencing powers available in each country but the guidelines can provide a clear platform from which to engage judicial authorities in country. For example, for a public official found in possession of ivory, the entry point should always be a term of imprisonment for xx years. For a juvenile, with

---

<sup>6</sup> IUCN SULI, IIED, CEED, Austrian Ministry of Environment, and TRAFFIC (2015). Symposium Report, ‘Beyond enforcement: communities, governance, incentives and sustainable use in combating wildlife crime see: [https://www.iucn.org/about/union/commissions/ceesp\\_ssc\\_sustainable\\_use\\_and\\_livelihoods\\_specialist\\_group/communities\\_and\\_wildlife\\_crime/beyond\\_enforcement/](https://www.iucn.org/about/union/commissions/ceesp_ssc_sustainable_use_and_livelihoods_specialist_group/communities_and_wildlife_crime/beyond_enforcement/)

---

no previous convictions, caught with older accomplices and who assists the investigation, expresses remorse and pleads guilty at the first opportunity, the entry point may well be hefty community service. The EIA have indicated their support and willingness to collaborate on such an endeavour.

— Proposal 11:

Stop Ivory and The ICCF Group to support the provision of a copy of the relevant wildlife law in every courtroom located in a poaching 'hotspot' (or 'points to prove' guides where developed e.g. as in Kenya).

— Proposal 12:

Stakeholders may also consider supporting 'champions' within their local court districts, to empower individuals to oversee and report on criminal trials and engage with court stakeholders e.g. through court user committees (CUC) where they exist – or even set them up with assistance from Stop Ivory, The ICCF Group and other interested NGOs/IGOs. Court user committees bring together prosecutors, judges, police, probation and prison services within a local court district. In Nanyuki, Kenya, engagement with the CUC has been an extremely effective way of engaging, sensitising and achieving buy in to strong outcomes in wildlife cases. Stop Ivory and The ICCF Group can provide advice on how to set up CUCs and together with interested stakeholders, support the necessary meetings to bind that group together in a common understanding of how the criminal trial process can help or hinder prosecutions of IWT.

14. A more deliberate focus upon delivery of training and sensitisation to both magistrates and high court judges is also required. In Malawi, for example, there is very little training addressed towards the high court. It is essential that the high court is both enlightened and empowered in their mandate to deliver far-reaching appeal court decisions that can either uphold or undermine efforts in this field; and that prosecutors are specifically trained on the mechanics of appeals. Again, Stop Ivory and The ICCF Group can assist organisations planning delivery in this sphere in order to ensure that this approach is incorporated alongside the anti-corruption component.

— Proposal 13:

To support the provision of clearly identified pathways to appeal in each jurisdiction. This may be in an illustrated form and/or something agreed in the context of inter-agency cooperation setting out the criteria under which appeals should always follow and the mechanisms that need to be utilised according to the country's procedural codes.

15. Justice delayed is justice denied. Delay in the criminal court system has a significant impact upon the justice system as a whole. In

---

particular, delay in the progress of a trial undermines and weakens the prosecution case; increases the risk of witness attrition; exposes witnesses to risk of intimidation and threat by repeatedly requiring them to come to court; increases the opportunity for defendants to corrupt the system and undermines public confidence. Finally it represents a tremendous waste of public resources. The majority of adjournments are due to poor pre-trial planning - witness requirements, disclosure, requirements re: exhibits and expert evidence and legal arguments on admissibility are for the most part entirely foreseeable but are often not addressed until the trial has started and the witnesses are waiting. In the Kenyan system the average time for a felony trial is 3 years; the prosecution of an 'ivory kingpin' in Mombasa law courts is already in its second year and has been dogged by missing exhibits, destruction of a scene of crime and suspension of the magistrate on suspicion of corruption. In December 2015, with support from the UK, a pilot scheme was launched in Kenya in three courts with the sole purpose of reducing delay<sup>7</sup> through the mechanism of a pre-trial conference (or conferences) and 'active case management' by the court. A similar pilot launched at the federal court level in Nigeria in 2014 saw trial times reduced from 3 years to 6 months.<sup>8</sup>

— Proposal 14:

To provide technical advice on how a country may address the issue of delay in the criminal court system and, together with interested stakeholders, support the development of pilot projects with particular focus upon 'poaching hotspot courts'. This will involve a scoping of relevant laws and procedures together with discussions with the country's Chief Justice and other law enforcement agencies as a pre-requisite. This is a long-term project but its potential to have a significant impact cannot be underestimated - and not just within the realm of the IWT but upon all cases that enter the criminal justice system. Coupled with improved data and record handling, this is a proposal with far reaching consequences for the administration of justice.

16. **ICCWC Toolkit analyses** have been conducted for some countries. This is a government-led process and so whilst many organisations can add real value to this analysis, the choice of formal inclusion goes to the government in question. The results of any such analysis are confidential, which in turn requires governments to firmly steer interventions in order to avoid duplication of effort and prioritise their requests. Further opportunities exist to discuss how Stop Ivory and The ICCF Group can assist on delivery on proposed interventions that result from analyses carried out thus far (where they are requested by the governments in question) but where gap analyses are conducted independently as in Malawi, recommendations can be put to the governments in a more pro-active approach that may well mirror

---

<sup>7</sup> Author's previous role as criminal justice advisor to British High Commission, Nairobi, launched in collaboration with Judicial Training Institute, Kenya.

<sup>8</sup> Reporting from Criminal Justice Advisor to British High Commission, Abuja 2013 to 2015.

---

proposals within the toolkit analyses. Finally, in January 2016, ICCWC released a comprehensive set of enforcement indicators that can be used to assess impact, which in turn the donor community can utilise.<sup>9</sup>

17. **Court Handling:** There are a number of ‘eyes in the courtroom’ projects on-going across the continent, mainly taken on a case-by-case basis by interested parties e.g. Wildlife Direct in Kenya, EAGLE Network, PAMS in Tanzania and Game Rangers International (GRI) in Zambia. However, baseline surveys are relatively rare with Wildlife Direct conducting the first in Kenya in 2013 and WCS having done the same in the Republic of Congo. Such surveys differ from case-by-case monitoring that is more immediate and reactive; instead these surveys provide an evidential platform from which sound recommendations can be made to the heads of judicial and prosecution agencies. Where such surveys are to be conducted, it is recommended that the issue of absconding where bail is granted be given particular attention as consistency on the issue of bail (alongside sentencing) has been raised as a concern in a number of jurisdictions.

18. This ‘measurement’ of court outcomes is an essential step that needs repeating in order to measure impact of capacity building interventions and as an anti-corruption measure. Coupled with a media strategy this can also assist with both sensitisation and deterrence.

— Proposal 15:

To develop a standard questionnaire and short guidance for use in similar projects across range states that can assist stakeholders and ultimately create consistency in the way in which we measure court outcomes. Transparency International is considering adding the IWT to its portfolio. If this occurs, their involvement in this process would add a layer of authority that would be extremely beneficial.

— Proposal 16:

Stop Ivory and The ICCF Group to assist in the development and roll out of a basic case management database as demonstrated by Wildlife Conservation Society (WCS) within the Uganda Wildlife Authority (UWA). This is an opportunity to create a resource that will allow for more efficient and timely analysis of case progression.

19. **Mutual Legal Assistance (MLA):** Whilst information sharing appears to receive support by NGOs in some jurisdictions e.g. the PAMS Foundation in support of the NTSCIU in Tanzania has initiated MLA with neighbouring countries including Kenya; the capacity to share evidence, assist in cross-border trials e.g. by live link between courtrooms, appears to be limited to a case by case approach where

---

<sup>9</sup> <https://cites.org/sites/default/files/eng/com/sc/66/Inf/E-SC66-Inf-22.pdf> accessed 4 April 2016

---

mentors/bodies like the UK National Crime Agency (prosecution of a UK paedophile who preyed on Kenyan street children) or NCTSIU are involved. These often require ‘heavy lifting’ and are nearly always limited to ensuring the particular case gets through rather than delivering longer-term sustainable change within central and competent authorities responsible for MLA. The Wildlife TRAPS response may provide another platform for further development of MLA between Asia and Africa; a development that would complement, in a timely way, the FOCAC Johannesburg<sup>10</sup> Action Plan 2016-2018 which, among others, references the need to explore the signing of criminal judicial assistance and extradition treaties between China and the 50 African countries that are members of FOCAC.

— Proposal 17:

Creation of a directory of points of contact from Central Authorities (with their consent) together with the relevant provisions outlining requirements for letters of request (LORs) for each country. This would be made available online.

— Proposal 18:

Generally speaking, there is a need to undertake in all African elephant range states research and analysis of MLA laws and processes in identified countries and support the development and implementation of MLA strategies and processes on environmental crimes. Stop Ivory and The ICCF Group can provide technical expertise and advice on how to assist national agencies identify challenges and solutions regarding handling of LORs and issue clear guidance to agencies abroad. A ‘test run’ of such solutions may be facilitated through Stop Ivory and The ICCF Group networks with central authorities abroad.

20. Across many jurisdictions, there are moves to establish small units of specialised prosecutors and investigators dedicated to wildlife crime. There is also an increasing reliance on intelligence pictures generated via vetted private units or those within government agencies. The interplay between the intelligence picture and the evidential picture is often unfocussed and can be misunderstood, with prosecutions falling down partly due to a failure to secure an evidential format for the intelligence package. Much of this can be resolved through improved (and earlier) coordination between investigations and prosecutions and the sort of measures recommended above. However, there may also be concerns by intelligence agencies regarding their police and prosecution counterparts and the security clearance of those individuals.

— Proposal 19:

Vetting may be a powerful way to address those concerns and send out a strong anti-corruption message. The approach to

---

<sup>10</sup> Forum on China-Africa Cooperation

---

vetting will vary country to country and there may be opportunities for donors such as the US and the UK to assist in vetting small units, e.g. where polygraph units have been bought into country (or can be). Stop Ivory and The ICCF Group are currently looking into ways in which a general guidance can be issued on the subject of vetting and would welcome collaboration, particularly on the technical level regarding the creation of such a document e.g. to include a standard disclosure questionnaire and guidance on parameters for what would be considered 'vetting'. It would also welcome indications as to where on the ground assistance may be offered by donors. It may also be possible to offer ballpark figures on costing.

21. Finally, given the relatively narrow playing field of this particular arena, there is a need to coordinate donors to avoid not only duplication of effort but also to ensure that the recipients of support obtain the best value for their time and commitment to a particular project. An example where problems arise lies in the offering of competing and differing software and technologies aimed at intelligence gathering or data management of cases. Where different products are developed and implemented within one sector, this can lead to massive inefficiency and confusion. In Kenya, such a group has been bought together by UNODC.

— Proposal 20:

Stop Ivory and The ICCF Group could support coordination frameworks on a country-by-country basis targeting NGOs and donors/development partners. In terms of who should coordinate (and this has been done in Kenya and Tanzania), there are obvious candidates and Stop Ivory and The ICCF Group would invite them to take up this opportunity to bring together NGOs, donors and others to agree on a mechanism and framework in order to ensure best value for money/resources in terms of interventions.

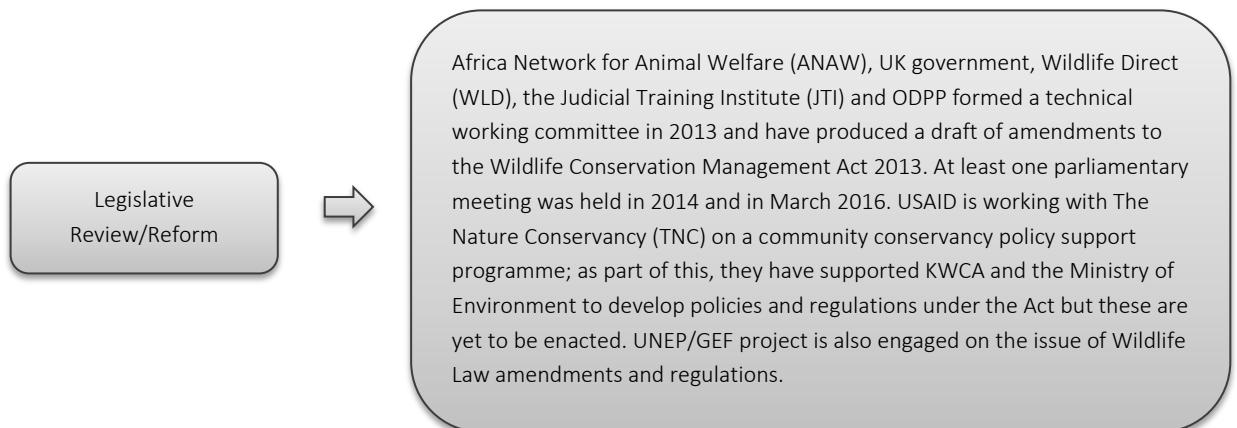
22. On non-EPI States, information is quite limited and accordingly has been paraphrased at the end of report. Prioritising interventions based on where most strategic and sustainable impact can be had is vital and this report sets out key areas, country by country, where Stop Ivory and The ICCF Group can potentially intervene, collaborate and support national and international stakeholders



---

## 5. KENYA

The Conservation and Management Strategy for Elephant in Kenya, 2012 to 2020 (‘the Strategy’) highlights the issue of ineffective cross border collaboration and the need to build capacity within the judiciary and investigative bodies in order to counter the inadequate law enforcement in wildlife crime investigations and prosecutions. As signatories to the EPI, Kenya has made great strides in her criminal justice engagement with international wildlife trafficking, starting with the enactment of a new Wildlife Conservation and Management Act 2013 (WCMA) that drew on support from numerous organisations including The ICCF Group, Wildlife Direct, Kenya Wildlife Conservancies Association (KWCA) and the UK government, among others. However, not all proposals were accepted, and consequently, amendments are needed two years later.<sup>11</sup> In terms of prosecution capability, the ODPP established a team of approximately 30 specialist prosecutors and developed protocols for interagency cooperation between investigators and prosecutors together with a ‘points to prove’ guidance for practitioners that includes money laundering and corruption offences. Courtroom monitoring of outcomes began in 2013<sup>12</sup> with the first survey of its kind delivering a clear picture of how wildlife cases were handled in Kenyan courts. This monitoring continues on both a case-by-case basis<sup>13</sup> and on general overall monitoring of court outcomes. There have been several judicial dialogues since 2013 to improve judicial awareness although sentencing on wildlife crime remains inconsistent.<sup>14</sup> Delay in the handling of such crimes remains a frustration for many stakeholders although measures to address the issue of delay and adjournment in criminal trials are now underway.<sup>15</sup>



---

<sup>11</sup> JTI Technical committee established in 2014 to draft amendments to the WCMA

<sup>12</sup> Scoping study on the prosecution of wildlife related crimes in Kenyan courts 2008 to 2013, Wildlife Direct.

<sup>13</sup> Monitoring of prosecution of Feisal Mohamed at Mombasa Law Courts by Wildlife Direct, arrested in Dec 2014 and still awaiting on the conclusion of trial.

<sup>14</sup> Second courtroom monitoring report by Wildlife Direct (to be published in 2016).

<sup>15</sup> Launch of pilot of ‘active case management’ supported by the UK government and Judicial Training Institute, Kenya December 2015.

