

ASIAN ELEPHANT CONSERVATION ACT OF 1997

SEPTEMBER 23, 1997.—Ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 1787]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1787) to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Asian Elephant Conservation Act of 1997”.

SEC. 2. FINDINGS.

The Congress finds the following:

- (1) Asian elephant populations in nations within the range of Asian elephants have continued to decline to the point that the long-term survival of the species in the wild is in serious jeopardy.
- (2) The Asian elephant is listed as an endangered species under section 4 of the Endangered Species Act of 1973 and under appendix I of the Convention on International Trade of Endangered Species of Wild Fauna and Flora.
- (3) Because the challenges facing the conservation of Asian elephants are so great, resources to date have not been sufficient to cope with the continued loss of habitat and the consequent diminution of Asian elephant populations.
- (4) The Asian elephant is a flagship species for the conservation of tropical forest habitats in which it is found and provides the consequent benefit from such conservation to numerous other species of wildlife including many other endangered species.

(5) Among the threats to the Asian elephant in addition to habitat loss are population fragmentation, human-elephant conflict, poaching for ivory, meat, hide, bones and teeth, and capture for domestication.

(6) To reduce, remove, or otherwise effectively address these threats to the long-term viability of populations of Asian elephants in the wild will require the joint commitment and effort of nations within the range of Asian elephants, the United States and other countries, and the private sector.

SEC. 3. PURPOSES.

The purposes of this Act are the following:

- (1) To perpetuate healthy populations of Asian elephants.
- (2) To assist in the conservation and protection of Asian elephants by supporting the conservation programs of Asian elephant range states and the CITES Secretariat.
- (3) To provide financial resources for those programs.

SEC. 4. DEFINITIONS.

In this Act:

(1) The term “CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and its appendices.

(2) The term “conservation” means the use of methods and procedures necessary to bring Asian elephants to the point at which there are sufficient populations in the wild to ensure that the species does not become extinct, including all activities associated with scientific resource management, such as conservation, protection, restoration, acquisition, and management of habitat; research and monitoring of known populations; assistance in the development of management plans for managed elephant ranges; CITES enforcement; law enforcement through community participation; translocation of elephants; conflict resolution initiatives; and community outreach and education.

(3) The term “Fund” means the Asian Elephant Conservation Fund established under section 6(a).

(4) The term “Secretary” means the Secretary of the Interior.

(5) The term “Administrator” means the Administrator of the Agency for International Development.

SEC. 5. ASIAN ELEPHANT CONSERVATION ASSISTANCE.

(a) IN GENERAL.—The Secretary, subject to the availability of funds and in consultation with the Administrator, shall use amounts in the Fund to provide financial assistance for projects for the conservation of Asian elephants for which final project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSAL.—Any relevant wildlife management authority of a nation within the range of Asian elephants whose activities directly or indirectly affect Asian elephant populations, the CITES Secretariat, or any person with demonstrated expertise in the conservation of Asian elephants, may submit to the Secretary a project proposal under this section. Each proposal shall include the following:

- (1) The name of the individual responsible for conducting the project.
- (2) A succinct statement of the purposes of the project.
- (3) A description of the qualifications of the individuals who will conduct the project.
- (4) An estimate of the funds and time required to complete the project.
- (5) Evidence of support of the project by appropriate governmental entities of countries in which the project will be conducted, if the Secretary determines that the support is required for the success of the project.
- (6) Information regarding the source and amount of matching funding available to the applicant.
- (7) Any other information the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this Act.

(c) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—Within 30 days after receiving a final project proposal, the Secretary shall provide a copy of the proposal to the Administrator. The Secretary shall review each final project proposal to determine if it meets the criteria set forth in subsection (d).

(2) CONSULTATION; APPROVAL OR DISAPPROVAL.—Not later than 6 months after receiving a final project proposal, and subject to the availability of funds, the Secretary, after consulting with the Administrator, shall—

- (A) request written comments on the proposal from each country within which the project is to be conducted;

