

LATF/LAGC.9/3.9

DECISIONS OF THE 9TH GOVERNING COUNCIL MEETING OF THE LUSAKA AGREEMENT

The 9th Governing Council,

Having met at the Imperial Royale Hotel, Kampala, Uganda, from 1st to 3rd October 2008, to review and monitor the implementation of the Lusaka Agreement and institutions established under it, hereby makes the following decisions:

DECISION IX/1

DECISIONS OF THE BUREAU OF THE 8TH GOVERNING COUNCIL

Recalling *Decision I/1* which authorized the Bureau of the Governing Council to exercise decision-making powers on substantive issues related to the establishment and operation of the Lusaka Agreement Task Force;

Further recalling *Decision VIII/1.C* which designated the Bureau of the Governing Council to serve as an Implementation Committee to undertake regular reviews and monitor the implementation of the Lusaka Agreement and institutions established under it;

Taking note of the meeting of the Bureau of the 8th Governing Council held on 4th October 2007 in Nairobi, Kenya, to review progress on the implementation of the Lusaka Agreement;

Taking further note of the decisions considered and adopted on an interim basis to be approved by the Governing Council;

1. **Endorses** the following decisions, attached as Annex I, earlier adopted by the Bureau of the 8th Governing Council held on 4th October 2007 in Nairobi, Kenya:
 - (a) Programme of Work and Budget for the Lusaka Agreement Task Force – Year 2007/2008 (*Decision BGC 1/VIII/1*)
 - (b) Establishment of a Trust Fund, Staffing Levels and Appointment of Auditors (*Decision BGC 1/VIII/2*)
 - (c) Establishment and Development of Partnerships (*Decision BGC 1/VIII/3*),
2. **Calls upon** the Parties and the Lusaka Agreement Task Force to implement these decisions as appropriate,
3. **Directs** the Director of the Lusaka Agreement Task Force to report on implementation of this decision at the next meeting of the Bureau of the Governing Council and subsequently to the 10th Governing Council Meeting.

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DECISION IX/2

NATIONAL IMPLEMENTATION OF THE LUSAKA AGREEMENT

Having considered the reports presented by Parties on the national implementation of the decisions of the Governing Council;

Appreciating the efforts made by the National Bureaus in the implementation of the Lusaka Agreement;

Acknowledging that to effectively combat illegal trade in wild fauna and flora there is a need for concerted efforts by all stakeholders;

Recognising the increased level and sophistication in illegal wildlife trade;

Further recognising the need for Parties to continue developing their law enforcement capacities and reviewing and strengthening national wildlife laws, including harmonizing those laws for effective wildlife management;

1. **Urges** the National Bureaus to continue with their efforts to fight wildlife crime through increased law enforcement operations and through sharing information with other national enforcement agencies and the Lusaka Agreement Task Force,
2. **Urges** the Parties to continue sensitising other national law enforcement agencies on wildlife crime through training and inter-agency awareness programmes,
3. **Encourages** the Parties to speed up the process of adoption of their new or amended wildlife laws implementing, among others, the Lusaka Agreement,
4. **Calls upon** the Parties and the Heads of the National Bureaus to report on implementation of this decision at the next meeting of the Bureau of the Governing Council and subsequently to the 10th Governing Council Meeting.

DECISION IX/3

PROGRAMMES OF WORK, BUDGETS AND STRUCTURE OF THE LUSAKA AGREEMENT TASK FORCE

Having reviewed the progress made by the Lusaka Agreement Task Force on the implementation of its Programme of Work and the decisions of the Governing Council;

Appreciating the positive progress made by the Lusaka Agreement Task Force in the implementation of its Programme of Work and the decisions of the 8th Governing Council Meeting held in October 2006 and the Bureau of the Governing Council meeting held in held on 4th October 2007 in Nairobi, Kenya ;

Taking note that the Lusaka Agreement Task Force has made progress in implementing the planned and approved activities during the period October 2006 to September 2008 as presented by its Director in the document entitled “*LATF Progress and Implementation Reports*” (LATF/LAGC/Exp/9.3);

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Considering the proposed *Programmes of Work and Budgets of the Lusaka Agreement Task Force* (LATF/LAGC/Exp/9.4) for the Financial Years 2008/2009 and 2009/2010 presented by its Director and discussed by the Meeting of Experts held on 1st to 2nd October 2008;