Investigation /  
Prosecution  
Cooperation



Interagency protocols and guidance for investigators and prosecutors were created in 2015 with financial and technical assistance provided by the UK government. UNODC now takes the lead on the national roll out of this with Space for Giants (SFG), Northern Rangelands Trust (NRT) and Big Life Foundation assisting stakeholders regionally. UNODC plans for 2016 include KWS scenes of crime training to include the ODPP, the design of templates for statements, interview skills and building upon the protocols developed thus far. UNODC's container control programme in Mombasa is also underway. The Freeland Foundation (FF) together with AWF, the Lusaka Taskforce (LATF), the International Criminal Police Organization (INTERPOL), UN, US and the International Fund for Animal Welfare (IFAW), launched 'ARREST' (Africa's Regional Response to Endangered Species Trafficking) in September 2015 aimed at improving legal mechanisms to address wildlife crime. A further regional forum held by LATF reinforced the commitment to better inter-agency collaboration. USAID and KWS are in discussions regarding a partnership to improve investigations and prosecutions that will include operationalizing the forensic lab in Nairobi. UNDP is also braced to enter this field and are currently finalising project activity.

Prosecution  
capacity  
building



Through an 'International Narcotics and Law Enforcement Affairs' (INL) grant in 2015, Lawyers without Borders (LWB) delivered a one-week training in wildlife crime; a forensic evidence workshop was held in March 2016 and more is planned for the spring and summer for KWS, ODPP and judiciary. UNODC ran workshops in 2014 and 2015 regarding intelligence training and recovery of proceeds of wildlife crime for both prosecutors and investigators (2014); plans for 2016 include conducting the ICCWC toolkit analysis for Kenya, launch of a 'Wildlife Digest' covering case law and ongoing support to anti-corruption measures within KWS (policy support). AWF also plan to continue prosecutorial and judicial training in the coming year based on legal and policy review but no concrete programs or dates as yet. WLD also plan further dialogues with the ODPP between March and September 2016 in conjunction with LWB, UNODC, Strathmore Institute and the JTI. Strathmore plans to launch a 'Wildlife Center' in 2016, aimed at capacity building trainings and research in wildlife crime, supported by UNODC and UNEP. Meanwhile, as stipulated above, USAID in partnership with US Department of Interior, is developing activities to counter IWT including support for KWS enforcement and judicial training. ANAW and JTI have together conducted two trial advocacy trainings for prosecutors and judicial officers since 2014 and aim to do 6 more subject to funding.

Judiciary and  
court handling



5 national dialogues on wildlife crime have been held by the JTI since 2013 along with the two trainings on advocacy mentioned above. In 2015, The ICCF Group convened an East Africa Regional Judiciary/Law Enforcement Workshop on Wildlife/Environmental Crime in Nairobi, Kenya that included policy makers, judiciary and other criminal justice stakeholders from Mozambique, Rwanda, Tanzania, Malawi and Uganda. UNODC plans further judiciary sensitisation over 2016 (no concrete programmes or dates as yet). The LWB programme included the judiciary in the March 2016 forensic training. AWF also plan judicial/prosecutorial training. At a local level numerous organisations work with court user committees in their region e.g. Big Life, SFG, Tsavo Trust to name but three. On court monitoring, WLD conducted a nationwide survey in 2013; a follow up report is expected to cover 2014 and 2015 and they also conduct case-by-case monitoring. Big Life Foundation and SFG also undertake some monitoring of wildlife related cases on a regional basis and work with WLD to flag cases of concern. Accordingly, further monitoring is ongoing, both on a case-by-case basis and in terms of monitoring overall success/failure rates in trials with a view to making further strategic recommendations. In addition, a recent launch by the JTI of 'active case management' in three courts has the potential to significantly impact the issue of delay in the criminal justice system. Finally the Strathmore Institute of Advanced Studies in International Criminal Justice (SIASIC) and its 'Wildlife Centre' will be conducting two regional conferences in May and June 2016 aimed at magistrate's sensitisation to wildlife crime and transnational organised crime (with UNODC and UNEP support).

International  
Cooperation



Agencies involved in promoting cross-border cooperation include LATF, INTERPOL and the supporters of ARREST. USAID as described above are developing a five-year plan that should involve the wider East African Region and UNDP are braced to enter the field on both national capacity building (regionally) and enhancing international cooperation. UNEP-GEF plan a bilateral meeting with Tanzania in early 2016. The central authority in Kenya lies with the Attorney General's Office (AGO) as the starting point. There has been some intervention via the UK to enhance the frameworks in play but there is little capacity within that office, with "Letters of Request" often going directly to the ODPP. Agreement on how to handle issues of extradition requests and MLA remains outstanding although a draft agreement was achieved in 2015 with the support of the UK. UNODC plan a regional workshop with South East Asia later this year 2016 to develop inter-regional protocols on Intel-sharing. MLA in terms of trials remains heavily dependent on support from interested parties, e.g. R v Simon Harris - UK paedophile preying on Kenyan children – live link support with UK assistance

---

## 6. KEY RECOMMENDATIONS

- **Legislation:** There has been some improvement in court outcomes since the first baseline survey report<sup>16</sup> but an increase in the number of trials, possibly in part due to the high minimum sentences under the new legislation (encouraging not-guilty pleas), does place an increased burden upon judges, prosecutors and investigators. A sentencing guidelines policy was issued in 2016 and whilst there is an urgent need for specific guidelines for many categories of crime the willingness to ‘pilot’ such a specific approach in the context of wildlife crime should be explored with the judiciary. Further, cases of poisoning have presented a challenge under the existing law<sup>17</sup> in terms of drafting of appropriate charges; certain provisions within the legislation have resulted in conflicting high court decisions on interpretation.<sup>18</sup> Illegal grazing upon private conservancies is causing significant challenges to some stakeholders,<sup>19</sup> adding to conflict between communities and resultant hardship. Amendments to address these issues have been drafted by a technical committee led by the JTI and support is welcomed to assist with dialogue with the parliamentary committee.
- **Prosecutions and Inter-agency cooperation:** KWS is now under new leadership but has limited prosecutorial capacity.<sup>20</sup> Developing a prosecution team within KWS to handle the bulk of wildlife cases in a way that is consistent with ODPP national standards on charging, together with fostering a strong interagency relationship on investigations would be key in helping Kenya achieve her objectives set out within the Strategy. Working with UNDP and/or USAID to assist KWS should be further explored in light of the USAID potential partnership with KWS. KWS is also partnering with UNODC on anti-corruption interventions having received funding for a pilot. SFG and WLD are planning a training course for new prosecutors within KWS that will address prosecution frameworks within and utilise existing tools already developed by the UK government. The launch of the ‘Wildlife Centre’ by the SIASIC also presents an opportunity for collaboration in general capacity building.
- **Conduct of trials:** Problems persist in the conduct of trials, in particular delay<sup>21</sup>, loss of exhibits<sup>22</sup>, and even deportation before trial of foreign nationals.<sup>23</sup> The launch of a pilot for ‘active case management’ by the JTI in December 2015, with support of the UK, is aimed at reducing

---

<sup>16</sup> Author of this report has co-authored a secondary study for cases conducted under the new Act in 2014 – awaiting publication.

<sup>17</sup> Discussions with G. Wangui, head of poaching unit ODPP, Kenya

<sup>18</sup> Discussions with G. Wangui, head of poaching unit ODPP, Kenya.

<sup>19</sup> Discussions with NRT, Space for Giants, Big Life Foundation.

<sup>20</sup> Discussion with Director KWS Feb 2016. As of 9th March 2016, there are no prosecutors within KWS though recruitment is ongoing.

<sup>21</sup> Republic vs Feisal Mohamed Ali (CM.Cr.C.No. 1098/2014)

<sup>22</sup> *ibid.* Republic vs. H T Magraki (CM.Cr.C.No 701/2014) loss of rhino horn exhibit

<sup>23</sup> Ugandan national deported following arrest in possession of ivory Republic vs. Masaleka CM.Cr.C.No 4789/14.

---

delay in the system. JTI would welcome support to the pilot through continued training and support to the pilot courts particularly Mombasa Law courts (all port cases will go there) and, with plans to open a court at Jomo Kenyatta International Airport, there is opportunity to galvanise the momentum of that pilot and support the inclusion of this and other ‘poaching hotspot’<sup>24</sup> courts. Corruption remains an issue<sup>25</sup> and so an ‘eyes in the courtroom’ approach, led by WLD and funded by Elephant Crisis Fund (ECF), is key to raising concerns over dubious decisions taken by prosecutors, police and judges in a criminal trial. WLD are also in favour of collaboration with interested stakeholders regarding the digitization of court records though it may be hard to limit this to the field of IWT. On missing case files, there are hopes to introduce a case management database system (within KWS) modelled on that implemented in Uganda with WCS support. The judiciary generally is still seeking to digitise all criminal court records.

- **Judicial Capacity:** The JTI would welcome support in developing a national curriculum regarding wildlife crime in order to ensure a more consistent and sustainable approach to judicial sensitisation to this topic; the JTI would also welcome collaboration and support in further judicial dialogues on wildlife crime and trial training for investigators, prosecutors and judges. SIASIC would also welcome collaboration.
- **International Cooperation:** On Mutual Legal Assistance (MLA), regional workshops are planned for 2016 as outlined above. However, the central authority within Kenya, the ‘starting point’ for letters of request, lies within the Office of the Attorney General (AGO)<sup>26</sup>. It is vital that as part of the discussion on MLA, countries clarify their own internal frameworks and guidance for issue to their neighbours and beyond. An initial agreed ‘pathway’ was determined in 2015<sup>27</sup> between the ODPP, the AGO, the Ministry of Foreign Affairs and Police but this requires finalisation, validation and implementation in order to be effective, alongside a concerted effort to build capacity within the central authority of Kenya in terms of legal personnel and case management systems. Provision of live-link facilities within courts (thus negating the need for witnesses to travel) would assist national logistical problems as well as MLA with neighbouring countries. There is opportunity and willingness to collaborate on the issue of international cooperation with UNDP, UNEP and UNODC, the former planning to develop a national strategy to combat wildlife crime in Kenya and UNODC with plans to support regional cooperation and improve transnational prosecutorial cooperation including MLA.
- **Gap Analysis overall:** With plans for conducting the ICCWC toolkit analysis in Kenya this year, there are many organisations that could add value to that exercise bearing in mind that this would be a government led process.

---

<sup>24</sup> Discussions with JTI Feb 2016

<sup>25</sup> E.g. suspension of magistrate on allegations of corruption in Feisal Mohamed case 2015

<sup>26</sup> Mutual Legal Assistance Act 2011

<sup>27</sup> UK supported initiative 2015

---

## 7. UGANDA

In 2015, Uganda joined the EPI as part of its commitment to implementing the African Elephant Action Plan that was adopted in 2010. Uganda, like Kenya, is a party to the LATEF, mandated to combat transnational illegal trade in biodiversity resources. Uganda's wildlife law does not fully satisfy the requirements for implementation of CITES<sup>28</sup> and is currently under review. The key aims of the National Elephant Action Plan 2015 to 2025 – still in draft form, however – are to fast track that revision and assist the prosecution of wildlife crime offenders. Training of prosecutors, magistrates and police is seen as a key requirement and oversight of the court process has been identified as necessary in order to ensure arrested persons are prosecuted effectively and monitored to ensure they serve their sentence. Inter-agency collaboration is also seen as necessary, involving police and customs agencies. A concerted effort to root out corruption was noted along with the creation of a national task force on illegal ivory and other wildlife contraband. MLA was not specifically highlighted in terms of building capacity within any central authority.

Legislative  
Review/Reform



The Ministry of Tourism, Wildlife and Antiquities (MTWA) take the lead on revisions to the Uganda Wildlife Act. UNODC have provided commentary to them on proposed amendments. Now that elections are concluded, it is hoped that this will be addressed when the new Parliament sits in May. In the meantime, UNEP, UNODC, DLA Piper among others have conducted a review of the existing legislation and identified gaps therein.

Prosecution capacity  
building



UNODC delivered two workshops to the ODPP, Uganda Wildlife Agency and police in 2015 and plan, in conjunction with UNEP and Space for Giants (SFG), to develop inter-agency protocols and to build upon a 'points to prove' guidance that was previously developed by the National Resource Conservation Network (NRCN) with support of WCS, US Fish and Wildlife Service (USFWS), Wildlife without Borders and the Bush-meat Free Eastern Africa Network. According to the Director of Public Prosecutions (DPP) there are no other concrete plans to deliver capacity building with the ODPP although LATEF, WCS, Stop Ivory, AWF and TRAFFIC are all noted partners as contributing to the development of anti-poaching efforts overall in the coming year. The Elephant Crisis Fund (ECF) is supporting sniffer dog training at the airports due to start later this year. The DPP has identified the need for better sensitisation of the national prosecution policy relating to the decision to charge.

---

<sup>28</sup> CITES standing committee (SC) 65 Doc 22 accessed 22 February 2016.

Investigation/Prosecution Cooperation



NRCN, supported with a MoU with the EAGLE Network, has delegated powers of authority to prosecute and accordingly conduct a number of investigations and prosecutions in-house. They have conducted annual training with the UWA each year and, on a case-by-case basis, provide mentoring on inter-agency collaboration between investigators and their own prosecutors. However, there are no formal protocols calling for early collaboration between investigators and the ODPP or UWA prosecutors (of which there are ten) – but see below. UNODC began their container control programme in 2015 and also ran a ‘Recovery of Proceeds of Crime from the IWT’ for prosecutors and investigators in 2015. Development of formal protocols for investigator/prosecutor cooperation is planned for 2016 in a joint effort between UNODC, UNEP, SFG and NRCN.

Judiciary and court handling



There has been little in the way of judicial dialogue and training on wildlife crime in Uganda according to NRCN and the ODPP although judiciary have taken part in regional training such as that run by UNODC and The ICCF Group. On court monitoring, beyond what NRCN and UWA (with its own database set up with WCS support) record (the outcomes in their own cases), there is no central database of court cases and little is known as to how wildlife crime cases are handled overall within the court system. Magistrates will be part of the SIASIC regional conferences to be held in May/June 2016. UNEP-GEF also plan a caucus meeting with Judges and prosecutors in late 2016.

International Cooperation



UNODC plan a regional workshop with South East Asia later this year to develop inter-regional protocols on Intel-sharing. Uganda also attended a regional workshop on environmental crime held by United Nations Environment Programme (UNEP) in late 2015. The ICCF Group also ran a regional workshop in Nairobi as part of their continuing dialogue on building capacity both internally and in terms of cross-border collaboration. There have been some instances of cooperation with LATF and Interpol [1].

[1] SC63Doc18 investigation of consignment seized in Sri Lanka in May 2012. Accessed 2 April 2016.

---

## 8. KEY RECOMMENDATIONS

- **Legislation:** A new wildlife bill remains under review and has not yet been submitted to parliament. It is urgently required given the gaps in the existing legislation not least that possession of ivory/rhino horn is not an offence under the existing law (though it has required rather imaginative drafting to circumvent this lack)<sup>29</sup>.
- **Prosecutions and Inter-agency cooperation:** Upon completion and delivery of the ‘points to prove’ guide and inter-agency protocols with UNODC, UNEP and SFG, there is an opportunity to collaborate on the national roll out and sensitisation of the same documents. In Uganda, all prosecutors are bound by the “Prosecution Performance Standards and Guidelines of 2014” and a “National Prosecution Policy”. Therein lies a charging standard, namely an evidential test and a public interest test. In discussions with the DPP Uganda, it is clear the application of this standard is inconsistent and there is no formal requirement for a written review of decisions, making quality assurance very difficult and contributing to an environment where corruption can be easily hidden. Accordingly any national roll out must include sensitisation to this standard and development of a written review system in order to achieve a sustainable impact. UWA has a limited number of in-house prosecutors; further delegation of prosecutorial powers can be requested of the DPP subject to qualifications. Therefore a review of the UWA prosecution training curriculum and support to UWA to build their team is recommended. The NRCN should also be included and mentoring of such prosecutions would be highly desirable both in terms of addressing capacity building but also as a buffer against corruption.
- **Conduct of trials:** On courtroom monitoring, WCS is considering conducting a survey of court outcomes in Uganda. There is opportunity to discuss collaboration on this project. Again, court monitoring of outcomes can be a useful anti-corruption tool together with case by case monitoring (by NRCN). See gap analysis point below.
- **Judicial Capacity:** Judicial sensitisation to wildlife crime is seen as urgent and necessary by the UWA and NRCN and there is a willingness to collaborate on any programme that addresses this in a coherent and sustained way. Until the new law is passed, specific guidance on s81 of the existing act should be developed (asset disclosure and forfeiture of profits in IWT cases) and consideration given to sentencing guidelines to ensure a consistent approach nationwide (again, this may be part of a wider anti-corruption strategy). Judicial sensitisation should be coupled with the roll out of the ‘points to prove’ guidance followed by court monitoring and reporting of case progression.
- **International cooperation:** Uganda is a party to the Harare Scheme (Commonwealth Mutual Legal Assistance in Criminal Matters) and the

---

<sup>29</sup> Author’s analysis of legislation for UNEP and agreed with ODPP Uganda.