- (B) after requesting those comments, approve or disapprove the proposal; and
- (C) provide written notification of that approval or disapproval to the person who submitted the proposal, the Administrator, and each of those countries.
- (d) **CRITERIA FOR APPROVAL.**—The Secretary may approve a final project proposal under this section if the project will enhance programs for conservation of Asian elephants by assisting efforts to—
 - (1) implement conservation programs;
 - (2) address the conflicts between humans and elephants that arise from competition for the same habitat;
 - (3) enhance compliance with provisions of CITES and laws of the United States or a foreign country that prohibit or regulate the taking or trade of Asian elephants or regulate the use and management of Asian elephant habitat;
 - (4) develop sound scientific information on the condition of Asian elephant habitat, Asian elephant population numbers and trends, or the threats to such habitat, numbers, or trends; or
 - (5) promote cooperative projects on those topics with other foreign governments, affected local communities, nongovernmental organizations, or others in the private sector.
- (e) **PROJECT SUSTAINABILITY.**—To the maximum extent practical, in determining whether to approve project proposals under this section, the Secretary shall give consideration to projects which will enhance sustainable integrated conservation development programs to ensure effective, long-term conservation of Asian elephants.
- (f) **PROJECT REPORTING.**—Each person who receives assistance under this section for a project shall provide periodic reports, as the Secretary considers necessary, to the Secretary and the Administrator. Each report shall include all information required by the Secretary, after consulting with the Administrator, for evaluating the progress and success of the project.
- (g) **MATCHING FUNDS.**—In determining whether to approve project proposals under this section, the Secretary shall give priority to those projects for which there exists some measure of matching funds.
- (h) **LIMITATION ON USE FOR CAPTIVE BREEDING.**—Amounts provided as a grant under this Act may not be used for captive breeding of Asian elephants other than for release in the wild.

SEC. 6. ASIAN ELEPHANT CONSERVATION FUND.

- (a) **ESTABLISHMENT.**—There is established in the general fund of the Treasury a separate account to be known as the “Asian Elephant Conservation Fund”, which shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).
- (b) **DEPOSITS INTO THE FUND.**—The Secretary of the Treasury shall deposit into the Fund—
 - (1) all amounts received by the Secretary in the form of donations under subsection (d); and
 - (2) other amounts appropriated to the Fund.
- (c) **USE.**—
 - (1) **IN GENERAL.**—Subject to paragraph (2), the Secretary may use amounts in the Fund without further appropriation to provide assistance under section 5.
 - (2) **ADMINISTRATION.**—Of amounts in the Fund available for each fiscal year, the Secretary may use not more than 3 percent to administer the Fund.
- (d) **ACCEPTANCE AND USE OF DONATIONS.**—The Secretary may accept and use donations to provide assistance under section 5. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Fund \$5,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002 to carry out this Act, which may remain available until expended.

PURPOSE OF THE BILL

The purpose of H.R. 1787 is to create an Asian Elephant Conservation Fund and to authorize the Congress to appropriate up to \$5 million per year to this Fund for each of the next five fiscal years to finance various conservation projects.

BACKGROUND AND NEED FOR LEGISLATION

In Asia, the relationship between man and elephant dates back almost 5,000 years when elephants were first captured and trained for use in religious ceremonies, war, and as draft animals. In fact, ancient Hindu scriptures frequently refer to elephants, the elephant-headed god Ganesh is revered throughout India, and the white elephant has special religious significance for Buddhists throughout Asia. In Chinese culture, elephants have played a special role in folklore, games, medicine and pageantry.

Asian elephants have also been used in forestry operations for many years. Today, wild elephants are still captured and trained for use in logging operations in Burma. Elsewhere throughout their range, domestic elephants are used for ceremonial, tourism and transportation purposes. These activities provide an important source of income to numerous local communities.

Sadly, the Asian elephant is now in grave danger and unless steps are immediately taken by the international community, the Asian elephant will largely disappear from most of its historical range. To date, the Asian elephant has been declared endangered and placed on the U.S. Endangered Species Act list, on the Red List of Mammals by the International Union for Conservation of Nature and Natural Resources (IUCN)-World Conservation Union, and on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Placement on Appendix I prohibits all commercial trade in Asian elephant products on a worldwide basis.

Despite these efforts, the population of Asian elephants living in the wild has dramatically fallen to about 40,000 animals, which is less than 10 percent of its elephant cousin (*Loxodonta Africana*) living in Africa. These wild populations are located in 13 countries in South and Southeast Asia. The largest population of 20,000 Asian elephants, or 50 percent of the total, reside in India; the smallest population of 50 animals is located in Nepal. What is equally distressing is the fact that there are only about 14 populations of 1,000 or more individuals in a contiguous area. Seven of these populations are found in Burma and India. In simple terms, this means that such drastic population fragmentation increases the likelihood of geographic extinctions and greatly reduces the long-term viability of the species. In addition, it has been estimated that there are about 16,000 domesticated elephants.

There are a number of important reasons why there has been a severe decline in the number of Asian elephants. The primary reason is the loss of habitat. All Asian elephants need a shady or forest environment, and this habitat is disappearing rapidly throughout Asia. Due to their sheer size and social structure, elephants need large areas to survive. Since Asian elephants inhabit some of the most densely populated areas of the world, forest clearance for homes and large-scale agricultural crops have resulted in a dramatic loss of thousands of acres of their habitat. In essence, elephants and man are in direct competition for the same resources.

