

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.**

**H. R. 2494**

To support global anti-poaching efforts, strengthen the capacity of partner countries to counter wildlife trafficking, designate major wildlife trafficking countries, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. COONS (for himself and Mr. FLAKE)

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Eliminate, Neutralize, and Disrupt Wildlife Trafficking  
6 Act of 2016”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

**TITLE I—PURPOSES AND POLICY**

Sec. 101. Purposes.

Sec. 102. Statement of United States policy.

TITLE II—REPORT ON MAJOR WILDLIFE TRAFFICKING  
COUNTRIES

Sec. 201. Report.

TITLE III—FRAMEWORK FOR INTERAGENCY RESPONSE

Sec. 301. Presidential Task Force on Wildlife Trafficking.

TITLE IV—PROGRAMS TO ADDRESS THE ESCALATING WILDLIFE  
TRAFFICKING CRISIS

Sec. 401. Anti-poaching programs.

Sec. 402. Anti-trafficking programs.

Sec. 403. Engagement of United States diplomatic missions.

Sec. 404. Community conservation.

TITLE V—TRANSITION OF OVERSEAS CONTINGENCY FUNDING TO  
BASE FUNDING

Sec. 501. Sense of congress on funding.

TITLE VI—OTHER ACTIONS RELATING TO WILDLIFE  
TRAFFICKING PROGRAMS

Sec. 601. Amendments to Fisherman’s Protective Act of 1967.

**1 SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
4 TEES.—The term “appropriate congressional com-  
5 mittees” means—

6 (A) the Committee on Foreign Relations  
7 and the Committee on Appropriations of the  
8 Senate; and

9 (B) the Committee on Foreign Affairs and  
10 the Committee on Appropriations of the House  
11 of Representatives.

12 (2) CO-CHAIRS OF THE TASK FORCE.—The  
13 term “Co-Chairs of the Task Force” means the Sec-

1       retary of State, the Secretary of the Interior, and  
2       the Attorney General, as established pursuant to Ex-  
3       ecutive Order 13648.

4               (3) COMMUNITY CONSERVATION .—The term  
5       “community conservation” means an approach to  
6       conservation that recognizes the rights of local peo-  
7       ple to sustainably manage, or benefit directly and in-  
8       directly from wildlife and other natural resources  
9       and includes—

10               (A) devolving management and governance  
11               to local communities to create positive condi-  
12               tions for sustainable resource use; and

13               (B) building the capacity of communities  
14               for conservation and natural resource manage-  
15               ment.

16               (4) COUNTRY OF CONCERN.—The term “coun-  
17       try of concern” refers to a foreign country specially  
18       designated by the Secretary of State pursuant to  
19       subsection (b) of section 201 as a major source of  
20       wildlife trafficking products or their derivatives, a  
21       major transit point of wildlife trafficking products or  
22       their derivatives, or a major consumer of wildlife  
23       trafficking products, in which the government has  
24       actively engaged in or knowingly profited from the  
25       trafficking of endangered or threatened species.

1           (5) FOCUS COUNTRY.—The term “focus coun-  
2           try” refers to a foreign country determined by the  
3           Secretary of State to be a major source of wildlife  
4           trafficking products or their derivatives, a major  
5           transit point of wildlife trafficking products or their  
6           derivatives, or a major consumer of wildlife traf-  
7           ficking products.

8           (6) DEFENSE ARTICLE; DEFENSE SERVICE; SIG-  
9           NIFICANT MILITARY EQUIPMENT; TRAINING.—The  
10          terms “defense article”, “defense service”, “signifi-  
11          cant military equipment”, and “training” have the  
12          meanings given such terms in section 47 of the  
13          Arms Export Control Act (22 U.S.C. 2794).

14          (7) IMPLEMENTATION PLAN.—The term “Im-  
15          plementation Plan” means the Implementation Plan  
16          for the National Strategy for Combating Wildlife  
17          Trafficking released on February 11, 2015, a modi-  
18          fication of that plan, or a successor plan.

19          (8) NATIONAL STRATEGY.—The term “National  
20          Strategy” means the National Strategy for Com-  
21          bating Wildlife Trafficking published on February  
22          11, 2014, a modification of that strategy, or a suc-  
23          cessor strategy.

24          (9) NATIONAL WILDLIFE SERVICES.—The term  
25          “national wildlife services” refers to the ministries

1 and government bodies designated to manage mat-  
2 ters pertaining to wildlife management, including  
3 poaching or trafficking, in a focus country.