---

East Africa Police Chiefs Cooperation Organisation (EAPCCO). It is also a party to the UN Convention against Transnational Organised Crime. There is no separate mutual legal assistance act although mutual legal assistance provisions are built in to the Anti-Money Laundering Act 2013. A gap analysis regarding MLA with a view to identifying effective and necessary interventions is essential. This is something of potential interest to UNODC and UNDP. At a Ministerial level, agreement that foreign nationals convicted within Uganda will not be deported before trial or before time is served should be explored.

---

## 9. GABON

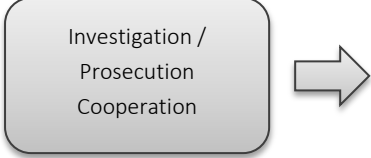
Gabon is home to just over half the surviving forest elephant populations in the world<sup>30</sup> with WCS reporting in 2013 a 'staggering loss of 11,000 forest elephants' due to poaching since 2004. Agence Nationale des Parcs Nationaux (ANPN), responsible for national parks, has indicated an increased incidence in poaching in recent years with cross-border incursions from neighbouring countries posing a significant challenge to ANPN resources. In 2014<sup>31</sup>, Gabon signed up to the EPI and shortly after produced its NIAP for Gabon listing five pillars of focus in the fight against elephant poaching, trafficking and fraud. Of relevance to this project are the following three: legislation and regulation, prosecutions, and national and international cooperation on wildlife crime. The ICCWC Toolkit analysis was conducted in 2014.

Legislative  
Review/Reform



Legislative reform is seen as a priority given the lax penalties under existing laws. An initial revised law was rejected as unconstitutional but a further legal review of the penal code has been completed and a new bill presented to parliament. It is hoped this will pass by April 2016, subject to election concerns. The Convention on International trade in Endangered Species of wild fauna and flora (CITES) classes Gabon as a 'Category 2' country i.e. its legislation does not meet all the requirements for implementing CITES [1]. CCN-UNEP-GEF aim to develop a caucus to engage on wildlife issues. A joint campaign of advocacy by national and international civil society was initiated in 2014 to push for a more inclusive process on legislative change.

Investigation /  
Prosecution  
Cooperation



There are no formal protocols or standard operating procedures in place regarding how investigators and prosecutors should work together. Conservation Justice (CJ) currently engages directly in developing inter-agency cooperation through mentoring on a case-by-case basis. ANPN jurists also do the same. CJ also supports training events with all relevant agencies - they conducted police and gendarmerie training in April – May 2015, November 2015 and plan to do further police training in April to May 2016 as they are now part of the curriculum for training those agencies. They conduct training with prosecutors in all 9 provinces and there they invite police, gendarmerie, forestry officials, and customs although this appears to be on an ad hoc basis. Development of protocols is something of interest to SFG, CCN-UNEP-GEF in particular. Following a phase of in-country assessments, the Africa Trade in Wildlife Information Exchange (AFRICA-TWIX) was launched to promote collaboration; Gabon is one of four pilot countries for this initiative, managed by TRAFFIC. In 2015, UNODC and TRACE Wildlife Forensics Network (TRACE) launched the 'African Wildlife Forensics Network' project, funded by UK Defra. A forensic needs assessment has been conducted. Alongside direct practical forensic support (e.g. infrastructure for evidential storage, handling, security) the project aims to foster inter-agency cooperation between partner countries and encourage bi-lateral and multi-lateral agreements on the shared use of wildlife forensics (see also Botswana, Malawi, Namibia, Republic of Congo and Zambia).

---

<sup>30</sup> Africa's Eden, Wildlife of Gabon [www.africas-eden.com/Wildlife-of-Gabon.asp](http://www.africas-eden.com/Wildlife-of-Gabon.asp)

<sup>31</sup> WCS News release 7 Feb 2013.

Prosecution capacity building



Gabon's overall 'corruption score' according to Transparency International is 34/100 with 0 being the most corrupt [II]. From discussions with ANPN [III] it appears that hopes are vested in the establishment of a special tribunal with dedicated (presumably vetted) prosecutors and judges to handle wildlife cases. CJ, following the methodology of the EAGLE Network (LAGA), works closely with police and prosecutors on individual cases. [IV] ANPN, CJ together with public prosecutors have created a guidance to wildlife crime with some 800 copies already disseminated. Through mentoring, CJ and ANPN jurists also assist in developing prosecution capacity case to case but on occasion, ANPN will instruct independent counsel to prosecute. CJ has delivered training to prosecutors through the Ministry of Justice (November to December 2015) and has conducted ad-hoc training for prosecutors in all 9 provinces in Gabon. The NIAP has stipulated a plan to develop templates and protocols for legal procedures but await the amendments to the penal code.

Judiciary and court handling



CJ has delivered some training to the Magistrates School in Libreville over the last year but wildlife crime is not yet part of the curriculum and so training of judges is somewhat ad hoc. ANPN and CJ do monitor wildlife cases (AALF report 2015 mentioned above). In 2015, CJ followed 55 cases initiated by CJ and a further 31 initiated by other agencies. They have kept a database of all arrests and outcomes for CJ and ANPN initiated prosecutions since 2010. However, beyond requesting an inquiry from the Minister of Justice regarding questions over some court outcomes it does not appear that firm recommendations for strategic interventions have been made regarding those particular reports.

International Cooperation



Under the NIAP, there is a desire to strengthen border controls and address cross-border activities particularly with Cameroon, Central African Republic (CAR), Congo, and Equatorial Guinea. WWF is assisting ANPN to organize trans-boundary cooperation in the north east of Gabon with bi-national missions and logistical support to remote ANPN camps through WWF presence in Cameroon and Congo. This is as part of the 'Tridom' regional program. However, from in-country discussions with ANPN and CJ, there appears little movement in terms of building capacity within the relevant authorities to handle MLA in terms of evidential exchange and assistance with prosecutions, with more of a focus placed on intelligence sharing. Gabon has, however, been party to many public forums regarding cooperation, participating in an ivory burn in 2012, issuing a 'self assessment' of progress on commitments in the London Declaration which included the establishment of a Presidential Task Force to deal with poaching and pirate fishing; at the IUCN World Parks Congress in Sydney Australia 2014, Gabon indicated its efforts to federate African nations and national parks, by working closely with Botswana, Chad, Ethiopia and Tanzania [V]. President Bongo Ondimba is the founding member of the "Giants Club".

- 
- [I] CITES Standing Committee, “SC65 Doc. 22. Accessed 19/2/16
  - [II] [www.transparency.org](http://www.transparency.org) as of 19/2/16
  - [III] Discussion with Director of ANPN Feb 2016
  - [IV] AALF Annual Report 2015
  - [V] <http://wpc.wcs.org/News/ctl/ArticleView/mid/25749/articleId/2752/SPEECH-President-Ali-Bongo-Ondimba-of-Gabon-announces-decision-to-create-a-new-marine-protected-area-network-at-the-2014-IUCN-World-Parks-Congress-in-Sydney-Australia-November-12-2014.aspx> accessed 5 Feb 2015.

---

## 10. KEY RECOMMENDATIONS


- **Legislation:** A draft bill has been submitted to parliament and has received both technical and financial assistance from donors and international NGOs. Accordingly, no technical assistance is required on drafting, and in discussions with the Executive Secretary of the ANPN that law is expected to pass shortly. Another major priority therefore is to ensure that the new law will consider the mandate of ANPN to conduct investigations/make arrests, etc. so that they can exercise a judicial/police function in the exercise of anti-poaching operations.
- **Prosecution and Inter-agency cooperation:** Ensuring clear mandates under the law (for ANPN) and implementing cooperation between investigations and prosecutors are urgent requirements.
- **Prosecution/ Judicial capacity building:** These are areas to take forward with the Presidential Task Force once the law has passed. It will be necessary to assess the law and consider composition of the proposed 'special tribunal' and its remit before making concrete proposals on how assistance may be designed and delivered. According to the Executive Secretary of ANPN, CJ (with WWF support) is the only organisation involved in the criminal justice sphere. On MLA, there is apparently little capacity within the existing structures with most prosecutions being focussed upon 'red handed arrests'. However, in discussion with a jurist from ANPN, developing inter-agency cooperation and capacity in terms of MLA would be extremely helpful.
- **International Cooperation:** Under the WWF supported Tridom regional programme, it is hoped that trans-boundary cooperation will be improved; ways in which to organise information sharing is also under discussion but there is a need to identify the appropriate legal framework first. Scoping this area of law is required therefore and WWF is well placed to collaborate and support that endeavour. However, given the concerns over corruption raised by ANPN and CJ, any interventions will need to be couched within an anti-corruption strategy insofar as wider prosecution and judicial capacity building is concerned in order to achieve buy-in. There is also a weak governance issue with a tendency to operate in silos with little transparency as to what is being done. The creation of platforms and frameworks for improved governance would be very helpful. Expertise in the French legal system is essential. Space for Giants, Elephant Crisis Fund and Conservation International are a few of the organisations currently in discussions with authorities in Gabon regarding potential support though not necessarily limited to the field of criminal justice support.

---

## 11. TANZANIA


A report issued by the Environmental Investigation Agency (EIA)<sup>32</sup> in 2014 implicated Tanzania in more large flows of ivory than any other country. Nevertheless Tanzania has been making efforts to prosecute crime under its existing legislation through the PAMS Foundation and its work with the NCTISU with a number of high profile arrests having taken place in recent months<sup>33</sup>. NTSCIU has been responsible for 803 arrests in 2015, with 233 suspects having been convicted, fined or sentenced<sup>34</sup>. With the launch in June 2015 of a Multi-Agency Task Team led by the Tanzania police force and encompassing the Tanzania Forest Services, the Wildlife Division, Fisheries Division and the Tanzania Intelligence and Security Services, there is clearly an intention to build further inter-agency cooperation and dialogue but concrete deliverables are unknown at the time of writing. Corruption, however, remains a significant challenge with Tanzania ranking 117th out of 168 countries with a 30 out of 100 score according to Transparency International<sup>35</sup>. Since his appointment in November 2015, President Magufuli has been seen to take a tough line on corruption including firing the head of Tanzania's anti-corruption agency and the Director-General of the Tanzania Ports Authority in December 2015.

Legislative Review /  
Reform



UNODC, UNEP, DLA Piper and The ICCF Group have all conducted reviews of the legislative landscape since 2014. In Zanzibar, the Forest and Conservation Resources Management Act 1996 offers very low penalties and does not appear to incorporate CITES [I]. At a regional workshop conducted in 2015 by The ICCF Group that drew in practitioners from Tanzania, Rwanda, Uganda, Mozambique and Kenya, a key recommendation was to strengthen and modify the legislation across all of those countries. The ICCF Group re-launched the Tanzania Parliamentary Friends of the Environment Caucus, which plans to address legislative reform to combat wildlife crime

Investigation /  
Prosecution  
Cooperation



Insofar as the ODPP is concerned, there are no formal protocols in place and accordingly an ad hoc approach is currently in play with PAMS and NCTSIU investigations working closely with police and prosecutors on a case-by-case basis. This approach has been very successful but relies upon on-the-ground support throughout the running of a criminal investigation and trial. UNODC have run workshops on recovering proceeds of crime from IWT for prosecutors and investigators in 2014 and plan to deliver joint training on developing protocols for cooperation in 2016 together with SFG and UNEP. Their container control programme is also set to run as of late 2015 and should go into 2016. CCN convened an East Africa regional judicial/law enforcement workshop and aim to assist with UNEP-GEF to develop SOPs for all law enforcement institutions. A UNODC report in 2014 identified need for greater coordination between the various wildlife agencies [II]. US Fish and Wildlife Service have a law enforcement attaché who is providing technical support to crime scene investigations in Tanzania and within the region.

---

<sup>32</sup> "Vanishing Point, Criminality, Corruption and the Devastation of Tanzania's Elephants" EIA report November 2014

<sup>33</sup> Arrest of the "Queen of Ivory" Oct 2015, a Chinese national and allegedly a key link in the ivory trade route to China.

<sup>34</sup> Newsweek report 31/08/2015 <http://europe.newsweek.com/global-fight-tanzanias-elephants-335286?rm=eu>

<sup>35</sup> [www.transparency.org/country/#TZA](http://www.transparency.org/country/#TZA) accessed 20 February 2016

Prosecution capacity building



UNODC delivered a prosecution skills workshop with the ODPP in 2015. PAMS supports more than 6 prosecutors that work closely with NCTSIU and are looking to develop capacity building initiatives with the ODPP. The British High Commission is working with the ODPP on systemic issues such as the prosecution guide and policy. Dfid have also supported prosecution case building and have a large anti-corruption/organized crime programme.

Judiciary and court handling



DEFRA (UK) has begun a quarterly training of high court judges in 'serious crime'. UNODC also conducted training in 2015 regarding recovery of proceeds of crime from wildlife offences. In terms of magistrates and sensitization to wildlife law, there is little occurring – a few magistrates will participate in the inter-agency work to be run by UNODC later this year plus the UNODC supported SIASIC conference (see above). In terms of court monitoring of outcomes, IUCN recently announced that the Environmental Law Centre, partnering with the Deutsche Gesellschaft für International Zusammenarbeit (GIZ) and TRAFFIC, are set to conduct court monitoring of 600 cases and deliver recommendations by April 2016. At the same time, the Office of the Chief Justice is seeking to do the same with a view to making strategic recommendations with a follow up survey to measure impact of implementation. NCTSIU (PAMS) are looking to develop judicial training initiatives in collaboration with other interested stakeholders.

International Cooperation



Aside from attendance at a number of regional conferences bringing together prosecutors, judges, and other practitioners (see above) there is limited information regarding concrete MLA support in Tanzania. The authority responsible is the AGO. NCTSIU, through the United for Rangers Initiative, and INTERPOL, take a pro-active role in particular. However, where that translates into evidence for use at trial or other related assistance such as live links, the taking of witness statements for use in an overseas trial etc. has usually required strong support from interested parties on a case by case basis, e.g. Zanzibar acid attack in 2013. In terms of addressing systemic issues, the British High Commission in Tanzania is already engaged.

