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African Elephant Conservation Act

CHAPTER 62—AFRICAN ELEPHANT CONSERVATION

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§ 4201. Statement of purpose

The purpose of this chapter is to perpetuate healthy populations of African elephants.

§ 4202. Findings

The Congress finds the following:

- (1) Elephant populations in Africa have declined at an alarming rate since the mid-1970's.
- (2) The large illegal trade in African elephant ivory is the major cause of this decline and threatens the continued existence of the African elephant.
- (3) The African elephant is listed as threatened under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and its continued existence will be further jeopardized if this decline is not reversed.
- (4) Because African elephant ivory is indistinguishable from Asian elephant ivory, there is a need to ensure that the trade in African elephant ivory does not further endanger the Asian elephant, which is listed as endangered under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) and under Appendix I of CITES.
- (5) In response to the significant illegal trade in African elephant ivory, the parties to CITES established the CITES Ivory Control System to curtail the illegal trade and to encourage African countries to manage, conserve, and protect their African elephant populations.
- (6) The CITES Ivory Control System entered into force recently and should be allowed to continue in force for a reasonable period of time to assess its effectiveness in curtailing the illegal trade in African elephant ivory.
- (7) Although some African countries have effective African elephant conservation programs, many do not

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have sufficient resources to properly manage, conserve, and protect their elephant populations.

(8) The United States, as a party to CITES and a large market for worked ivory, shares responsibility for supporting and implementing measures to stop the illegal trade in African elephant ivory and to provide for the conservation of the African elephant.

(9) There is no evidence that sport hunting is part of the poaching that contributes to the illegal trade in African elephant ivory, and there is evidence that the proper utilization of well-managed elephant populations provides an important source of funding for African elephant conservation programs.

§ 4203. Statement of policy

It is the policy of the United States—

- (1)** to assist in the conservation and protection of the African elephant by supporting the conservation programs of African countries and the CITES Secretariat; and
- (2)** to provide financial resources for those programs.

§ 4211. Provision of assistance

(a) In general

The Secretary may provide financial assistance under this subchapter from the Fund for approved projects for research, conservation, management, or protection of African elephants.

(b) Project proposal

Any African government agency responsible for African elephant conservation and protection, the CITES Secretariat, and any organization or individual with experience in African elephant conservation may submit to the Secretary a project proposal under this section. Each such proposal shall contain—

- (1)** the name of the person responsible for conducting the project;
- (2)** a succinct statement of the need for and purposes of the project;
- (3)** a description of the qualifications of the individuals who will be conducting the project;
- (4)** an estimate of the funds and time required to complete the project;
- (5)** evidence of support of the project by governmental entities of countries within which the project will be conducted, if such support may be important for the success of the project; and
- (6)** any other information the Secretary considers to be necessary or appropriate for evaluating the eligibility of the project for funding under this chapter.

(c) Project review and approval

The Secretary shall review each project proposal to determine if it meets the criteria set forth in subsection (d) of this section and otherwise merits assistance under this chapter. Not later than six months after receiving a project proposal, and subject to the availability of funds, the Secretary shall approve or disapprove the proposal and provide written notification to the person who submitted the proposal and to each country within which the project is proposed to be conducted.

(d) Criteria for approval

The Secretary may approve a project under this section if the project will enhance programs for African elephant research, conservation, management, or protection by—

- (1)** developing in a usable form sound scientific information on African elephant habitat condition and carrying capacity, total elephant numbers and population trends, or annual reproduction and mortality; or
- (2)** assisting efforts—
 - (A)** to ensure that any taking of African elephants in the country is effectively controlled and monitored;
 - (B)** to implement conservation programs to provide for healthy, sustainable African elephant populations; or
 - (C)** to enhance compliance with the CITES Ivory Control System.

(e) Project sustainability

To the maximum extent practical, in determining whether to approve project proposals under this section, the

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Secretary shall give consideration to projects that will enhance sustainable conservation programs to ensure effective long-term conservation of African elephants.

(f) Project reporting

Each entity that receives assistance under this section shall provide such periodic reports to the Director of the United States Fish and Wildlife Service as the Director considers relevant and appropriate. Each report shall include all information requested by the Director for evaluating the progress and success of the project.

§ 4212. Acceptance and use of donations

The Secretary may accept and use donations of funds to provide assistance under this subchapter. Amounts received by the Secretary in the form of such donations shall be transferred by the Secretary to the Secretary of the Treasury for deposit into the Fund.

§ 4213. Omitted

§ 4214. Advisory group

(a) In general

To assist in carrying out this chapter, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of African elephants.

(b) Public participation

(1) Meetings

The Advisory Group [1] shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) Notice

The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) Minutes

Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) Exemption from Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

§ 4221. Review of African elephant conservation programs

(a) In general

Within one month after October 7, 1988, the Secretary shall issue a call for information on the African elephant conservation program of each ivory producing country by—

(1) publishing a notice in the Federal Register requesting submission of such information to the Secretary by all interested parties; and

(2) submitting a written request for such information through the Secretary of State to each ivory producing country.

