

(b) Public participation**(1) Meetings**

The Advisory Group¹ 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.

(Pub. L. 100-478, title II, §2104, as added Pub. L. 107-111, §4, Jan. 8, 2002, 115 Stat. 2095; amended Pub. L. 107-141, §5(b)(2)(A), Feb. 12, 2002, 116 Stat. 14.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-141 made technical amendment to reference in original act which appears in text as reference to this chapter.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-141, §5(b)(2), Feb. 12, 2002, 116 Stat. 14, provided that the amendment by section 5(b)(2) of Pub. L. 107-141 is effective on the day after Jan. 8, 2002.

SUBCHAPTER II—MORATORIA AND PROHIBITED ACTS

§ 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:

(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.

(Pub. L. 100-478, title II, §2201, Oct. 7, 1988, 102 Stat. 2318.)

§ 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;

¹ So in original. Probably should not be capitalized.

(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.

(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.

(Pub. L. 100-478, title II, §2202, Oct. 7, 1988, 102 Stat. 2318.)

§ 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.

(Pub. L. 100-478, title II, §2203, Oct. 7, 1988, 102 Stat. 2320.)

§ 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.

(Pub. L. 100-478, title II, §2204, Oct. 7, 1988, 102 Stat. 2320.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security,