- [I] DLA Piper report 2014 "Empty Threat: Does the Law Combat Illegal Wildlife Trade?" and CITES SC62 Doc 29
- [II] Legislative and Enforcement Structures Assessment on Wildlife and Forest Crimes in Tanzania Mainland and Zanzibar UNODC Sept 2014 Accessed 19/2/16

---

## 12. KEY RECOMMENDATIONS

- **Legislation:** It is clear from the author's discussion with prosecutors and judges in Tanzania that even the applicable legislative framework is not known universally e.g. reference was made to the Wildlife Conservation Act of 2009 with some confusion as to whether a 2013 law had been ratified. With differing provisions on penalties depending on where an animal might be poached, the law is in need of harmonisation. The monitoring of hunting concessions is also of concern and provision of copies of the existing relevant laws to practitioners is essential.
- **Investigation/Prosecution Coordination:** UNODC together with SFG plan to develop 'points to prove' guidance on the law together with the development of protocols on inter-agency cooperation in investigations. There remains a need, however, to coordinate the various wildlife agencies particularly given the anomalies in the law relating to how offences are dealt with depending on where they are committed. Identifying their key concerns, challenges and having those agencies propose solutions would be an ideal way to begin that process of agreeing coordination mechanisms and proposing solutions/measures that can mitigate the problem of corruption.
- **Prosecution Capacity:** There are approximately 40 prosecutors within TANAPA; the ODPP has no specialist prosecutors for poaching although 6 work closely with NCTSIU (and that number is expanding) and so presumably are developing some specialist expertise. Whilst some general training has been delivered by the likes of the UNODC for example, and 'on the job' mentoring and assistance via PAMS and NCTSIU, the author could find no concrete plans to deliver foundational change within the ODPP such as the introduction of written reviews and quality assurance of those reviews; or a country-wide dissemination of a standardised test for charging or other measures to encourage accountability and transparency in decision making within the ODPP. The work of the British High Commission on this is in its early stages. Given corruption is of such grave concern in Tanzania, any interventions in terms of building prosecution capacity should in fact focus upon interventions that address corruption as a priority. Given PAMS work in this field through NCTSIU, they are an obvious (and willing) partner in terms of reviewing and developing prosecution frameworks in the field of IWT. It would be important to discuss with DEFRA their anti-corruption activities within this sphere in order to complement rather than conflict with existing efforts.
- **Judiciary:** High Court judges are receiving training through the British High Commission though not solely focussed upon IWT. The magistrates' courts, however, appear to be neglected<sup>36</sup> in terms of both wide-scale capacity building (awareness of the law, sensitisation to the issues) and regarding concerns over corruption. Court monitoring of outcomes is apparently underway. A more widespread

---

<sup>36</sup> Discussions with criminal justice advisor to Tanzania 20/2/16 (UK).



---

‘eyes in the court room’ approach on individual cases accompanied by high level reactive engagement with the relevant authorities in Tanzania would be worth exploring. Given the work of PAMS and NCTSIU in this field, they are an obvious partner in terms of both consultation and collaboration. EIA also continue to monitor on-going cases within Tanzania <sup>37</sup>.

- International Cooperation: Clarifying processes and applicable legislation internally would be the first step in assisting Tanzania work with other countries on issues of MLA. Given the vast distances involved between courtrooms and police stations for example, a live link facility in key courtrooms could address both logistical difficulties experienced in the conduct of trials whilst also serving the interests of MLA. Any potential collaboration should involve discussions with the British High Commission in Tanzania who is currently working on systemic change within the AGO. With such a limited bandwidth of capacity, ‘crowding’ onto this particular pitch could be particularly counter-productive. USAID Tanzania have nearly finalised their work-plan with the Department of Interior for the first year of support and this will include collaboration with law enforcement efforts across other agencies and with partners outside of Tanzania. ECF also provide support on anti-trafficking work in Tanzania.
- Gap Analysis: An ICCWC toolkit analysis has been requested. PAMS and NCTSIU would be an obvious source of information and support regarding Tanzania’s criminal justice process bearing in mind inclusion on this analysis is a government led process.

---

<sup>37</sup> [https://eia-international.org/wp-content/uploads/EIA-Comments-SC66\\_Elephants.pdf](https://eia-international.org/wp-content/uploads/EIA-Comments-SC66_Elephants.pdf)

---

### 13. SOUTH AFRICA

---


South Africa is undoubtedly one of the most well known countries for wildlife viewing and home to some of the most remarkable biodiversity on the planet. Unfortunately, it also has “the highest estimated rate of extinctions for any area in the world, with 37 % of its mammal species threatened”<sup>38</sup>. The country did not implement its CITES Regulations until March 2010 but now has an impressive suite of wildlife legislation that is considered a “Category 1” in meeting the requirements, the highest level for implementation<sup>39</sup>. South Africa’s principal legislation, the National Environmental Management: Biodiversity Act, Act 10 of 2004 (“NEMBA”) supports the general framework for wildlife protection in the country and creates a list of Threatened or Protected Species. It is accompanied by the Threatened or Protected Species (“TOPS”) Regulations, which places stricter regulation on hunting, wildlife usage and other activities causing harm to threatened or protected species<sup>40</sup>.

Legislative Review  
/ Reform



Due to the escalation of wildlife crime, and the enactment of the NEMBA act, conservation is now regulated nationally and enforced provincially [I]. There are nine provinces in South Africa, each of which has an authority mandated to implement the national wildlife act with their own legislation, and a dedicated law-enforcement unit. Within these government departments, specific training has been given to individuals known as Environmental Management Inspectors (EMIs), also informally known as “green scorpions”, who do not have prosecutorial powers, but are involved in initial arrests of wildlife crime offenders at poaching sites, exit points and at border controls [II]. Nonetheless, research suggests that the law can differ substantially from one province to another allowing for numerous loopholes to exist in effective law enforcement [III]. According to research carried out by TRAFFIC in 2012, two of the provinces (Western Cape and Mpumalanga) have no laws implementing the act entirely [IV].

Investigation /  
Prosecution  
Cooperation



In 2010, the DEA established the National Wildlife Crime Reaction Unit (NWCRU), to encourage national law-enforcement coordination between provinces and tighten the gaps in legislation between regions within South Africa. The NWCRU consists of representatives from the South African Police Service (SAPS), South African National Parks, national and provincial nature conservation officials, the National Prosecuting Authority (NPA) and INTERPOL [V]. The key objectives of the NWCRU’s are to facilitate co-ordinated structure for information management, law enforcement response, investigation, and prosecution [VI]. Furthermore, SAPS houses a special division known as the Directorate of Priority Crime Investigations (DPCI), informally known as the “Hawks”, which was established primarily to prevent, combat and investigate national priority offences; within the DPCI there is an Endangered Species Section which focuses on gathering Intel and information regarding poaching or illegal wildlife trade of protected species, although it must be stated that this division is made up of only five individuals for the whole country [VII]. Regardless, TRAFFIC’s research highlights that through the DPCI standard operating procedures have been developed for the sites of rhino and overall poaching incidents and training provided for such situations [VIII], and cooperation between stakeholders is something highlighted in the CCN-UNEP-GEF targets for 2016 [IX].

---

<sup>38</sup> Julian Rademeyer, “Killing for Profit – Exposing the Illegal Rhino Horn Trade” (Cape Town: Zebra Press, 2012), p. 109.

<sup>39</sup> DLA Piper (2015) Empty Threat: Does the law combat illegal wildlife trade? A review of legislative and judicial approaches in fifteen jurisdictions. P.356

<sup>40</sup> Department of Environmental Affairs (2015): “Strategic Plan” 2015/2016-2019/2020.

Prosecution  
capacity building



In 2010 the National Joins Committee (NatJoins) was launched, comprising senior members of the SAPS, NPA and South African National Defence Force (SANDF). NatJoins was to address security measures regarding the South Africa FIFA World Cup but since then became involved with combating rhino poaching and illegal horn trade issues [X]. This report doesn't list the countless frontline operations taking place within South Africa's natural areas with regards to anti-poaching, but it can be confidently remarked that South Africa has received unparalleled funding and assistance both from local and international NGOs, and civil society to help in heightening prosecution capacity through provision of the latest forensic equipment, top of the range monocular night vision equipment, DNA Indexing systems (RhoDIS), helicopter and vehicle provision and countless anti-poaching and investigation trainings [XI]. UNEP-GEF planned a prosecutor training conference in November 2015. The Endangered Wildlife Trust (EWT) has also been involved in strengthening the prosecutorial capacity of wildlife crime stakeholders, assisting state prosecutors and investigating officers with identifying the relevant environmental legislation and sections for charge sheets and dockets [XII]. Additionally in 2015, the DEA and the Justice College embarked on providing an environmental legislation-training course with support from EWT. The "aim was to ensure very strong cases against the accused, that would hopefully then lead to successful convictions with strong penalties" [XIII].

Judiciary and court  
handling



In May 2015, the UNEP-GEF Rhino Project, DEA and the South African Judicial Education Institute (within the Department of Justice) hosted and collaborated on a Judicial Colloquium on Biodiversity Crime. 150 magistrates from district and regional courts across the country attended the event, which was aimed at raising awareness on environmental crime, with a particular focus on the rhino-poaching crisis and prosecution [XIV]. Aside from the information provided above very little is publically available regarding the past, current and upcoming interventions with regards to South Africa's wildlife crime Judiciary and court-handling procedures by government, NGOs or civil stakeholders.

International  
Cooperation



At the start of 2015, there was further engagement between the Government of Mozambique and the DEA whereby an implementation plan and MoU was signed regarding the Limpopo National Park and the fight against the illegal wildlife trade, which is now under implementation with the Peace Parks Foundation (PPF). A significant element of the plan was the joint launch of the specialized Fauna Bravia Anti-Poaching Unit at Massangir in southwestern Mozambique in March 2015 [XV]. Another intervention that has been operational since 1996 is the Rhino and Elephant Security Group/INTERPOL - Environmental Crime Working Group (RESG). According to TRAFFIC's report membership includes "government law-enforcement bodies from within the SADC region including Botswana, Malawi, Mozambique, Namibia, Swaziland, Tanzania, Zambia and Zimbabwe. The RESG has focused upon nine key areas of engagement, which are law enforcement, intelligence, procedures for effective investigation and prosecution and for minimizing illegal international trade, security and management of rhino horn and ivory stocks, co-ordination, networking and information exchange, training and capacity building, positive public involvement, awareness and education, international and regional conventions and sustainability, functioning and support of RESG" [XVI].

- 
- [I] Milliken, T., Shaw J. (2012) The South Africa – Viet Nam Rhino Horn Trade Nexus: A deadly combination of institutional lapses, corrupt wildlife industry professionals and Asian crime syndicates. TRAFFIC Report. P.9
  - [II] Green Scorpions – Environmental Management Inspectorate: [http://www.enviroopaedia.com/topic/default.php?topic\\_id=127](http://www.enviroopaedia.com/topic/default.php?topic_id=127)
  - [III] DLA Piper (2015) “Empty Threat: Does the law combat illegal wildlife trade?” A review of legislative and judicial approaches in fifteen jurisdictions. P.362
  - [IV] Milliken, T., Shaw J. (2012) The South Africa – Viet Nam Rhino Horn Trade Nexus: A deadly combination of institutional lapses, corrupt wildlife industry professionals and Asian crime syndicates. TRAFFIC Report. P.88
  - [V] [VI] [VII] DLA Piper (2015) “Empty Threat: Does the law combat illegal wildlife trade?” A review of legislative and judicial approaches in fifteen jurisdictions. P.384-385
  - [VIII] Milliken, T., Shaw J. (2012) The South Africa – Viet Nam Rhino Horn Trade Nexus: A deadly combination of institutional lapses, corrupt wildlife industry professionals and Asian crime syndicates. TRAFFIC Report. P.90, Reference to personal communication with S. Snelling from SAN Parks (2010).
  - [IX] CCN Africa Grant Report Card – February 2016. Page 5.
  - [X] [XI] Milliken, T., Shaw J. (2012) The South Africa – Viet Nam Rhino Horn Trade Nexus: A deadly combination of institutional lapses, corrupt wildlife industry professionals and Asian crime syndicates. TRAFFIC Report. P.90-91
  - [XII] [XIII] Endangered Wildlife Trust “Wildlife in Trade Programme”: <https://www.ewt.org.za/WILDLIFETRADE/wildlifetrade.html> & Endangered Wildlife Trust “Law and Policy Programme”: <https://www.ewt.org.za/WILDLIFETRADE/monitoring.html>
  - [XIV] [XV] Minister Edna Molewa highlights progress in the fight against rhino poaching: [https://www.environment.gov.za/mediarelease/molewa\\_highlight\\_sprogress\\_onrhinopoaching, August 2015](https://www.environment.gov.za/mediarelease/molewa_highlight_sprogress_onrhinopoaching, August 2015). Accessed 24 February 2016.
  - [XVI] Milliken, T., Shaw J. (2012) The South Africa – Viet Nam Rhino Horn Trade Nexus: A deadly combination of institutional lapses, corrupt wildlife industry professionals and Asian crime syndicates. TRAFFIC Report. P.93

---

## 14. KEY RECOMMENDATIONS

- **Legislation:** There is an inconsistent application of the national law within South Africa, with each of the 9 provinces having their own mandate and implementing authority tasked with enforcing the law, and with research by DLA piper indicating a disparity between provincial laws (and penalties), there exists a recipe for confusion. In a case involving the Czech authorities and an organised crime syndicate, the Czech authorities flagged poor enforcement cooperation as a major obstacle<sup>41</sup>. Out of all the countries reviewed, South Africa is one that is in urgent need of ‘harmonisation’ of laws internally or at a minimum, clear agreement between all provincial authorities as to how to address these divergences insofar as they may impact investigations and prosecutions.

Until that is resolved, there is a limit to how far recommendations on South Africa can go in relation to investigations, prosecutions, judicial handling and MLA in relation to change on a national level. Much appears to have been done with significant investment and support to prosecution and investigation capacity building. Training is ongoing through the Justice College and various private NGOs are involved though it is unclear in what capacity. However, for impact to be felt on the criminal justice pathway, those internal divergences must be resolved as they in turn impact upon the ability to set a clear foundation for inter-agency cooperation and strong prosecutions country-wide. Although South Africa is classified as Category 1 by CITES, the impact of its legislative framework upon the current state of its poaching crisis cannot be clearly ascertained. South Africa should be commended on its prosecution of a number of high-level traffickers over the last two years with the support of the DEA. However, there is very little information available publicly and limited information was forthcoming from stakeholders. On court outcomes of wildlife prosecutions little is known publicly and so it is difficult to assess what percentage of wildlife crimes overall is represented by those highly publicised successful prosecutions. Knowing this would enable more strategic recommendations.

---

<sup>41</sup> <https://eia-international.org/wp-content/uploads/EIA-In-Cold-Blood-FINAL.pdf> accessed 11 April 2016.

---

## 15. MALAWI


In September 2013 a Moratorium on the domestic trade in ivory in Malawi was passed as part of Malawi's commitment to the Global Clinton Initiative (GCI), as well the completion of the ivory inventory in accordance with CITES requirements as part of the EPI. In 2015, Malawi joined the EPI and produced the NEAP in early 2016, with support from Stop Ivory and technical support from RSPCA, African Parks and Lilongwe Wildlife Trust (LWT).

Legislative Review  
/ Reform



In 2014 Lewis & Clark's International Environmental Law Project (IELP) assisted in a comprehensive review of Malawi's wildlife legislation and made recommendations for amendment. In May 2015 the 'Illegal Wildlife Trade Review' was completed for Malawi in accordance with the ICCWC Toolkit analysis. A draft bill has since been completed. It is hoped to pass by June 2016 [I]. Amending the law is a priority action under the NEAP. The UNEP-GEF project is also supportive of this.

