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4913.	Exotic bird conservation assistance.
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§ 4901. Findings

The Congress finds the following:

(1) In addition to habitat loss and local use, the international pet trade in wild-caught exotic birds is contributing to the decline of species in the wild, and the mortality associated with the trade remains unacceptably high.

(2) The United States, as the world's largest importer of exotic birds and as a Party to the Convention, should play a substantial role in finding effective solutions to these problems, including assisting countries of origin in implementing programs of wild bird conservation, and ensuring that the market in the United States for exotic birds does not operate to the detriment of the survival of species in the wild.

(3) Sustainable utilization of exotic birds has the potential to create economic value in them and their habitats, which will contribute to their conservation and promote the maintenance of biological diversity generally.

(4) Utilization of exotic birds that is not sustainable should not be allowed.

(5) Broad international attention has focused on the serious conservation and welfare problems which currently exist in the trade in wild-caught animals, including exotic birds.

(6) Many countries have chosen not to export their wild birds for the pet trade. Their decisions should be respected and their efforts should be supported.

(7) Several countries that allow for the export of their wild birds often lack the means to develop or effectively implement scientifically based management plans, and these countries should be assisted in developing and implementing management plans to enable them to ensure that their wild bird trade is conducted humanely and at sustainable levels.

(8) The major exotic bird exporting countries are Parties to the Convention.

(9) The Convention recognizes that trade in species that are threatened with extinction, or that may become so, should be subject to strict regulation.

(10) The necessary population assessments, monitoring programs, and appropriate remedial measures for species listed in Appendix II of the Convention are not always being undertaken in order to maintain species at levels above which they might become eligible for inclusion in Appendix I of the Convention.

(11) Resolutions adopted pursuant to the Convention recommend that the Parties to the Convention take appropriate measures regarding trade in species of exotic birds that have significantly high mortality rates in transport, including suspension of trade for commercial purposes between Parties when appropriate.

(12) Article XIV provides that the Convention in no way affects the right of any Party to the Convention to adopt stricter domestic measures for the regulation of trade in all spe-

cies, whether or not listed in an Appendix to the Convention.

(13) The United States prohibits the export of all birds native to the United States that are caught in the wild.

(14) This chapter provides a series of non-discriminatory measures that are necessary for the conservation of exotic birds, and furthers the obligations of the United States under the Convention.

(Pub. L. 102-440, title I, §102, Oct. 23, 1992, 106 Stat. 2224.)

SHORT TITLE

Pub. L. 102-440, title I, §101, Oct. 23, 1992, 106 Stat. 2224, provided that: "This title [enacting this chapter] may be cited as the 'Wild Bird Conservation Act of 1992.'"

§ 4902. Statement of purpose

The purpose of this chapter is to promote the conservation of exotic birds by—

(1) assisting wild bird conservation and management programs in the countries of origin of wild birds;

(2) ensuring that all trade in species of exotic birds involving the United States is biologically sustainable and is not detrimental to the species;

(3) limiting or prohibiting imports of exotic birds when necessary to ensure that—

(A) wild exotic bird populations are not harmed by removal of exotic birds from the wild for the trade; or

(B) exotic birds in trade are not subject to inhumane treatment; and

(4) encouraging and supporting effective implementation of the Convention.

(Pub. L. 102-440, title I, §103, Oct. 23, 1992, 106 Stat. 2225.)

§ 4903. Definitions

In this chapter—

(1) The term "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as amended, signed in Washington on March 3, 1973, and the Appendices thereto.

(2) The term "exotic bird"—

(A) means any live or dead member of the class Aves that is not indigenous to the 50 States or the District of Columbia, including any egg or offspring thereof; and

(B) does not include—

(i) domestic poultry, dead sport-hunted birds, dead museum specimens, dead scientific specimens, or products manufactured from such birds; or

(ii) birds in the following families: Phasianidae, Numididae, Cracidae, Meleagrididae, Megapodiidae, Anatidae, Struthionidae, Rheidae, Dromaiinae, and Gruidae.

(3) Each of the terms "import" and "importation" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States.

(4) The term "person" means an individual, corporation, partnership, trust, association, or

any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.

(5) The term “qualifying facility” means an exotic bird breeding facility that is included in a list published by the Secretary under section 4906 of this title.

(6) The term “Secretary” means the Secretary of the Interior or a designee of the Secretary of the Interior.

(7) The term “species”—

(A) means any species, any subspecies, or any distinct population segment of a species or subspecies; and

(B) includes hybrids of any species or subspecies.

(8) The term “United States” means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(Pub. L. 102-440, title I, §104, Oct. 23, 1992, 106 Stat. 2225.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4904. Moratoria on imports of exotic birds covered by Convention

(a) Immediate moratorium

(1) Establishment of moratorium

The importation of any exotic bird of a species identified as a category B species in the report entitled “Report of the Animals Committee”, adopted by the 8th meeting of the Conference of the Parties to the Convention, is prohibited.

(2) Termination of moratorium

A species of exotic birds shall be subject to the prohibition on importation established by paragraph (1) until the Secretary, after notice and an opportunity for public comment—

(A) determines that appropriate remedial measures have been taken in the countries of origin for that species, so as to eliminate the threat of trade to the conservation of the species; and

(B) makes the findings described in section 4905(c) of this title for the species and includes the species in the list published under section 4905(a) of this title.

(b) Emergency authority to suspend imports of listed species

(1) Authority to suspend imports

The Secretary is authorized to suspend the importation of exotic birds of any species that is listed in any Appendix to the Convention, and if applicable remove the species from the list under section 4905(a) of this title, if the Secretary determines that—

(A)(i) trade in that species is detrimental to the species,

(ii) there is not sufficient information available on which to base a judgment that the species is not detrimentally affected by trade in that species, or

(iii) remedial measures have been recommended by the Standing Committee of the Convention that have not been implemented; and

(B) the suspension might be necessary for the conservation of the species.

(2) Termination of suspension

A species of exotic birds shall be subject to a suspension of importation under paragraph (1) until the Secretary, after notice and an opportunity for public comment, makes the findings described in section 4905(c) of this title and includes the species in the list published under section 4905(a) of this title.

(c) Moratorium after one year for other species listed in appendices

Effective on the date that is one year after October 23, 1992, the importation of any exotic bird of a species that is listed in any Appendix to the Convention is prohibited unless the Secretary makes the findings described in section 4905(c) of this title and includes the species in the list published under section 4905(a) of this title.

(d) Limitation on number imported during first year

Notwithstanding any other provision of this chapter, the Secretary shall prohibit the importation, during the 1-year period beginning on October 23, 1992, of exotic birds of each species that is listed under any Appendix to the Convention in excess of the number of that species that were imported during the most recent year for which the Secretary has complete import data.

(Pub. L. 102-440, title I, §105, Oct. 23, 1992, 106 Stat. 2226.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original “this Act” and was translated as reading “this title”, meaning title I of Pub. L. 102-440, known as the Wild Bird Conservation Act of 1992, to reflect the probable intent of Congress.

§ 4905. List of approved species

(a) Listing

(1) In general

One year after October 23, 1992, and periodically thereafter, the Secretary shall, after notice and an opportunity for public comment, publish in the Federal Register a list of species of exotic birds that are listed in an Appendix to the Convention and that are not subject to a prohibition or suspension of importation otherwise applicable under section 4904(a), (b), or (c) of this title.

(2) Manner of listing

The Secretary shall list a species under paragraph (1) with respect to—

(A) the countries of origin from which the species may be imported; and

(B) if appropriate, the qualifying facilities in those countries from which the species may be imported.