Second, while poaching for ivory has not been an overriding reason for its decline, Asian elephants of both sexes are increasingly being poached for bones, hide, meat and teeth. Hide is used for

bags and shoes in China and Thailand, and bones, teeth and other body parts are used in traditional Chinese medicine to cure various ailments. In fact, this type of poaching even threatens domestic elephants that are allowed to free-range in various forests.

Third, Asian elephants are still captured in the wild for domestication. In Burma, the country with the highest demand for work elephants, adult elephants are captured and trained for use in the timber industry. Regrettably, capture operations inevitably result in some mortalities and it does adversely affect the genetic pool of elephants living in the wild.

Finally, conflicts between elephants and people are increasing at an escalating rate. This is a direct result of the dramatic loss of forest habitat and the ensuing competition for the remaining resources. Every year, thousands of acres of agricultural crops are destroyed by elephants looking for food. In many cases, elephants encounter people where they were not found previously, thereby leading to the destruction of human lives and homes.

In countries where governments are concerned with this ever-increasing problem, measures taken are drastic and very expensive. For instance, in Malaysia, there was large-scale shooting of crop-raiding elephants in the late 1960s and, more recently, the construction of electric fences and translocation of problem elephants to protected areas. Other countries like Indonesia are taking short-term measures by capturing large numbers for domestication. However, they have found no long-term use for these domesticated elephants because there has been no traditional relationship between people and working elephants. In countries like Cambodia and Vietnam where no immediate solutions are provided by governmental authorities because of lack of financial resources, people are increasingly taking the law into their own hands and shooting the elephant offenders.

It is also important to understand that effective Asian elephant conservation and management efforts will have a positive effect on other species that reside in the same habitat. In the case of the Asian elephant, these include: the Asiatic wild dog, Clouded leopard, gaur, Great Pied hornbill, Hoolock gibbon, kouprey, Lion-tailed macaque, Malayan sun bear, peacock pheasant, rhinoceros and tiger. It is essential to the survival of these species that the Asian elephant not be allowed to disappear from this planet.

Finally, unlike the African elephant, there is no sport-hunting of Asian elephants and no large stockpiles of Asian elephant ivory in government warehouses in Asia or Southeast Asian countries.

COMMITTEE ACTION

H.R. 1787 was introduced on June 4, 1997, by Congressman Jim Saxton (R-NJ), Chairman, Subcommittee on Fisheries Conservation, Wildlife and Oceans; Congressman Neil Abercrombie (D-HI), Ranking Minority Member, Subcommittee on Fisheries Conservation, Wildlife and Oceans; Congressman Don Young (R-AK); Congressman George Miller (D-CA); Congressman Sherwood L. Boehlert (R-NY); Congressman Merrill Cook (R-UT); Congressman Randy "Duke" Cunningham (R-CA); Congressman Vernon J. Ehlers (R-MI); Congressman Eni F.H. Faleomavaega (D-AS); Congressman Bob Franks (R-NJ); Congressman Wayne T. Gilchrest

(R-MD); Congressman James C. Greenwood (R-PA); Congressman Maurice D. Hinchey (D-NY); Congresswoman Sue W. Kelly (R-NY); Congresswoman Constance A. Morella (R-MD); Congressman John W. Olver (D-MA); Congressman Frank Pallone, Jr. (D-NJ); Congressman Fred Upton (R-MI); and Congressman James A. Traficant, Jr. (D-OH).

The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. It was also referred to the Committee on International Relations. Since its introduction, H.R. 1787 has been cosponsored by Representatives Christopher Shays (R-CT); Luis Gutierrez (D-IL); Bernard Sanders (I-VT); Gary Ackerman (D-NY); Diana DeGette (D-CO); Owen Pickett (D-VA); Thomas Sawyer (D-OH); and Sam Farr (D-CA).

On Thursday, July 31, 1997, the Subcommittee on Fisheries Conservation, Wildlife and Oceans held a legislative hearing on H.R. 1787, the Asian Elephant Conservation Act of 1997. The Subcommittee heard testimony from Mr. Marshall P. Jones, Assistant Director for International Affairs, United States Fish and Wildlife Service, Department of the Interior; Dr. Terry Maple, President and Chief Executive Officer, Zoo Atlanta; Dr. Eric Dinerstein, Chief Scientist and Director, World Wildlife Fund; the Honorable Andy Ireland, Senior Vice President, Feld Entertainment, Inc.; Dr. Raman Sukumar, Center for Ecological Sciences, Indian Institute of Science; Dr. Mary C. Pearl, Executive Director, Wildlife Preservation Trust International; and Dr. Michael Stowe, Research Associate, Smithsonian Institution. All witnesses testified in strong support of the bill.