Investigation /  
Prosecution  
Cooperation



2014 to 2016 saw the commencement of various initiatives to support wildlife crime prosecutions. The Department of National Parks and Wildlife (DNPW), the Department of Animal Health and Livestock Development (DAHLD) and LWT created a 'Wildlife Emergency Response Unit' to tackle wildlife crime and offer some crime scene analysis services. Malawi officers attended a two-week course run by USFWS in Botswana in 2015. A partnership between the LWT C4Ads and the U.S. Customs Authority has been initiated for late 2016 to support the Malawi Revenue Authority (MRA) by helping them to build wildlife crime indicators into their existing customs risk management. Airports will see the introduction of trained detection dogs to increase interception rates for illegal wildlife products destined for export with support from LWT and funded by GIZ and in partnership with DNPW and MPS. [II]. ECF also fund LWT on anti-trafficking work. Basic training of baggage handlers, police and the Malawi Revenue Authority (MRA) is also planned. In June 2014 the Inter-Agency Committee to Combat Wildlife Crime (IACCWC) was established comprising senior representatives from the Malawi Police Services (MPS), Ministry of Justice, Judiciary, DNPW, Anti-Corruption Bureau (ACB), Financial Intelligence Unit (FIU), MRA, Department of Forestry, National Intelligence Bureau (NIB), Malawi Defence Force (MDF), Department of Immigration (DoI), DPP and INTERPOL. Civil Society is also represented through the Wildlife and Environmental Society of Malawi (WESM). An action plan has been adopted but formalization of some inter-agency protocols is still in development. A forensics needs assessment has been conducted under the African Wildlife Forensics Network Project (see below). Finally, via the recently established United for Rangers Network, LWT are supporting more operational assistance on investigations and prosecutions.

Prosecution  
capacity  
building



Joint training has taken place with judiciary on a regional level e.g. through TRAFFIC and The ICCF Group. RSPCA and DNPW, through the DEFRA/DFID 'Illegal Wildlife Trade Challenge Fund' (IWTCF) project, have developed a guidance for prosecutors and magistrates, organised a secondment of 5 law enforcement officials to the UK; delivered training to MRA officials (including immigration, ACB and FIU) and plan training of police, DNPW and the judiciary in 2016. A community awareness programme will also be delivered around national parks [III]. Agreement has been obtained in principle to embed an external mentor with LWT to support prosecutors within the DNPW and the police under a focal point within the ODPP. There are 9 prosecutors within the DNPW who will become operational within about 3 to 6 months.

Judiciary and  
court handling



On general judicial training, see above. According to the 2015 Official Illegal Wildlife Trade Review, although courtroom proceedings are well recorded, it is difficult to keep track or share case files, as they do not have access to electronic processing and use a hard copy and archiving system. Therefore it is difficult to get a full comprehensible review of the effectiveness of Malawi's judicial system. LWT is likely to take this on in 2016 in collaboration with local and international partners, starting with conducting a baseline survey of outcomes (similar to Kenya). It is hoped this project will form part of a larger programme in collaboration with GRI in Zambia. Agreement in principle to develop sentencing guidelines has also been achieved but implementation is outstanding. Much needed sensitisation of high court judges is planned for 2016. Finally, under the IWTCF project, DNPW seeks to establish a database of court outcomes.

International  
Cooperation



Malawi is a signatory to a number of international protocols and agreements including the LATAF, the Wildlife Enforcement Network for Southern Africa, the UN Convention Against Corruption; the UN Convention against Transnational Organized Crime and the Southern African Development Community (SADC) Legal Protocol on MLA Matters to name a few. However, capacity to execute letters of request is perceived by NGOs as extremely limited and direct capacity building efforts are unknown.

- [I] Lilongwe Wildlife Trust – Press Release [www.lilongwewildlife.org/programmes/advocacy/national-parks-wildlife-act/](http://www.lilongwewildlife.org/programmes/advocacy/national-parks-wildlife-act/)
- [II] Department of National Parks and Wildlife of Malawi: Illegal Wildlife Trade Review 2015, GIZ, BMZ and discussions with LWT April 2016
- [III] Lilongwe Wildlife Trust 'Anti-Trafficking Initiatives': [www.Lilongwewildlife.org/programmes/advocacy/anti-trafficking-initiatives/](http://www.Lilongwewildlife.org/programmes/advocacy/anti-trafficking-initiatives/)

---

## 16. KEY RECOMMENDATIONS

Malawi was rocked by one of the largest corruption scandals in its history in 2013, disrupting foreign aid that constituted 40% of the government's budget. According to Transparency International<sup>42</sup>, efforts to control corruption have shown weak results and despite Malawi having lower levels of corruption than its sub-Saharan peers, data from the 2013 Global Corruption Barometer assessed by Transparency International suggested that it is on the rise. According to that same data, the police and judiciary are viewed as corrupt or extremely corrupt by more than 70% of respondents. The NEAP and a review commissioned by DNPW in 2015<sup>43</sup> also recognise that corruption poses a significant threat to conservation. Several laws have been passed to address corruption alongside the Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act 2006 (AML 2006). The Anti Corruption Bureau (ACB), established in 1995 has conducted a number of trials but cases against high-profile individuals are few and far between. Accordingly, any interventions must include sensitisation on anti-corruption laws and practices and should ideally involve the ACB and ODPP in constructive dialogue as to best practice in the context of prosecution and trial of IWT. One of the actions required in the NEAP is to develop an anti-corruption work plan and establish an integrity committee that would report to the ACB. Progress of this is unknown at the time of writing. There is also a need to engage with the Financial Intelligence Unit (FIU) as they have a track record of producing well-researched financial analysis and are also able to communicate with other FIUs in the region on an intelligence-sharing basis. ACB and FIU are active members of the IACCWC that could prove a valuable vehicle for engagement with these key agencies.

- **Legislation:** An amendment to the Wildlife Act has been drafted and submitted to the Minister of Justice. Political lobbying/opportunities for dialogue on the draft is a potential area for support. On subsidiary legislation and regulations, within the DNPW there is a need to finalise a code of conduct for distribution to staff. Progress on this is unknown. The AML 2006 is currently being revised. Neither the ACB nor the ODPP have been routinely using the provisions and powers under the existing AML law regarding IWT.
- **Investigations/prosecutions:** In April 2016, LWT and IFAW won a DEFRA grant to establish a specialist wildlife crime investigation unit within DNPW. This will be the first of its kind in Malawi and accordingly there is an opportunity to establish a solid foundation for early investigative and prosecutorial engagement. In 2015 UNODC and TRACE Wildlife Forensics Network (TRACE), launched the 'African Wildlife Forensics Network' project funded by UK Defra. A wildlife forensics needs assessment has been conducted in Malawi through a consultative

---

42

[http://www.transparency.org/files/content/corruptionqas/Country\\_Profile\\_Malawi\\_2014.pdf](http://www.transparency.org/files/content/corruptionqas/Country_Profile_Malawi_2014.pdf) accessed 22 February 2016.

43 <http://www.lilongwewildlife.org/2015/05/13/malawi-launches-illegal-wildlife-trade-assessment/>



---

process that aims to assess forensic needs and develop regional wildlife capacity building plans. This assessment has been carried out in other countries as well (see Gabon, Botswana, Namibia, Republic of Congo and Zambia) with plans to do the same in Zimbabwe and Angola in 2016. Alongside direct practical forensic support (e.g. infrastructure for evidential storage, handling, security) the project aims to foster inter-agency cooperation between partner countries and encourage bi-lateral and multi-lateral agreements on the shared use of wildlife forensics. Finally, DNPW have developed draft standard operating procedures that touch upon legislation and the need for its officers to be well informed on the same<sup>44</sup>. This may be a useful starting point from which to fine tune procedures regarding actual prosecutions.

- **Prosecution:** The ODPP is a relatively small outfit, numbering approximately 10 prosecutors who handle primarily High Court cases. The NEAP objective of establishing a specialist team within the ODPP may not be easily achievable although the DPP is willing to instruct that all cases regarding ivory and rhino are referred to her for decisions on venue and responsibility for the conduct of the prosecution. Police prosecutors, few of whom are legally qualified, conduct the majority of prosecutions. Two former UK prosecutors are embedded as Technical Advisers in the ODPP and the ACB on a DfID sponsored project run by the International Centre for Asset Recovery (Basel) [ICAR]; they are engaged in capacity building and reforms, including increased use of money laundering offences, confiscation provisions and ‘plea bargaining’. They provide support and mentoring on cases in the High Court as required. In addition, the DNPW has recently recruited 9 in-house prosecutors. Support for providing an in-country mentor to act on a case by case basis with the DNPW prosecutors is strongly recommended as a means of ‘on the job’ capacity building. Coupled with a wider programme of developing standardised frameworks within the ODPP and the DNPW prosecution division, this could have long-term sustainable impact upon both the professionalization of both services and improving accountability and transparency in decision-making. LWT would be interested in furthering discussions on this project re: technical assistance for a mentoring project.
- **Judiciary and court room handling:** Courtroom monitoring to establish a baseline of how cases are handled should be supported and LWT is already engaged on this issue; further case by case monitoring of cases (for example, via the mentor (see above)) coupled with a high level reactive engagement with authorities should also be supported where there is interest in taking this on e.g. LWT. The issue of sentencing guidelines, if agreement has already been obtained in principle from the Chief Justice and precedent exists in relation to drug offences, would be a potential ‘quick win’ but it would have to be coupled with a clear strategy of engagement where those guidelines are breached by magistrates. A regional judicial roundtable hosted by

---

<sup>44</sup> Director of DNPW, 12/4/16

---

Malawi and in cooperation with SI is planned for 2016 to address this very topic. Bringing in the High Court judges for sensitisation and buy-in to uphold those guidelines either on appeal, or encouraging them to exercise original jurisdiction and take on trials in certain cases is something that Stop Ivory can discuss, encourage and potentially support with NGOs and government stakeholders. Sensitisation of magistrates, ACB and the FIU is also seen as priority under the NEAP. The ICAR technical advisors within the ODPP are also well placed to contribute to this training.

- **International Cooperation:** Malawi makes few requests for MLA but the ICAR technical advisors are assisting the ODPP in the management and execution of letters of request, including drafting and pre-submission consultation between states. They are also encouraging the use of the Egmont Group and ARINSA for information gathering in the financial profiling of suspects. Tailored training on MLA involving the ODPP and the ACB is planned under the DfID ICAR project; accordingly interventions in this arena should coordinate with the ICAR advisors and the recommendation in the executive summary can be tailored to complement their activities.

---

## 17. ZAMBIA

Zambia has recently been faced with a tremendous loss of its wildlife population at the hands of poaching, so much so that in April 2015, the U.S. Ambassador to Zambia made a public appeal and requested a call to action in helping end the rise in poaching and wildlife trade<sup>45</sup>. In addition to poaching for body parts for trade, a significant proportion of illegal hunting is due to the bushmeat trade which confers a significant detrimental impact upon tourism and the wildlife ranching industry. After undergoing structural reshuffling, the Zambian Wildlife Authority (ZAWA) was replaced with the Department of National Parks and Wildlife (DNPW) and in November 2015, the Zambia Wildlife Act, 2015 (No.14 of 2015) was passed. The Zambia Wildlife Act 2015 is now the principal legislation for wildlife conservation, regulating the international trade in endangered species of flora and fauna and imposing restrictions on the import, export, and re-export of any species listed in the Appendices to CITES. In the last year, Zambia has undeniably made some positive advances towards a more effective legislative framework for wildlife crime; together with the help of a few core NGOs there have been initiatives in policy support, enforcement and judicial training<sup>46</sup>. Nonetheless there is still a dire need to strengthen policy and law enforcement, as well as adequately filling the financial and human resource gap needed to tackle the severe challenges of the illegal wildlife trade across the nation's natural areas. Corruption remains a serious challenge to efforts to combat IWT<sup>47</sup>.

Legislative Review /  
Reform



2015 saw the enactment of a new wildlife Act by the Zambian parliament to tackle the elevated threat of illegal wildlife poaching and trafficking within Zambia. Various NGOs contributed to the reviews and amendments of the act including GRI-WCPP, WWF and TNC. According to stakeholder discussions [I], the new act is more elaborative with higher penalties. There is still a need, however, for sentencing guidelines, and a mechanism for identifying repeat offenders is lacking. . 6 months after implementation there is a considerable lack of training in the new law with some investigators, prosecutors and magistrates still not having a hard copy to hand. UNEP-GEF is supportive of leadership caucus to review goals and agenda with the Ministry.

---

<sup>45</sup> U.S Embassy of Zambia: "United States Ambassador Eric Schultz Spotlights Zambia's Poaching Crisis" (2015). Accessed 19 February 2016, <https://zm.usembassy.gov/united-states-ambassador-eric-schultz-spotlights-zambias-poaching-crisis/>

<sup>46</sup> HM UK government report: 'the UK Commitment to action on the illegal wildlife trade March 2015'.

<sup>47</sup> Transparency International Corruption Perceptions Index 2014; score 38/100 and rank 76/168 accessed 22 February 2016

Investigation /  
Prosecution  
Cooperation



There are currently fifteen employees working for the DNPW Investigation and Intelligence Unit (IIU) at HQ with a further network throughout the country of about 65 officers. GRI-WCPP, the Zambian registered NGO, initiated their “Wildlife Crime Prevention Project” (WCPP) in 2014, working with the IIU to provide support through training, resources and equipment to wildlife crime investigations and operations throughout Zambia, with support from ECF. In August 2015 GRI-WCPP hosted training and workshops in intelligence and evidence gathering techniques, including a “wildlife crime scene management”. Additionally, earlier in 2015 the UNODC organised a regional training together with the U.S. Department of Justice for prosecutors regarding wildlife and forest crime hosted in Zambia. GRI-WCPP and local partners were also involved, and there were 32 attendants from Malawi, Botswana, Namibia, Mozambique, Angola and Zambia. GRI-WCPP, with support from the Tusk Trust, is currently working with DNPW to develop a “Points to Prove” guide, modelled on the same lines as that developed by the UK, in Kenya in 2015. However, although there is willingness for various stakeholders in legal enforcement to work together, challenges remain, particularly in relation to converting intelligence into admissible evidence. UNEP-GEF is also supportive of the development of protocols for inter-agency cooperation within this field.

Prosecution  
capacity building



Under s119 of the new Act, the DPP can delegate powers of prosecution to DNPW and there are currently 44 in-house prosecutors. Regional training was conducted with UNODC in 2015 as described above and a follow up is planned for 2016. According to the DLA Piper report of 2015 (see footnote), there is no formal framework for training of prosecutors and prosecutions are further hampered by evidentiary issues such as an over-reliance on DNA analysis and lengthy delay in the conduct of trials. The author is unaware of any specialist team of prosecutors within the Zambian office of public prosecutions. There is a need to enhance understanding and encourage use of other legislation such as anti-money laundering laws. GRI-WCPP is also working to develop a centralised prosecution database.

Judiciary and court  
handling



At the beginning of 2016, the WCPP developed a close working relationship with the National Parks and Wildlife Legal Counsel, Head of Prosecutions and judicial courts to identify areas of assistance, as well as understanding the exact judicial procedures in place. Additionally, in 2015 Wildlife Direct (WLD) entered into discussions regarding replicating their Kenyan baseline survey. When it comes to following up specific cases, wildlife NGOs such as GRI, Frankfurt Zoological Society (FZS) and South Luangwa Conservation Society (SLCS), do follow up on the outcome and ensure that any assistance is available, but this is not the case for all cases. Regardless, implementing projects to capacitate judiciary and court handling has been difficult as a result of limited funding. The Tusk Trust has recently allocated funding to conduct workshops to raise judicial awareness of magistrates. Zambia may also benefit from a ‘sister project’ with LWT in Malawi and GRI-WCPP regarding a baseline survey of court monitoring that should provide a platform for strategic recommendations for reform.

International  
Cooperation



At present there is limited capacity in terms of multilateral agreements regarding cross-border evidence sharing or MLA, where the processes that are currently in place are either ineffective or non-existent [1]. Having said that, cross-border Intel relationships are improving. Under s10 of the new Act, the Minister is enabled to enter into bilateral arrangements with foreign States and is mandated to increase cooperation on enforcement programmes. Discussions regarding a directory of points of contact (departmental) were raised at a KAZA meeting in 2015.