(b) Review and determination

(1) In general

The Secretary shall review the African elephant conservation program of each ivory producing country and, not later than one year after October 7, 1988, shall issue and publish in the Federal Register a determination of whether or not the country meets the following criteria:

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- (A) The country is a party to CITES and adheres to the CITES Ivory Control System.
- (B) The country's elephant conservation program is based on the best available information, and the country is making expeditious progress in compiling information on the elephant habitat condition and carrying capacity, total population and population trends, and the annual reproduction and mortality of the elephant populations within the country.
- (C) The taking of elephants in the country is effectively controlled and monitored.
- (D) The country's ivory quota is determined on the basis of information referred to in subparagraph (B) and reflects the amount of ivory which is confiscated or consumed domestically by the country.
- (E) The country has not authorized or allowed the export of amounts of raw ivory which exceed its ivory quota under the CITES Ivory Control System.

(2) Delay in issuing determination

If the Secretary finds within one year after October 7, 1988, that there is insufficient information upon which to make the determination under paragraph (1), the Secretary may delay issuing the determination until no later than December 31, 1989. The Secretary shall issue and publish in the Federal Register at the time of the finding a statement explaining the reasons for any such delay.

§ 4222. Moratoria

(a) Ivory producing countries

(1) In general

The Secretary shall establish a moratorium on the importation of raw and worked ivory from an ivory producing country immediately upon making a determination that the country does not meet all the criteria set forth in section 4221 (b)(1) of this title.

(2) Later establishment

With regard to any ivory producing country for which the Secretary has insufficient information to make a determination pursuant to section 4221 (b) of this title, the Secretary shall establish a moratorium on the importation of raw and worked ivory from such country not later than January 1, 1990, unless, based on new information, the Secretary concludes before that date that the country meets all of the criteria set forth in section 4221 (b)(1) of this title.

(b) Intermediary countries

The Secretary shall establish a moratorium on the importation of raw and worked ivory from an intermediary country immediately upon making a determination that the country—

- (1) is not a party to CITES;
- (2) does not adhere to the CITES Ivory Control System;
- (3) imports raw ivory from a country that is not an ivory producing country;
- (4) imports raw or worked ivory from a country that is not a party to CITES;
- (5) imports raw or worked ivory that originates in an ivory producing country in violation of the laws of that ivory producing country;
- (6) substantially increases its imports of raw or worked ivory from a country that is subject to a moratorium under this chapter during the first three months of that moratorium; or
- (7) imports raw or worked ivory from a country that is subject to a moratorium under this chapter after the first three months of that moratorium, unless the ivory is imported by vessel during the first six months of that moratorium and is accompanied by shipping documents which show that it was exported before the establishment of the moratorium.

(c) Suspension of moratorium

The Secretary shall suspend a moratorium established under this section if, after notice and public comment, the Secretary determines that the reasons for establishing the moratorium no longer exist.

(d) Petition

(1) In general

Any person may at any time submit a petition in writing requesting that the Secretary establish or suspend a moratorium under this section. Such a petition shall include such substantial information as may be necessary to demonstrate the need for the action requested by the petition.

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(2) Consideration and ruling

The Secretary shall publish a notice of receipt of a petition under this subsection in the Federal Register and shall provide an opportunity for the public to comment on the petition. The Secretary shall rule on such petition not later than 90 days after the close of the public comment period.

(e) Sport-hunted trophies

Individuals may import sport-hunted elephant trophies that they have legally taken in an ivory producing country that has submitted an ivory quota. The Secretary shall not establish any moratorium under this section, pursuant to a petition or otherwise, which prohibits the importation into the United States of sport-hunted trophies from elephants that are legally taken by the importer or the importer's principal in an ivory producing country that has submitted an ivory quota.

(f) Confiscated ivory

Trade in raw or worked ivory that is confiscated by an ivory producing country or an intermediary country and is disposed of pursuant to the CITES Ivory Control System shall not be the sole cause for the establishment of a moratorium under this subchapter if all proceeds from the disposal of the confiscated ivory are used solely to enhance wildlife conservation programs or conservation purposes of CITES. With respect to any country that was not a party to CITES at the time of such confiscation, this subsection shall not apply until such country develops appropriate measures to assure that persons with a history of illegal dealings in ivory shall not benefit from the disposal of confiscated ivory.

§ 4223. Prohibited acts

Except as provided in section [4222 \(e\)](#) of this title, it is unlawful for any person—

- (1) to import raw ivory from any country other than an ivory producing country;
- (2) to export raw ivory from the United States;
- (3) to import raw or worked ivory that was exported from an ivory producing country in violation of that country's laws or of the CITES Ivory Control System;
- (4) to import worked ivory, other than personal effects, from any country unless that country has certified that such ivory was derived from legal sources; or
- (5) to import raw or worked ivory from a country for which a moratorium is in effect under section [4222](#) of this title.