Recalling that Governing Council Decision VI/1.C.vi calls for, *inter alia*, the development of contingency plans and strategies on payment of arrears by the Parties including future compliance and that this work needs to be completed;

Considering that the Parties provide equal contributions to the budget of the Lusaka Agreement Task Force;

Considering further that equal contributions impede timely contributions to the budget of the Lusaka Agreement Task Force and may affect the decision by non-Parties to accede to the Lusaka Agreement;

Taking note of the Evaluation Report (June 2005) submitted to the 7th Governing Council that included, *inter alia*, recommendations on the structure of the Lusaka Agreement Task Force;

Further taking note of the Organisation Structure and Staffing Level of the Lusaka Agreement Task Force approved by the 8th Governing Council in October 2007;

Acknowledging that the proposed Programmes of Work and Budgets are in line with the Strategic Plan (2005-2015);

- 1. Approves** the proposed Programmes of Work and their corresponding Budgets (LATF/LAGC/Exp/9.4) for the Lusaka Agreement Task Force of USD 1,278,388 for the financial year 2008/2009 and USD 1,092,207 for the financial year 2009/2010,
- 2. Further approves** the contributions by each Party to the budgets of the Lusaka Agreement Task Force for the financial year 2008/2009 at USD 137,485 and for financial year 2009/2010 at USD 127,329,
- 3. Instructs** the Director of the Lusaka Agreement Task Force to undertake an assessment of alternative options on levels of annual contributions by each Party to the budget of the Lusaka Agreement Task Force for consideration by the Lusaka Agreement Governing Council at the 10th Governing Council meeting,
- 4. Directs** the Director of the Lusaka Agreement Task Force to continue implementing the Programme of Work based on the approved Strategic Plan,
- 5. Urges** the Parties to support the implementation of activities as enunciated in the Strategic Plan and to comply with their financial obligations to the Lusaka Agreement on a timely basis,
- 6. Instructs** the Director of the Lusaka Agreement Task Force to undertake an assessment of sustainable options related to financing mechanisms for the Lusaka Agreement and its Task Force, the structure of the Task Force and the deployment of its Field Officers,

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7. **Requests** the Executive Director of the United Nations Environment Programme (UNEP) to assist and fund the assessment of the sustainable options related to financing mechanisms for the Lusaka Agreement and its Task Force, the structure of the Lusaka Agreement Task Force and the deployment of its Field Officers,
8. **Directs** the Director of the Lusaka Agreement Task Force to report on the implementation of this decision to the next meeting of the Bureau of the Governing Council and subsequently to the 10th Governing Council Meeting.

DECISION IX/4

FINANCIAL SUSTAINABILITY OF THE TASK FORCE

Recalling Decision *GCVIII/III.1-3* on developing a Strategy for financial sustainability to improve the funding of the Task Force;

Having reviewed the report and recommendations of the meeting of the Experts of the Bureau of the Governing Council on financial sustainability held in Nairobi from 15th to 17th April 2008;

Acknowledging that the recommendations are in line with the Strategic Plan (2005-2015) as well as the proposed Programme of Work of the Lusaka Agreement Task Force;

Further acknowledging the efforts made by some Parties to pay their full contributions and arrears to the budget of the Lusaka Agreement Task Force;

Noting that some Parties have not fully met their financial obligations under the Lusaka Agreement;

Taking note of the Funding Strategy (LATF/LAGC/Exp/8.5) approved by the 8th Governing Council on 6th October 2006 to support the budgets of the Task Force;

Further taking note of the financial progress reports of the Lusaka Agreement Task Force for the financial years 2006/2007 and 2007/2008 (LATF/LAGC/Exp/9.3.4);

Having reviewed the Audit Reports for the financial years 2006/2007 and 2007/2008 (LATF/LAGC/Exp/ 9.3.5);

Acknowledging the need to appoint competent auditors to audit the financial statements of the Lusaka Agreement Task Force;

1. **Adopts** the financial strategies as recommended by the Experts of the Bureau of the Governing Council,
2. **Urges** the Parties in arrears to continue exploring strategies and measures, including the establishment of a Conservation Fund, factoring annual contributions into national budgets and implementing their contingency plans on payment of arrears, to enable them fully pay their outstanding contributions,