— [1] Interview with NGO Game Rangers International Representative.

---

## 18. KEY RECOMMENDATIONS

- **Legislation:** Although a new law has been passed, it is clear that the content of the law has not yet trickled down to investigators, prosecutors and judicial officers on the ground. There is a need to sensitise in the law and where possible, create user-friendly guidance on the offences and powers contained therein to achieve a faster application. The legislative framework surrounding the issue of bushmeat poaching and bushmeat trade is in urgent need of assessment with a view to implementation.
- **Police/Prosecution Cooperation:** The challenge identified by GRI-WCPP regarding Intel sharing also relates to the conversion of intelligence into evidence for the purposes of a criminal trial. This is nearly always assisted with closer engagement between investigators and prosecution authorities. It may be that specific guidance on this issue can be delivered in accordance with national laws on, for example, covert evidence and use of mobile phone data. The issue raised in the executive summary concerning the ambiguous mandate regarding private and community rangers has been raised by NGOs in Zambia. A clear legal mandate/authority would assist enormously in providing an additional resource in law enforcement and strengthening prosecutions whilst also protecting private, NGO and community wildlife rangers where they operate. GRI-WCPP currently work in partnership with DNPW, CLZ, FZS and CSL as well as other field based NGOs in Zambia for the purposes of investigation and prosecution and accordingly are ideal partners for potential collaboration. In 2015, UNODC and TRACE Wildlife Forensics Network (TRACE) launched the 'African Wildlife Forensics Network' project funded by UK DEFRA. A wildlife forensics needs assessment has been conducted in Zambia through a consultative process that aims to assess forensic needs and develop regional wildlife capacity building plans. This assessment has been carried out in other countries as well (see Gabon, Malawi, Namibia, Republic of Congo and Botswana) with plans to do the same in Zimbabwe and Angola in 2016. Alongside direct practical forensic support (e.g. infrastructure for evidential storage, handling, security) the project aims to foster inter-agency cooperation between partner countries and encourage bi-lateral and multi-lateral agreements on the shared use of wildlife forensics. Given the bushmeat crisis in play in Zambia, there is significant part to be played by forensics in the context of prosecutions.
- **Prosecution Capacity Building:** GRI-WCPP and Panthera Foundation (PF) have voiced the need for more training and sensitisation of the judiciary on crimes involving endangered species and according to PF, there is a particular and urgent need to address bushmeat-related offending. This can - and should - be included in any training at minimal extra cost.
- **Judiciary and courtroom handling:** Inconsistency and weak sentences have been observed including in relation to bushmeat trade; this is seen as a key reason for the on-going threat from illegal hunting in

---

Zambia, and is the primary reason behind the stifled progress of the wildlife ranching industry within Zambia. Sensitisation on the relevant wildlife laws and potential sentencing guidelines coupled with court monitoring to establish a baseline of how cases are handled is highly recommended. The author is unaware as to what extent appeal judges are involved but see the executive summary. With delay in the court system noted in the DLA piper report, 'active case management' as is currently being piloted in Kenya may be something to pilot within certain court jurisdictions in Zambia (and indeed, other countries).

- **International Cooperation:** there is apparently very little going on in the way of current or planned interventions; although the idea of a directory of departmental contacts was raised at the KAZA meeting in 2015. Accordingly see the executive summary for a general recommendation on this theme. The ICCF Group is in discussions with the Ministry in Zambia to address issues of MLA frameworks.

---

## 19. MOZAMBIQUE

Mozambique has been a focal country with regards to wildlife crime and according to unverified reports and media articles it has been considered a crucial transit and shipment point for rhino horn and elephant ivory<sup>48</sup>. Increasing pressure from CITES, national and international stakeholders has led Mozambican government officials to escalate their responses and strategies for tackling the IWT. In 2014, the new Conservation Law (Law No. 16/2014) was enacted;<sup>49</sup> this coincided with a review of the Criminal Code of Mozambique, which also includes heavier penalties for wildlife and environmental crime offenders<sup>50</sup>. In early January 2015, the ‘National Ivory and Rhino Action Plan 2015/2016’ (NIRAP) was completed, setting out priority actions in wildlife conservation including legislation, frontline enforcement and training programs. Those include effective prosecution and judicial handling of wildlife crime, national and international cooperation and improving law enforcement operations.

Legislative Review  
/ Reform



The WWF, the National administration for conservation agency (ANAC), the Ministry of Coordination and Environmental Affairs (MICOA) and the Mozambican National Directorate of Land and Forestry (DNTF) all actively participated in the reviewing of the Conservation Law and currently collaborate in hopes of advancing its implementation. The AGO and USAID also hosted a 2-day anti-poaching seminar in September 2014 specifically tackling the new legislative mandate with more than 150 representatives from diverse government and civil society organizations analysing the key challenges to prosecuting wildlife trafficking and associated organized crime. The NIRAP’s objective in regard to legislation has been achieved although in May 2015, the CITES Standing Committee identified Mozambique as one of the countries in need of “priority attention” to strengthen its legal framework for the effective implementation of the convention [I] and addressing regulations to apply CITES provisions is within the NIRAP objectives. The ICCF Group is working with Parliamentary leaders to support legislative reform on wildlife issues.

Investigation  
Prosecution  
Cooperation



WCS recently launched a project on intelligence-led enforcement with the Mozambican police and ANAC, including recruiting, equipping and training scouts to use intelligence networks, and with the help of sniffer dogs, detecting ivory at key ports and airports. There has been dialogue to begin training of police and customs officers, judicial and courtroom authorities in prosecutorial and judicial cooperation but little is known on the progress of these projects. In 2013 TRAFFIC and the DNTF hosted a 3-day workshop to address operational defects in wildlife legislation and piloted projects in Limpopo, Niassa and Quirimbas regarding police/intelligence cooperation, in 2015. Building capacity in investigations is an objective within the NIRAP and in 2015 Mozambique requested a ‘Wildlife and Forest Crime Analytic Toolkit’ from the UNODC-ICCWC, with initial meetings planned for April 2016. The ICCF Group is supportive of developing SOPS in the meantime.

---

<sup>48</sup> DLA Piper (2015) “Empty Threat: Does the law combat illegal wildlife trade?” A review of legislative and judicial approaches in fifteen jurisdictions.

<sup>49</sup> Peace Parks Foundation (2014) “What is Mozambique doing to combat wildlife crime and poaching? – Joint efforts between Mozambique and South Africa”. Date accessed: 18 February 2016. <http://www.peaceparks.org/story.php?pid=1318&mid=1332>

<sup>50</sup> Ministry for the coordination of Environmental Action (2015) ‘National Rhino and Ivory Action Plan’ (NIRAP). Republic of Mozambique.



Prosecution  
capacity building



The NIRAP aims to implement projects, which fortify prosecutorial capacity by holding regional meetings to disseminate the new law and revised penal code and to raise awareness about the links between wildlife crime and organised crime. Wildlife crime training is seen as necessary along with specialist prosecutors. Finally, there is an aim to set up a monitoring of prosecution cases in the 3 pilot sites mentioned above. However, progress on implementation has not been ascertained although UNODC, INTERPOL, and TRAFFIC are involved in establishing training of prosecutors and law enforcement agencies, as well as developing an action plan on conducting wildlife crime investigations at three undetermined pilot sites.

Judiciary and  
court handling



There is little concrete evidence or information regarding the implementation and effectiveness of Mozambique's judiciary and court handling practices in wildlife and ancillary crimes. According to the NIRAP, however, it is accepted that the monitoring and follow up of cases in the courts is necessary. Again, 3 pilot sites are to be selected for implementation but progress is unknown.

International  
Cooperation



Due to increasing pressure from bordering nations, Mozambique signed a MoU with South Africa in 2014, and with Tanzania in 2015, to strengthen bilateral cross-border collaboration tackling the gaps in cross-border wildlife crime legislation and trafficking. This conveys the intention to improve regional cooperation, particularly in terms of the governmental willingness to liaise, as well as providing a platform to inviting NGOs to assist in legislative reform and enforcement on the ground. However, little information is available on the implementation of this MoU and whether it has in fact assisted in extradition and the bringing of prosecutions.

— [I] CITES and UNEP support strengthening wildlife laws:  
[https://cites.org/eng/CITES\\_UNEP\\_wildlife\\_laws](https://cites.org/eng/CITES_UNEP_wildlife_laws)

---

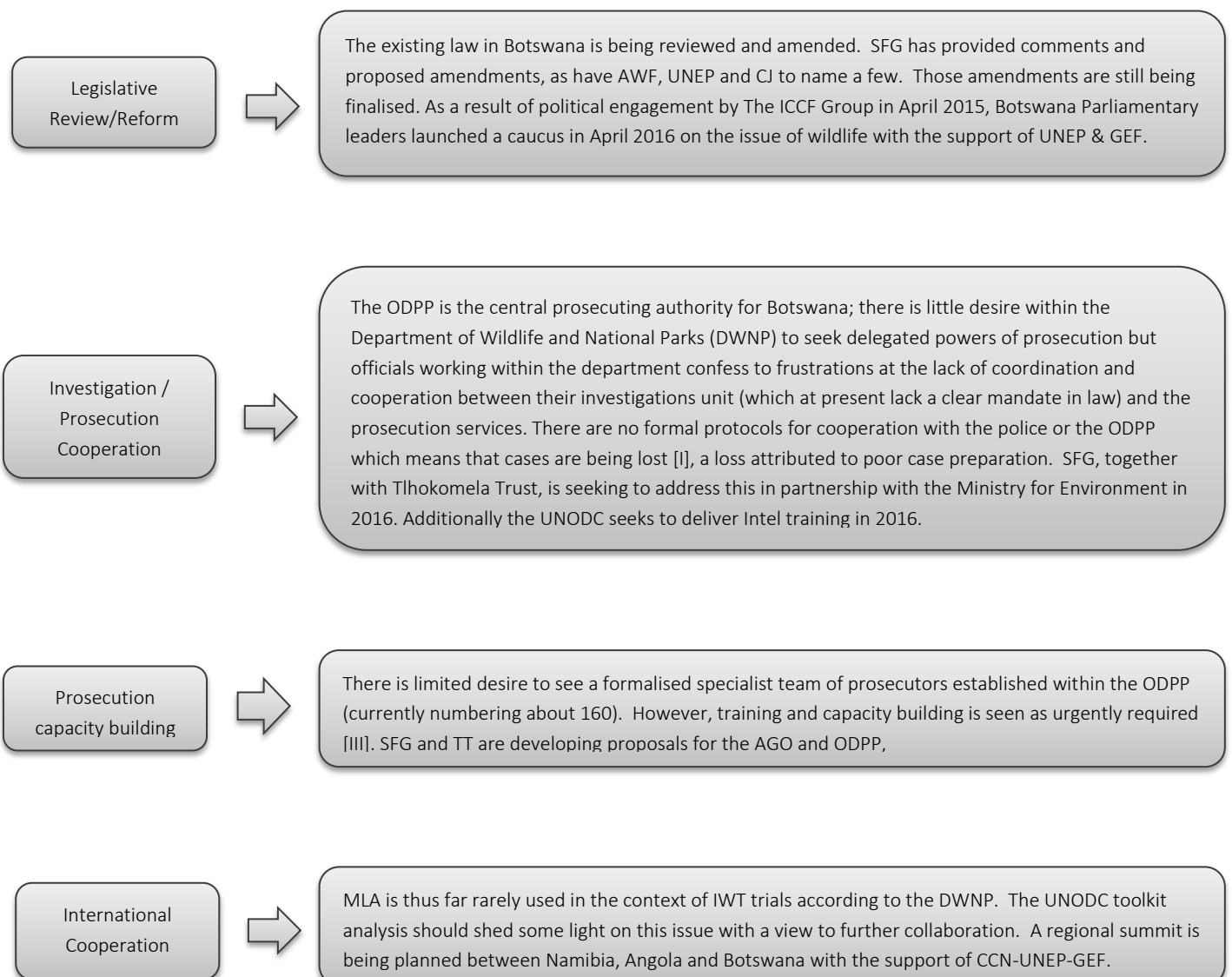
## 20. KEY RECOMMENDATIONS

- **Legislation:** There is potential to support the government of Mozambique in the development of regulations for the implementation of CITES. Model provisions as suggested in the executive summary could assist with this endeavour.
- **Police/Prosecution Cooperation:** An environmental police unit was created through decree 85/2014 with a specific mandate and budget to protect wildlife in Mozambique. However, progress of this unit is unknown at the time of writing. Collaboration with TRAFFIC and DNTF regarding the pilot projects in the three geographical areas identified would be welcomed – however, progress on those projects needs to be clarified. Building strong inter-agency protocols for early engagement in an investigation can strengthen prosecution case preparation, improve conviction prospects and mitigate the risks of corruption from within. Accordingly, the model guidance on inter-agency standard operating procedures may prove a useful starting point for discussions within these pilot areas. However, impact has to be measured – see below.
- **Prosecution/Judicial Capacity Building:** Again, considering progress on the pilot sites, there may be an exciting opportunity to lay the ground for sustainable and institutional change within the discreet environment of the three sites selected. Beginning with support for a baseline survey of court outcomes in those pilot areas, impact can then be measured as progress is made. Subject to agreement from the DPP and CJ, there may be potential to develop measures that not only address professionalising the delivery of prosecution and judicial function but which also mitigate corruption from within. Bushmeat poaching is an area of significant concern and accordingly training and sensitisation of the impact of this issue is vital.
- **International Cooperation:** The recommendation on this theme contained in the executive summary may be a useful starting point on this topic.

---

## 21. BOTSWANA

Part of the EPI since 2014, Botswana is seen as bucking the trend regarding elephant poaching due in part to a relatively sparse population, low levels of government corruption and political stability<sup>51</sup>. However, in discussions with local NGOs in February 2016, poaching is seen as rising and in terms of criminal justice handling of such cases, there is an urgent need to address failings in the system in order to avoid being caught out if and when the poaching crisis migrates from South Africa and other bordering countries into Botswana. Botswana is a member of the Giants Club and UNODC conducted its toolkit assessment in 2015 with the support of the US-INL.



---

<sup>51</sup> Great Elephant Census preliminary findings 2015

---

Judiciary and court  
handling



There is little concrete evidence or information regarding the implementation and effectiveness of Botswana's judiciary and court handling practices in wildlife and ancillary crimes. The DWNP monitors outcomes in cases of interest but no strategic recommendations or interventions follow. There is a perception within the DWNP that magistrates are in need of sensitization [II].

- [I] Loss of 8 elephant cases consecutively in 2015, according to Anti-Poaching Unit, Botswana (discussion in Feb 2016).
- [II] Discussion with the Director of DPNW Feb 2016.
- [III] Discussion with the AG in April 2016.