§ 4224. Penalties and enforcement

(a) Criminal violations

Whoever knowingly violates section [4223](#) of this title shall, upon conviction, be fined under title 18 or imprisoned for not more than one year, or both.

(b) Civil violations

Whoever violates section [4223](#) of this title may be assessed a civil penalty by the Secretary of not more than \$5,000 for each such violation.

(c) Procedures for assessment of civil penalty

Proceedings for the assessment of a civil penalty under this section shall be conducted in accordance with the procedures provided for in section [1540 \(a\)](#) of this title.

(d) Use of penalties

Subject to appropriations, penalties collected under this section may be used by the Secretary of the Treasury to pay rewards under section [4225](#) of this title and, to the extent not used to pay such rewards, shall be deposited by the Secretary of the Treasury into the Fund.

(e) Enforcement

The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this subchapter in the same manner such Secretaries carry out enforcement activities under section [1540 \(e\)](#) of this title. Section [1540 \(c\)](#) of this title shall apply to actions arising under this subchapter.

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§ 4225. Rewards**(a)** In general

Upon the recommendation of the Secretary, the Secretary of the Treasury may pay a reward to any person who furnishes information which leads to a civil penalty or a criminal conviction under this chapter.

(b) Amount

The amount of a reward under this section shall be equal to not more than one-half of any criminal or civil penalty or fine with respect to which the reward is paid, or \$25,000, whichever is less.

(c) Limitation on eligibility

An officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his or her official duties shall not be eligible for a reward under this section.

§ 4241. Relationship to Endangered Species Act of 1973

The authority of the Secretary under this chapter is in addition to and shall not affect the authority of the Secretary under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or diminish the Secretary's authority under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

§ 4242. Certification under Pelly amendment

If the Secretary finds in administering this chapter that a country does not adhere to the CITES Ivory Control System, that country is deemed, for purposes of section 1978 (a)(2) of title 22, to be diminishing the effectiveness of an international program for endangered or threatened species.

§ 4243. Repealed. Pub. L. 107–111, § 6(a)(3), Jan. 8, 2002, 115 Stat. 2096**§ 4244. Definitions**

In this chapter—

- (1) the term "African elephant" means any animal of the species *loxodonta africana*;
- (2) the term "CITES" means the Convention on the International Trade in Endangered Species of Wild Fauna and Flora;
- (3) the term "CITES Ivory Control System" means the ivory quota and marking system established by CITES to curtail illegal trade in African elephant ivory;
- (4) the term "Fund" means the account established by division A, section 101 (e), title I of Public Law 105–277 under the heading "multinational species conservation fund" [16 U.S.C. 4246];
- (5) the terms "import" and "importation" have the meanings such terms have in the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
- (6) the term "intermediary country" means a country that exports raw or worked ivory that does not originate in that country;
- (7) the term "ivory producing country" means any African country within which is located any part of the range of a population of African elephants;
- (8) the term "ivory quota" means a quota submitted by an ivory producing country to the CITES Secretariat in accordance with the CITES Ivory Control System;
- (9) the term "personal effects" means articles which are not intended for sale and are part of a shipment of the household effects of a person who is moving his or her residence to or from the United States, or are included in personal accompanying baggage;

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(10) the term "raw ivory" means any African elephant tusk, and any piece thereof, the surface of which, polished or unpolished, is unaltered or minimally carved;

(11) the term "Secretary" means the Secretary of the Interior;

(12) the term "United States" means the fifty States, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(13) the term "worked ivory" means any African elephant tusk, and any piece thereof, which is not raw ivory.

§ 4245. Authorization of appropriations

(a) In general

There is authorized to be appropriated to the Fund and to the Secretary a total of not to exceed \$5,000,000 for each of fiscal years 2001, 2002, 2003, 2004, 2005, 2006, and 2007 to carry out this chapter, to remain available until expended.

(b) Administrative expenses

Of amounts available each fiscal year to carry out this chapter, the Secretary may expend not more than 3 percent or \$80,000, whichever is greater, to pay the administrative expenses necessary to carry out this chapter.

§ 4246. Multinational Species Conservation Fund

In fiscal year 1999 and thereafter, donations to provide assistance under section 5304 of this title, part I of the African Elephant Conservation Act (16 U.S.C. 4211 et seq.), and section 4264 of this title shall be deposited to this Fund and shall be available without further appropriation: Provided further, That in fiscal year 1999 and thereafter, all penalties received by the United States under section 2204 of the African Elephant Conservation Act (16 U.S.C. 4224) which are not used to pay rewards under section 2205 of the African Elephant Conservation Act (16 U.S.C. 4225) shall be deposited to this Fund to provide assistance under section 2101 of the African Elephant Conservation Act (16 U.S.C. 4211) and shall be available without further appropriation: Provided further, That in fiscal year 1999 and thereafter, not more than three percent of amounts appropriated to this Fund may be used by the Secretary of the Interior to administer the Fund.