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3. **Further Urges** the Parties to take measures to mainstream the Lusaka Agreement Task Force activities and implement the approved financial strategy as a mechanism to ensure, among others, that their financial obligations to the Lusaka Agreement are fulfilled,
4. **Calls upon** the Bureau of the Governing Council to rigorously undertake measures to fund raise for the Lusaka Agreement's activities,
5. **Further calls upon** the Bureau of the Governing Council to continue with efforts to oversee development and implementation of contingency plans and strategies on payment of arrears by Parties,
6. **Endorses and Approves** the Audit Reports for the Financial Years 2006/2007 and 2007/2008, respectively,
7. **Approves** the appointment of Messrs Deloitte & Touche to audit the financial statements of the Lusaka Agreement Task Force for the financial years 2008/2009 and 2009/2010,
8. **Directs** the Director of the Lusaka Agreement Task Force to report on the implementation of this decision to the next meeting of the Bureau of the Governing Council and subsequently to the 10th Governing Council Meeting.

DECISION IX/5

APPOINTMENT OF FIELD OFFICERS

Taking note that Article 5 of the Lusaka Agreement established the Lusaka Agreement Task Force and outlines its composition to constitute at least one Field Officer seconded by each Party and approved by the Governing Council;

Having considered the nominations from the Parties for field officers to be seconded to the Lusaka Agreement Task Force in accordance with Article 5 of the Lusaka Agreement;

Taking note of the Decision BGC1/VIII/2.5 of the Bureau of the Governing Council meeting held on 4th October 2007 in Nairobi, Kenya on the reappointment of a Field Officer representing the Republic of Uganda;

Recalling that the Kingdom of Lesotho has not implemented Governing Council Decisions I/4, II/1, II/3, III/2, IV/3, IV/4, V/2 and IV/4 in respect of establishing its National Bureau, seconding a field officer to the Task Force, fulfilling its financial obligations under the Lusaka Agreement and facilitating the work of the Lusaka Agreement Task Force;

Considering that there is a need to further clarify the criteria for the nomination of Field Officers by the Parties;

1. **Decides** that Parties that have a Field Officer deployed at the Seat of the Lusaka Agreement Task Force must at least meet the minimum contributions that will sustain the costs of a seconded Field Officer,

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2. **Approves** the reappointment of Messrs Bonaventure Ebayi and Adan Mohamed Alio representing the Republics of Congo and Kenya, respectively, as seconded Field Officers to the Lusaka Agreement Task Force for a further period of three years each from the expiry of their current contracts,
3. **Endorses** the decision of the Bureau of the Governing Council held on 4th October 2007 in Nairobi, Kenya on the reappointment of Mr. Karl Karugaba as the Field Officer representing the Republic of Uganda for three years from the expiry of his previous contract,
4. **Decides** to extend the employment contracts for the Director of the Lusaka Agreement Task Force, Mr. Emily S. Kisamo and the Intelligence Officer, Mr. Clement Mwale for the period up to 28th February 2009,
5. **Urges** the Kingdom of Lesotho to actively participate in the implementation of the Lusaka Agreement by establishing its National Bureau, appointing a Field Officer, implementing specific strategies and measures to enable full payment of its contributions and settlement of arrears and supporting and facilitating the work of the Lusaka Agreement Task Force at the national level,
6. **Directs** the Director of the Lusaka Agreement Task Force to report on the implementation of this decision to the next meeting of the Bureau of the Governing Council and subsequently to the 10th Governing Council Meeting.

DECISION IX/6

DISPOSAL OF CONTRABAND IVORY

Recalling the consignment of six and a half tonnes of illegally obtained elephant ivory confiscated in Singapore in June 2002 originating in Africa;

Recalling further the key role played by the Lusaka Agreement Task Force in the operation leading to the seizure;

Noting the desire of the Government of Singapore to return the confiscated specimens to Africa for investigation and prosecution;

Further noting that the confiscated specimens were handed over by the Government of Singapore to the Lusaka Agreement Task Force for investigation or use as evidence for prosecution;

Further noting that the confiscated specimens were subsequently shipped to the Lusaka Agreement Task Force, the consignee, in Kenya and that the Kenya Wildlife Service, which is a National Bureau to the Lusaka Agreement has been keeping the confiscated specimens in safe custody on its behalf while investigations were being undertaken;

Further noting that the Lusaka Agreement Task Force, in collaboration with other law enforcement partners, has concluded its investigations and handed over all the documentary evidence to the relevant authorities for prosecution;