---

## 22. KEY RECOMMENDATIONS

- **Legislation:** The wildlife bill is still under review. Discussions with the DWNP and Ministry for Environment should encourage the passage of the law that seeks to address the issue of penalties, harmonise existing functions within the DWNP and empower it to conduct investigations under the law.
- **Police/Prosecution Cooperation:** SFG and Tlhokomela Trust would welcome collaboration on the delivery of developing inter-agency best practice between the Anti-Poaching Unit with the DWNP and the ODPP. Buy-in has been achieved from the APU; that remains outstanding for the ODPP but those discussions are imminent. UNEP-GEF project plans also include the development of such protocols. In 2015, UNODC and TRACE Wildlife Forensics Network (TRACE) launched the 'African Wildlife Forensics Network' project with DEFRA funding. A wildlife forensics needs assessment has been conducted in Botswana through a consultative process that aims to assess forensic needs and develop regional wildlife capacity building plans. This assessment has been carried out in other countries as well (see Gabon, Malawi, Namibia, Republic of Congo and Zambia) with plans to do the same in Zimbabwe and Angola in 2016. Alongside direct practical forensic support (e.g. infrastructure for evidential storage, handling, security) the project aims to foster inter-agency cooperation between partner countries and encourage bi-lateral and multi-lateral agreements on the shared use of wildlife forensics. Wilderness Safaris are also interested in partnerships to build an evidence collection kit and to develop video training resources assisted by 'Environment Response Architecture' that also supports online courses and evaluation systems for crime scene investigators, prosecutors and magistrates.
- **Prosecution:** SFG and Tlhokomela Trust would welcome collaboration on the delivery of prosecutorial training. This should be combined with judicial sensitisation and the creation/delivery of "points to prove" guidance on the existing laws and penalties. However, a code for charging is not formalised – this should be the first step in building capacity within the ODPP and on joint cooperation with investigators. A code for charging sets out the standard that must be applied in determining whether a case can be charged or not; it forces the prosecutor and investigator to consider the ingredients of the offence and apply strict case analysis before a charge is laid. When coupled with written reviews and the 'points to prove' guidance, the quality of charging decisions can improve significantly and issues relating to admissibility, witness difficulties, logistics and exhibit continuity can be anticipated and addressed at an earlier stage. Online courses as indicated above may be an avenue to build in continuing professional development requirements for prosecutors, not just in Botswana but also across Africa and should be explored. Whilst a specialist team is not likely within the ODPP, 'champions' within the ODPP can be identified and supported.

- 
- **Judiciary:** See above. The Sentencing Policy has been developed but awaits approval; if granted, this presents an opportunity to work with authorities to develop specific sentencing guidelines for wildlife cases.
  - **International Cooperation:** With such limited information, it is not possible to make clear recommendations beyond seeking collaboration opportunities with UNODC, partners identified in the 2015 assessment and UNEP.

What is striking about Botswana is the relatively limited input into capacity building (along the criminal justice pathway) from the international community as compared with other countries; this is in part due to Botswana's success in managing its wildlife populations. However, the poaching crisis is seen as something that can and will spread and Botswana at present may not be well equipped to handle a significant increase in poaching should it occur in the near future.

---

### 23. REPUBLIC OF CONGO (BRAZZAVILLE)

The Republic of Congo, also known as ‘the Congo’, is well known for being home to some of the most unique and endangered species, such as the rare forest elephant. According to the Congolese Ministry of Forest Economy and Sustainable Development (MEFDD), which is the primary ministry in charge of wildlife, protected areas and forestry, there have been significant efforts to update and strengthen wildlife crime legislation and procedures mainly since 2008<sup>52</sup>. The Wildlife and Protected Areas Act of 2008 (“2008 Act”) serves as the country’s principal wildlife legislation, together with the Fully and Partially Protected Species Order of 2011 (“2011 Order”), which specifies various levels of protection for particular species, based on their endangered status. Additionally in 2012, the Wildlife and Protected Areas Agency Act of 2012 (“2012 Act”) created a new regulatory agency dedicated to wildlife and protected areas<sup>53</sup>. Nevertheless, CITES considers it a “Category 2 nation”.<sup>54</sup> The Congo has a few core NGOs working towards the implementation and efficient enforcement of its wildlife crime legislation, but enforcement reports suggest that although progress has been made, there are major issues regarding corruption at all levels, especially in the transparency of court and judicial systems.<sup>55</sup> Corruption is seen as a significant problem, with Congo ranking 146 out of 168 countries according to Transparency International.<sup>56</sup> Accordingly PALF acknowledges that to fight wildlife crime, it has to fight corruption<sup>57</sup>. The UNDP is in the process of designing projects for Brazzaville.

Legislative  
Review/Reform



There is limited information regarding the review and reform of wildlife legislation for Congo, including which stakeholders might have been involved in procedures towards assessments and recommendations. The current wildlife laws mentioned above are confirmed on the MEFDD’s website to be the most recent. Additionally, the last CITES biennial report by the DRC is for 2007-2008, which is not available for download [I] on the official website. There are currently no intentions to amend. CCN is working on building links with Parliamentarians on IWT.

---

<sup>52</sup> Congolese Ministry of Forest Economy and Sustainable Development (MEFDD) official website: <http://www.mefdd.cg/menu-haut/legislations/>. Accessed 21 February 2016.

<sup>53</sup> DLA Piper (2015) “Empty Threat: Does the law combat illegal wildlife trade?” A review of legislative and judicial approaches in fifteen jurisdictions.

<sup>54</sup> CITES SC 65 Doc 22 accessed 13 February 2016

<sup>55</sup> DLA Piper (2015) “Empty Threat: Does the law combat illegal wildlife trade?” A review of legislative and judicial approaches in fifteen jurisdictions. + Transparency International, “Corruption Measurement Tools”. Accessed 22 February 2016.

<http://www.transparency.org/country#COG>

<sup>56</sup> <http://www.transparency.org/country#COG>. Accessed 23 February 2016

<sup>57</sup> [www.palf-enforcement.org/about-us](http://www.palf-enforcement.org/about-us) accessed 25 February 2016

Investigation /  
Prosecution  
Cooperation



One of the leading NGOs for enforcement and activities against wildlife crime, the Project for the Application of Law of Fauna (PALF), have signed a MoU with MEFDD, the Aspinal Foundation and the WCS regarding the implementation of its enforcement activities [II]. The DRC became the first country to replicate the very successful model formulated by LAGA in Cameroon, which focuses on reinforcing investigations, prosecutions and legislation related to wildlife crime. PALF partners, including LAGA and the EAGLE network, work together to uncover patterns in the IWT through obtaining and collaborating on Intel from Congolese police forces (Gendarmerie Nationale, Police Nationale) and the National Commission for the Fight against Corruption, Embezzlement, and Fraud (CNLCCF) [III]. Development of protocols is something that would be supported by the UNEP-GEF-CNN project. A wildlife forensic needs assessment has been conducted (see below). Following a phase of in-country assessments, the Africa Trade in Wildlife Information Exchange (AFRICA-TWIX) was launched to promote collaboration; Congo is one of four pilot countries for this initiative, managed by TRAFFIC.

Prosecution  
capacity building



PALF's most recent annual report from 2014, mentions an "intense" collaboration with the Congolese national office for LATF, notably in an operation named "WENDI II", which doesn't reveal much publically, other than the mention of the establishment of a 'sniffer dog' detection program, which is now incorporated into the investigations in Brazzaville, Point-Noire and Maya Maya International Airport [IV], funded by Working Dogs for Conservation and the USFWS through a donation by The Arcus Foundation. Additionally, the PALF report and websites state that they and their partners provide assistance in prosecution through involvement in the supervision of cases of wildlife crime, ensuring that arrested offenders don't escape and actually go to trial and sentencing without disruption of factors such as corruption or lenient prosecutors [V].

Judiciary and court  
handling



Wildlife legislation booklets were produced and distributed by PALF in 2014 [VI] although impact is unknown. There is generally limited information regarding judicial capacity, but the PALF 2014 annual report does mention that several accounts of violence and local unrest in Brazzaville between 2012-2014 have interfered with judicial process, dismantling and undermining progress in that sector [VII]. Additionally the report states that in 2014, PALF followed 55 wildlife crime cases, of which 42 led to arrest, with a total of 16 prosecutions. WCS has conducted a courtroom survey and following the ICCWC toolkit analysis in 2015, a key recommendation was the establishment of a specialist court, something that WCS would support.



International  
Cooperation



There seem to be quite strong local collaboration between national and international NGOs as well as the government ministries in the wildlife protection arena, with PALF being the foundation of most activities. The current status of MLA capacity is unknown at the time of writing.

- [I] CITES Biennial reports by country: <https://www.cites.org/eng/resources/reports/biennial.php>. Accessed 22 February 2016.
- [II] PALF Enforcement website: <http://palf-enforcement.org/about-us/>. Accessed 22 February 2016.
- [III] PALF Enforcement website: <http://palf-enforcement.org/about-us/>. Accessed 22 February 2016.
- [IX] PALF Annual Report 2014: <http://palf-enforcement.org/publications/annual-reports/>. Accessed 23 February 2016.
- [V] PALF Enforcement website <http://palf-enforcement.org/about-us/project-model/> + PALF Annual Report 2014: <http://palf-enforcement.org/publications/annual-reports/>. Accessed 23 February 2016.
- [VI] PALF wildlife booklets: <http://palf-enforcement.org/blog/new-booklets-on-wildlife-legislation-in-congo/> accessed 24 February 2016.
- [VII] PALF Annual Report 2014: <http://palf-enforcement.org/publications/annual-reports/>. Accessed 23 February 2016.

---

## 24. KEY RECOMMENDATIONS


- **On legislation:** No concrete proposals beyond what is contained in the executive summary.
- **Police/Prosecution Cooperation:** Any assistance should ideally involve collaboration with PALF given their expertise and involvement in this arena. In 2015, UNODC and TRACE Wildlife Forensics Network (TRACE) launched the 'African Wildlife Forensics Network' project with DEFRA funding. A wildlife forensics needs assessment has been conducted in the Republic of Congo through a consultative process that aims to assess forensic needs and develop regional wildlife capacity building plans. This assessment has been carried out in other countries as well (see Gabon, Malawi, Namibia, Botswana and Zambia) with plans to do the same in Zimbabwe and Angola in 2016. Alongside direct practical forensic support (e.g. infrastructure for evidential storage, handling, security) the project aims to foster inter-agency cooperation between partner countries and encourage bi-lateral and multi-lateral agreements on the shared use of wildlife forensics. No formal protocols regarding early prosecution/police engagement exist although with the help of organisations like PALF, this happens in practice albeit on a case-by-case basis. There may be appetite to formalise this with a view to extending the reach of such cooperation beyond cases that involve NGO support.
- **Prosecution/Judicial Capacity Building:** Collaboration with PALF would be a useful starting point in designing a comprehensive set of interventions within these fields. There is a need for feedback on the handbooks distributed by PALF and an opportunity for lessons learned that could be applied to similar projects across Africa. The development of a specialist court, of which WCS is in favour following their analysis of court outcomes, should be explored and presents an opportunity for collaboration to bring this to a head.
- **International Cooperation:** regarding the issue of cross-border evidential exchange and support – see executive summary.

---

## 25. NAMIBIA

The Republic of Namibia has undoubtedly been celebrated for many years for its wildlife management strategy and sustainable communal conservancy to manage its biodiversity and natural resources. Namibia is considered as “Category 1” in its ability to implement CITES’s mandate to protect wildlife, and is the one of the only countries in the world that tackles conservation issues in its constitution<sup>58</sup>. Nonetheless, in recent years, as poaching of elephants and rhino’s rises across the African continent, Namibia is being urged to adapt to the times and strengthen laws and regulations or implement new ones, which might have not been necessary over the last forty years of it’s nature conservation legislations<sup>59</sup>. There are a few principal legislations for wildlife protection in Namibia, whereby the Environmental Management Act (2007) provides a framework for the management of natural resources including the Nature Conservation Ordinance, 1975 (“NCO”) which outlines hunting regulations, the Nature Conservation Amendment Act 1996 (“Conservancies Amendment Act”), which introduced the laws and regulations for community led conservancies, and the Controlled Wildlife Products and Trade Act 2008 (“Wildlife trade Act”), which deals with the illegal trade, possession and import and export of wildlife specimens<sup>60</sup>.

Legislative Review /  
Reform



Namibia’s Ministry for Environment and Tourism (“The Ministry”) oversees the implementation and enforcement of the conservation acts, as well as manages all that is related to hunting permits, tourism, wildlife trade and conflict. It is believed that since 2012, with the rise in poaching in the region presenting serious threats to all wildlife in the area, the Government of Namibia has been reviewing its legislation and drafting a new ‘parks and wildlife bill’ to further strengthen legislation, but additional information regarding the outcome is not available publicly. CCN launched a caucus in 2016.

---

<sup>58</sup> DLA Piper (2015) “Empty Threat: Does the law combat illegal wildlife trade?” A review of legislative and judicial approaches in fifteen jurisdictions.

<sup>59</sup> Republic of Namibia, Ministry of Environment, and Tourism, “In preparation”. <http://www.met.gov.na/Directorates/Parks/Pages/Inpreparation.aspx>. - The page has difficulty loading at times.

<sup>60</sup> DLA Piper (2015) “Empty Threat: Does the law combat illegal wildlife trade?” A review of legislative and judicial approaches in fifteen jurisdictions.

Investigation /  
Prosecution  
Cooperation



A dedicated rhino hotline for individuals to report suspicious activities was established with the support of the Ministry and Save the Rhino Trust in 2011 [I] with Save the Rhino Trust also offering assistance in investigations. The Ministry of Environment, LAC and Namibian Association of Community-Based Natural Resource Management Support Organization (NACSO) organised various workshops on enforcing the relevant wildlife protection laws and combating and preventing wildlife crime in Namibia following which a 'Wildlife Crime Taskforce' was launched in 2014 [II]. This includes the Prosecutor-General's Office, the Protected Resources Unit of the Namibian Police (NamPol), the Ministry of Environment and Tourism, the Anti-Corruption Commission and the LAC. According to the LAC, a joint investigation team was launched between the prosecution and the police to look at the issue of wildlife crime with UNODC offering assistance. INTERPOL hosted a workshop and training with LAC regarding wildlife crime investigation for police officers and officials of the Ministry of Environment and Tourism in 2014. GIZ and LAC conducted a study "enforcing wildlife law and preventing wildlife crime in Namibia" in 2014. A forensic needs assessment has been conducted (see below).

Prosecution  
capacity building



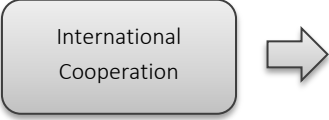
Aside from the workshops listed above that included prosecution services, no information on prosecution capacity building could be obtained.

Judiciary and  
court handling



There seems to be little available publicly regarding Namibia's judicial and court handling procedures or accounts of successful prosecutions in wildlife crime. This could be as a result of the generally low wildlife crime rate the nation has in comparison to other countries in Africa. One of LAC's main goals is to provide legal advice and support to wildlife conservation stakeholders, and since 2014 LAC has been more directly involved in the provision of assistance in the field. Aside from providing nature conservancies legal assistance regarding wildlife crime, LAC also organized a "parliamentary meeting to address the increase in rhino poaching, whereby members of Parliament came to listen to the grievances of the tribal traditional authorities, conservancy committee members, community members, NGOs, the Namibian Police, Save the Rhino International (STRI), the Office of the Prosecutor-General, the Ministry of Environment and Tourism and the private sector. According to their annual report in 2014, the meeting allowed LAC to establish a stronger working relationship with the Parliamentary Support Committee and will facilitate better procedures for the future.

International  
Cooperation



Namibia has taken significant steps forward in recognizing the importance of cross border collaboration amongst neighbouring states, and sees it as crucial to effective enforcement [III]. In August 2011, Namibia, along with Angola, Botswana, Zambia and Zimbabwe signed a treaty in order to pool conservation resources together, the result of which was the creation of the Kavango Zambezi Transfrontier Conservation Area (KAZA) [III]. Peace Parks Foundation was appointed as implementing agent by the partner countries to provide financial management and technical and co-financing support to the KAZA secretariat [IV]. In terms of mutual legal assistance capability in terms of a criminal trial, no further information has been obtained to date. The ICCF Group is planning a regional workshop involving Namibia, Angola and Botswana on IWT to discuss cross-border wildlife crime initiatives.