Mr. Marshall Jones of the Interior Department testified that:

On behalf of the Administration, the Service fully supports the enactment of this legislation and congratulates the Congress on its foresight in recognizing and addressing the plight of the Asian elephant. Asian elephants need active protection and management of their habitat, resolution of the deleterious conflicts with humans over land uses, better law enforcement activities to protect against poaching, reduction of captures from the wild, and better care and humane treatment of the remaining captive populations. They also need the restoration of the harmonious relationship that previously existed with humans through community education and awareness activities. It is indeed timely that this Subcommittee is now considering H.R. 1787 [which] acknowledges the problems of forest habitat reduction and fragmentation, conflicts with humans, poaching and other serious issues affecting the Asian elephant. The Act addresses the need to encourage and assist initiatives of regional and national agencies and organizations whose activities directly or indirectly promote the conservation of Asian elephants and their habitat, and it provides for the establishment of an Asian Elephant Conservation Fund, authorized to receive donations and appropriated funds. While many range governments have demonstrated a commitment towards conservation, the lack of

international support for their efforts has been a serious impediment.

Dr. Raman Sukumar, the Chairman of the IUCN Asian Elephant Specialist Group testified that: "The irony that I see in the plight of the Asian elephant is that it is arguably the ultimate flagship species for conservation of biological and cultural diversity in Asia. The elephant is a keystone species in the tropical forests of south and southeast Asia, which are biologically one of the most diverse regions of the world. Conserving the wild elephant would automatically ensure that hundreds of thousands of plant and animal species would also be conserved in Asian tropical forests."

On September 10, 1997, the full Resources Committee met to consider H.R. 1787. The Subcommittee on Fisheries Conservation, Wildlife and Oceans was discharged from further consideration of H.R. 1787. During debate on the measure, Congressman Neil Abercrombie indicated that he strongly supported the bill and hoped that it would help to conserve this "blue collar worker of the animal world." An amendment was offered by Congressman Sam Farr stipulating that no Federal grant money could be used for captive breeding of Asian elephants other than for release into the wild. The amendment was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of Rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 1787.

COST OF THE LEGISLATION

Clause 7(a) of Rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1787. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1787 does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of H.R. 1787 would result in increased discretionary spending.

2. With respect to the requirement of clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1787.

3. With respect to the requirement of clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1787 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 17, 1997.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1787, the Asian Elephant Conservation Reauthorization Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

H.R. 1787.—Asian Elephant Conservation Act of 1997

Summary: H.R. 1787 would establish a new fund to support the conservation of Asian elephants. The bill would direct the Secretary of the Interior to use amounts in the new fund to finance eligible conservation efforts, which may include specific projects such as research and education as well as ongoing activities such as law enforcement. For this purpose, the bill would authorize appropriations to the fund of \$5 million for each of fiscal years 1998 through 2002. Also, the Secretary would be authorized to accept and use donated funds without further appropriation.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 1787 would result in additional discretionary spending of about \$10 million over the 1998–2002 period (with the remainder of the authorized \$25 million estimated to be spent after 2002). The legislation would affect direct spending and receipts by allowing the Secretary to accept and spend donations; therefore, pay-as-you-go procedures would apply. Any such transactions, however, would involve minor, offsetting amounts. H.R. 1787 does not contain any intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA), and would have no impact on the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: For purposes of this estimate, CBO assumes that the entire amounts authorized by H.R. 1787 will be appropriated for each of fiscal years 1998

through 2002. Outlay estimates are based on obligation patterns for similar programs, which indicate that the rate of spending over the first few years of the new program would be slow. The estimates budgetary impact of H.R. 1787 is shown in the following table.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002
Spending subject to appropriation:					
Authorization level	5	5	5	5	5
Estimated outlays	(1)	1	2	3	4

¹ Less than \$500,000.

The costs of this legislation fall within budget function 300 (natural resources and environment). Spending for the conservation of Asian elephants would constitute a new program in the federal budget; that is, there is no spending for this activity under current law.

Enacting H.R. 1787 also would affect both receipts and direct spending by authorizing the Secretary of the Interior to accept and use donations. CBO estimates that this provision would increase federal receipts by less than \$500,000 annually once the conservation program has been established. Because these receipts would be offset by additional direct spending, the net impact of this provision on the federal budget would be negligible in each year.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 specifies pay-as-you-go procedures for legislation affecting direct spending or receipts. Although enacting H.R. 1787 would affect both receipts and direct spending, CBO estimates that the amounts involved would be less than \$500,000 annually.

Intergovernmental and private-sector impact: H.R. 1787 contains no intergovernmental or private-sector mandates as defined in UMRA and would have no impact on the budgets of state, local, or tribal governments.

Estimate prepared by: Deborah Reis.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 1787 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 1787 would make no changes in existing law.