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Further noting that the confiscated specimens have already served their investigatory purposes and cannot be commercially traded internationally in accordance with CITES Resolution Conf.9.10 (Rev.CoP14), which recommends the prohibition of international commercial trade in confiscated Appendix I specimens such as elephant ivory and that the confiscated specimens therefore have no international commercial value for an importer;

Considering the high costs of maintaining and securing the confiscated specimens coupled with the high risks of pilferage, weathering and theft;

Further considering that Singapore has, in a letter ref. AVA TFG/Vol.2/3/20 CITES 09.100/1 dated 4th June 2003 indicated that the Lusaka Agreement Task Force may decide where to transfer the confiscated specimens and what to do with them after related investigations were completed;

Further considering that the investigations have since revealed that the confiscated specimens originated in the Republic of Zambia, Republic of Malawi and the United Republic of Tanzania;

Noting that the Government of Zambia had requested that the confiscated specimens be returned to their country in accordance with Article 4.9 of the Lusaka Agreement and Article VIII, paragraph 1(b), of CITES and that the Lusaka Agreement Task Force facilitates their return;

Further noting that in accordance with Article 4.9 of the Lusaka Agreement, the cost of returning specimens of wild fauna and flora are borne by the country receiving the specimens, unless there is an alternative offer to bear costs to which both the Party returning the specimen(s) and the Party receiving the specimens(s) agree;

Considering that the Governments of the Republic of Malawi and the United Republic of Tanzania have not requested that the confiscated specimens be returned to their countries in accordance with Article 4.9 of the Lusaka Agreement and Article VIII paragraph 1(b), of CITES;

Noting that under paragraph (e) of CITES Resolution Conf. 9.10 (Rev. CoP 14), such confiscated specimens under CITES Appendix I should only be used for *bonafide* scientific, educational, enforcement or identification purposes, saved in storage or destroyed;

Noting further that none of the interested parties have indicated an interest in using the confiscated specimens for scientific, educational or other purposes;

1. **Approves** the disposal of the six and a half tonnes of confiscated elephant ivory in accordance with the relevant CITES provisions and other relevant internationally agreed standards,
2. **Instructs** the Director of the Lusaka Agreement Task Force to seek a ‘no objection’ consent from the Republic of Zambia, Republic of Malawi and the United Republic of Tanzania to the disposal of the confiscated specimens,
3. **Further instructs** the Director of the Lusaka Agreement Task Force to proceed with the disposal of the confiscated specimens if no response is received from the Republic of Zambia, Republic of Malawi and the United Republic of Tanzania within sixty days from the date of receipt of the communication of the Director by each of the named countries,

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4. **Directs** the Director of the Lusaka Agreement Task Force to dispose of the confiscated specimens in accordance with the relevant CITES provisions and other appropriate internationally agreed standards,
5. **Directs** the Director of the Lusaka Agreement Task Force to collaborate with partners such as the CITES Secretariat, CITES Management Authorities and relevant Authorities from the Republic of Zambia, Republic of Malawi and the United Republic of Tanzania, in the disposal of the confiscated specimens,
6. **Directs** the Director of the Lusaka Agreement Task Force to undertake publicity when disposing of the confiscated specimens necessary to raise awareness on the serious nature of illegal trade in wild fauna and flora and to promote the Lusaka Agreement,
7. **Instructs** the Director of the Lusaka Agreement Task Force to report on the implementation of this decision to the next meeting of the Bureau of the Governing Council and subsequently to the 10th Governing Council Meeting.

DECISION IX/7

PROMOTION OF THE LUSAKA AGREEMENT

Noting that the Lusaka Agreement is open for accession to all African States and that it is desirable that more eligible States become Parties;

Observing that some difficulties exist when Parties seek full collaboration with non-Parties on matters related to enforcement of wildlife laws;

Appreciating efforts made by the Bureau of the Governing Council and the Director of the Lusaka Agreement Task Force to continue sensitising other African States on the Lusaka Agreement and its activities, especially through collaboration in wildlife-related training and law enforcement operations;

Further noting that some African non-Parties have shown interest in becoming Parties to the Lusaka Agreement;

Noting that the accession of other African States is a matter for concerted efforts by current Parties;

1. **Calls upon** the Parties to work closely with the Lusaka Agreement Task Force in promoting the Lusaka Agreement and encouraging other African States to accede to the Lusaka Agreement,
2. **Directs** Parties and the Director of the Lusaka Agreement Task Force to report on the implementation of this decision to the next meeting of the Bureau of the Governing Council and subsequently to the 10th Governing Council Meeting.