- [I] Save the Rhino Trust, “Namibia launches rhino sms hotline 55555”. Accessed 25 February 2016.  
<http://savetherhinotrust.org/structure/69-namibia-launches-rhino-sms-hotline>.
- [II] [www.worldwildlife.org/places/namibia](http://www.worldwildlife.org/places/namibia) accessed 25/2/16
- [III] “KAZA TFCA treaty signed” [www.kavangozambezi.org/kaza-tfca-treaty-signed](http://www.kavangozambezi.org/kaza-tfca-treaty-signed). Accessed 10/1/15
- [V] [www.peaceparks.org/tfca.php?pid=27&mid=1008](http://www.peaceparks.org/tfca.php?pid=27&mid=1008) accessed 26/2/16

---

## 26. KEY RECOMMENDATIONS

- **Legislation:** If the government of Namibia is willing, Stop Ivory can provide technical assistance in terms of drafting the necessary amendments to the legislation. The first step is to ascertain progress on the review from the Ministry.
- **Investigation/Prosecution Cooperation:** No formal protocols exist in relation to early cooperation and case building between investigators and prosecutors. Following the 2014 study commissioned by GIZ and LAC, there may be an opportunity to collaborate on recommendations contained therein to develop charging standards, guidance on existing provisions and, in anticipation of an increase in poaching in Namibia, laying the practitioner frameworks (i.e. for use in trial) for forensic capability within the existing law. In 2015, UNODC and TRACE Wildlife Forensics Network (TRACE) launched the 'African Wildlife Forensics Network' project with DEFRA funding. A wildlife forensics needs assessment has been conducted in Namibia through a consultative process that aims to assess forensic needs and develop regional wildlife capacity building plans. This assessment has been carried out in other countries as well (see Gabon, Malawi, Botswana, Republic of Congo and Zambia) with plans to do the same in Zimbabwe and Angola in 2016. Alongside direct practical forensic support (e.g. infrastructure for evidential storage, handling, security) the project aims to foster inter-agency cooperation between partner countries and encourage bi-lateral and multi-lateral agreements on the shared use of wildlife forensics.

However, at present perhaps the biggest challenge is the low capacity for frontline protection. Commercial and community conservancies are attempting to face this challenge but country wide this appears to be ad hoc. Such local game guards are not armed and most have no vehicles. In some areas, this applies to the police as well. Building up that capacity in anticipation of an increase in poaching is an immediate priority. From a criminal justice point of view, there are two angles: firstly, such training/capacity building should a) scope the relevant legal mandates under which such front line units may engage with poachers (and scope, with the Ministry, the issue of arming such units); b) ensure training in scenes of crime preservation, evidence gathering, arrest powers and capacity to make evidentially admissible statements for use in court and c) scope a more tactical approach to front line protection making use of surveillance systems (some already exist on a small scale) and other technological means to support a 'rapid response team' that may be more cost-effective given the vast geographical areas involved. Secondly, the criminal justice piece can work from the intelligence side, focusing more upon disruptions rather than apprehension after the event. Accordingly, conversion of intelligence to evidence, consideration of legislation other than wildlife laws, use of intercept (if it exists) and other means of intelligence and evidence gathering together with evidential laws and procedures needs to be scoped and prosecutorial and judicial capacity raised to deal with these issues should they arise. Building mutual

---

legal capacity with her neighbours is an essential aspect of both approaches.

- **Prosecution/Judicial Capacity:** Little is known about planned interventions or willingness to collaborate; accordingly the recommendations contained within the executive summary apply.
- **International Cooperation:** See executive summary.

---

## 27. ETHIOPIA

Ethiopia's wildlife and nature conservation has been challenged for decades as a result of the country's historic unrest, drought, poverty and unstable nature. In the last 20 years Ethiopia has been commendably attempting to reverse the extreme loss of its wildlife populations by focusing on strengthening conservation practices, legislation and prosecutorial/judicial responses to wildlife crime. Ethiopia is an EPI signatory, developing a National Ivory Action Plan in 2014 and endorsing the Elephant Action Plan in 2015. The Ethiopian Wildlife Conservation Authority (EWCA), which is the central stakeholder implementing wildlife laws and policies, is currently working in close cooperation with law enforcement agencies and partner organizations to combat all illegal wildlife activity as well as encouraging international NGOs to assist in strengthening wildlife and nature conservation initiatives. The principal legislation for wildlife conservation and crimes is the Ethiopian Wildlife Development and Conservation Authority Establishment Proclamation No. 575/2008. However, with a score of 33/100 under Transparency International's Corruption Perception Index, public sector corruption is a serious issue. Interventions within the trial process must keep this in mind.

Legislative Review  
/ Reform



In 2013, the Ministry of Culture and Tourism, under which EWCA is housed, expressed that the wildlife crime legislation framework needed to be reviewed in relation to the changing times. In a press release from the UNDP, it is revealed that a workshop organized by the UNDP brought together stakeholders on 15th July 2013 to help review the recommendations and suggested further improvements to a study on 'Gap Analysis and Revision of the Policy and Legal Framework of EWCA and Regions' [I]. According to the NIAP report, Ethiopia should have drafted a new wildlife crime penalty framework (fines and prison sentences) by the 31st of October 2015 [II], although the author was unable to verify this with EWCA at the time of writing of the report. Furthermore, the NIAP reveals that the national strategy includes the review of legislation and subsidiary legislative provisions integrated into EWCA, as well as the development of a project proposal to obtain financial and technical support, whereby a new wildlife act bill is to be presented to the government for approval by April 30th 2016 [III].



Investigation /  
Prosecution  
Cooperation



Since 2014, EWCA has worked in close cooperation with national law enforcement agencies such as the Ethiopian Revenue and Customs Authority, the Federal and Regional Police Commissions, Ministry of Defence, Ministry of Justice (judiciaries), prosecutors and the National Information, Airport Authorities and Security Service to improve awareness on wildlife laws and increase detection rates of illegal trade and trafficking in wildlife, including ivory. EWCA has also worked with various international partners and donors such as INTERPOL, World Customs Organization, UNEP, AWF, LATF, BFF, and IFAW [IV]; although specific information regarding interventions or details of cooperation is not readily available. Additionally, in-depth stakeholder discussions with Born Free Foundation Ethiopia reveal that EWCA, BFF-Ethiopia, The US Embassy, Regional Environment Office and Horn of Africa Regional Environment Centre/Network are working together for the realization of Horn of Africa Wildlife Enforcement Network (HA –WEN), which was initiated in October 2012. Further training and workshops were also conducted under the continent-wide program ARREST [V].

Prosecution  
capacity building



The BFF-Ethiopia-EWCA team visited 7 Regional States and delivered technical training/ awareness creation for the Ethiopian Revenue and Customs Authority (ERCA), federal and regional police, and other stakeholders in 31 sites for 2,227 officers of different ranks [VI]. After which, the BFF Wildlife Trafficking Control Directorate formally confirmed with Police, Ethiopian Revenue & Customs Authority and National Defense Training Main Department implementation of the Border Point Project (BPP) taskforce to increase prosecutorial capacity at entry and exit points [VII]. The publication of 10,000 copies of law enforcement agencies training guidebooks on the national legal framework and international conventions is underway and funded by the BFF. Prosecution-specific objectives under the NIAP include [VII]:

- Deliver at least 2 trainings to increase knowledge and awareness of 20-30 prosecutors, 10-15 judiciaries and 80-100 polices on seriousness of wildlife crimes and associated penalties, in at least 3 elephant range sites.
- Organize meeting for prosecutors and judiciaries working in Federal and Regional states offices to share their experience on prosecution and successes/failure of court cases.

Judiciary and  
court handling



A NIAP objective includes developing a system for collecting information on wildlife crime penalties being applied, success and failure of wildlife related court cases and key reasons for success/failure. Information on the success rate and implementation of legislation is not available at present. Nonetheless, aforementioned interventions by government agencies and NGOs definitely have a plan to scale up interventions for judiciary and court handling procedures, but only lack the human resources and financial capacity according to discussions with the BFF, Ethiopia team and personal knowledge.

International  
Cooperation



On May 14th 2015, TRAFFIC hosted a workshop in Addis Ababa, Ethiopia for Chinese businesses and citizens based in Africa to address the illegal ivory trade and issues regarding the illegal wildlife trade. The event was organized in collaboration with the Chinese Embassy in Ethiopia and EWCA, whereby approximately 100 Chinese nationals from state-owned enterprises operating in Ethiopia and the local Chinese community attended the meeting, showcasing the Ethiopia-Chinese partnership in the fight against wildlife crime [VIII]. However, little is known about Ethiopia's ability to manage Letters of Request and offer MLA in the context of a criminal trial.

- [I] UNDP (2013): 'Ethiopia to Review Wildlife Legislation and Boost Conservation Efforts and Tourism'.  
<http://www.et.undp.org/content/ethiopia/en/home/presscenter/articles/2013/07/15/ethiopia-to-revise-wildlife-legislation-and-boost-conservation-efforts-and-tourism-.html> Accessed 25 February 2016.
- [II] [III] Ethiopian Wildlife Conservation Authority (EWCA) National Ivory Action Plan Report (NIAP) (2014), Page 8  
<https://cites.org/sites/default/files/common/prog/niaps/E-Ethiopia-NIAP-2014.pdf> Accessed 25 February 2016
- [IV] IFAW – “Combating Wildlife Trafficking by Building Law Enforcement Capacity”. <http://www.ifaw.org/united-states/news/combating-wildlife-trafficking-building-law-enforcement-capacity>. Accessed 25 February 2016
- [V] [VI] Stakeholder discussions with Fetene Hailu Buta, representative for Born Free Foundation Ethiopia.
- [VII] EWCA National Ivory Action Plan Report (NIAP) (2014), Page 9 (Link above)
- [VIII] TRAFFIC press release May 2015 -  
<http://www.traffic.org/home/2015/5/14/china-joins-ethiopia-to-address-ivory-trafficking.html>

---

---

## 28. KEY RECOMMENDATIONS

- **Legislation:** Bearing in mind the NIAP objectives, Stop Ivory can provide assistance on the development of wildlife related laws to assist Ethiopia with their desire to become CITES compliant.
- **Police/Prosecution Cooperation:** There are no formal protocols in place for early collaboration; this should be supported together with initiatives within the ODPP/AG (see below).
- **Prosecution/Judicial capacity building:** Bearing in mind NIAP objectives identified above, any such interventions should incorporate the recommendations contained in the executive summary. Born Free Foundation indicated a strong willingness to collaborate with Stop Ivory on these issues; they are already heavily involved in work with entry/exit point capacity building and with the EWCA.
- **Mutual Legal Assistance:** See executive summary.

---

## 29. OTHER EPI COUNTRIES – GAMBIA, LIBERIA, CHAD, DEMOCRATIC REPUBLIC OF CONGO (KINSASHA)

Relatively little information could be gleaned regarding the outstanding certain EPI countries that are signatories to the African Elephant Action Plan. In Chad, the EAGLE Network is very active in providing operational interventions in the pursuit, arrest and prosecution of traffickers. In addition, the Ministry in charge of environment will soon be framing reviewing the current law, policy and procedures under its National Elephant Conservation Strategy and further a National Centre for Elephant Conservation is under development. This will encompass the establishment of an Intelligence Office and an Intelligence Network with a view to building inter-agency cooperation. African Parks are active within Chad and SOS Elephants is also involved in anti-poaching efforts with a focus upon frontline initiatives and working with communities to establish an information network alongside a reward fund. Finally, within the framework of the national strategy, the Director of Legal Affairs within the Ministry for Environment is aiming to organise sensitisation and training of judges handling wildlife cases. There is interest within the government of Chad relating to the development of a case management database.

In relation to Democratic Republic of Congo (Kinshasa), the WCS are active and are in the process of initiating a courtroom survey, an issue that is somewhat complicated by the fact military courts operate there as well. UNODC are scheduled to respond to an ICCWC assessment in the second quarter of 2016. DLA Piper conducted a legal analysis of the existing framework in 2015.<sup>61</sup> Juristrale, a local NGO comprising legal experts, works in the area of law enforcement, conducting investigations, facilitating arrests and ensuring judicial monitoring of cases; they have also delivered, with support from AWF, training to 100 magistrates in late 2015 on the theme 'reducing wildlife crime through effective prosecution'. They are currently involved in strengthening the legislative framework in DRC. Finally, DRC is one of the four pilot countries under the AFRICA-TWIX project managed by TRAFFIC.

On The Gambia and Liberia, little relevant information was obtained during the period of compiling this report save that Liberia is listed as a Category 3 country by CITES with new legislation supposedly reported but no copy provided to the Secretariat of CITES; and The Gambia also being listed as a Category 2 in terms of legislative compliance with CITES, with a draft having apparently been prepared<sup>62</sup>.

---

<sup>61</sup> DLA Piper (2015) "Empty Threat: Does the law combat illegal wildlife trade?" A review of legislative and judicial approaches in fifteen jurisdictions.

<sup>62</sup> CITIES SC65 No 22 accessed 25/2/16

---

## 30. NON – EPI COUNTRIES

On **Angola**, a regional conference was held in 2014 following its recent entry into CITES in 2013 and DLA Piper conducted a review of the legal framework and challenges therein.<sup>63</sup> A national ivory action plan was received from Angola in 2015 and a decree banning sales of ivory and its derivatives was presented by the Multi-Sector Commission in March 2016. A wildlife forensics needs assessment is planned under the UNODC-TRACE project. No information on NGO delivery of criminal justice interventions has been found at the time of writing; however, a draft law to ban the sale of ivory and its derivatives was presented to ???

**Benin** is listed as not fully implementing CITES requirements but a draft law has been prepared.<sup>64</sup> The EAGLE Network is in operation conducting investigations, arrests and prosecutions of traffickers<sup>65</sup> in Benin as it is in **Togo, Senegal, Guinea and Cameroon**, with plans to expand to **Burkina Faso**. **Cameroon** is also one of the pilot countries for the AFRICA-TWIX project, managed by TRAFFIC. The EAGLE Network has ceased operations in the **Central African Republic (CAR)** due to security concerns. CAR is listed as not meeting CITES legislative requirements but there is no information on the status of any draft.

On **Burkina Faso, Cameroon, Central African Republic, Guinea, Ghana, Guinea Bissau, Mali, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo and Zimbabwe**, the CITES Standing Committee has found that all countries are failing to implement full CITES requirements in their legislation and progress is varied in delivering legislation that fulfils the CITES criteria. In particular, **Rwanda** is in the process of drafting new legislation and there is potential to assist in the way described in the executive summary above. On **Somalia**, a review of legislative and prosecution capability in Mogadishu particularly was conducted by UNEP in 2015 and whilst capacity building in Somalia has focussed primarily upon counter-terrorism, the office of the attorney general is capable of prosecuting wildlife trafficking cases subject to the technical and logistical limitations of such an endeavour. Though not a signatory (in part no doubt due to legal issues concerning recognition), Somaliland has a draft wildlife bill but there is no information on content or progress. In Nigeria, a national ivory action plan was received in December 2015. Key recommendations include amending existing legislation to increase penalties, sensitise judges and develop specialist prosecutors and ‘police brigades’ in this field. According to the WCS Annual Report 2015, WCS provides support to the Yankari Game Reserve, in particular providing support for regular anti-poaching patrols through the reserve that contains the country’s largest surviving elephant population. The patrol teams have conducted arrests and it appears that WCS track the progress of those cases, recording court outcomes. However, no further strategic recommendations are made on the back of those outcomes to either the judiciary or the ODPP. Accordingly, it appears that prosecution and judicial capacity building in **Nigeria** is largely

---

<sup>63</sup> ibid 41

<sup>64</sup> ibid 42

<sup>65</sup> Discussions with Director of EAGLE NETWORK, 24/2/16

---

limited to the sphere of counter-terrorism (and financing of terrorism) largely by way of UK and US interventions in that country. Some foundations have been laid in both the prosecution and judicial arenas regarding basic case analysis and case management with a successful issue of a practice direction to accelerate cases at the Federal Court level.