4 (10) SECURITY FORCE.—The term “security  
5 force” means a military, law enforcement, gendar-  
6 merie, park ranger, or any other security force with  
7 a responsibility for protecting wildlife and natural  
8 habitats.

9 (11) TASK FORCE.—The term “Task Force”  
10 means the Presidential Task Force on Wildlife Traf-  
11 ficking, as established by Executive Order 13648  
12 (78 Fed. Reg. 40621) and modified by section 201.

13 (12) WILDLIFE TRAFFICKING.—The term  
14 “wildlife trafficking” refers to the poaching or other  
15 illegal taking of protected or managed species and  
16 the illegal trade in wildlife and their related parts  
17 and products.

## 18 **TITLE I—PURPOSES AND POLICY**

### 19 **SEC. 101. PURPOSES.**

20 The purposes of this Act are—

21 (1) to support a collaborative, interagency ap-  
22 proach to address wildlife trafficking;

23 (2) to protect and conserve the remaining popu-  
24 lations of wild elephants, rhinoceroses, and other

1 species threatened by poaching and the illegal wild-  
2 life trade;

3 (3) to disrupt regional and global transnational  
4 organized criminal networks and to prevent the ille-  
5 gal wildlife trade from being used as a source of fi-  
6 nancing for criminal groups that undermine United  
7 States and global security interests;

8 (4) to prevent wildlife poaching and trafficking  
9 from being a means to make a living in focus coun-  
10 tries;

11 (5) to support the efforts of, and collaborate  
12 with, individuals, communities, local organizations,  
13 and foreign governments to combat poaching and  
14 wildlife trafficking;

15 (6) to assist focus countries in implementation  
16 of national wildlife anti-trafficking and poaching  
17 laws; and

18 (7) to ensure that United States assistance to  
19 prevent and suppress illicit wildlife trafficking is  
20 carefully planned and coordinated, and that it is sys-  
21 tematically and rationally prioritized on the basis of  
22 detailed analysis of the nature and severity of  
23 threats to wildlife and the willingness and ability of  
24 foreign partners to cooperate effectively toward these  
25 ends.

1 **SEC. 102. STATEMENT OF UNITED STATES POLICY.**

2 It is the policy of the United States—

3 (1) to take immediate actions to stop the illegal  
4 global trade in wildlife and wildlife products and as-  
5 sociated transnational organized crime;

6 (2) to provide technical and other forms of as-  
7 sistance to help focus countries halt the poaching of  
8 elephants, rhinoceroses, and other imperiled species  
9 and end the illegal trade in wildlife and wildlife  
10 products, including by providing training and assist-  
11 ance in—

12 (A) wildlife protection and management of  
13 wildlife populations;

14 (B) anti-poaching and effective manage-  
15 ment of protected areas including community  
16 managed and privately-owned lands;

17 (C) local engagement of security forces in  
18 anti-poaching responsibilities, where appro-  
19 priate;

20 (D) wildlife trafficking investigative tech-  
21 niques, including forensic tools;

22 (E) transparency and corruption issues;

23 (F) management, tracking, and inventory  
24 of confiscated wildlife contraband;

1           (G) demand reduction strategies in coun-  
2           tries that lack the means and resources to con-  
3           duct them; and

4           (H) bilateral and multilateral agreements  
5           and cooperation;

6           (3) to employ appropriate assets and resources  
7           of the United States Government in a coordinated  
8           manner to curtail poaching and disrupt and dis-  
9           mantle illegal wildlife trade networks and the financ-  
10          ing of those networks in a manner appropriate for  
11          each focus country;

12          (4) to build upon the National Strategy and  
13          Implementation Plan to further combat wildlife traf-  
14          ficking in a holistic manner and guide the response  
15          of the United States Government to ensure progress  
16          in the fight against wildlife trafficking; and

17          (5) to recognize the ties of wildlife trafficking  
18          to broader forms of transnational organized criminal  
19          activities, including trafficking, and where applica-  
20          ble, to focus on those crimes in a coordinated, cross-  
21          cutting manner.



1 **TITLE II—REPORT ON MAJOR**  
2 **WILDLIFE TRAFFICKING**  
3 **COUNTRIES**

4 **SEC. 201. REPORT.**

5 (a) REPORT.—Not later than one year after the date  
6 of the enactment of this Act, and annually thereafter, the  
7 Secretary of State, in consultation with the Secretary of  
8 the Interior and the Secretary of Commerce, shall submit  
9 to Congress a report that lists each country determined  
10 by the Secretary of State to be a focus country within the  
11 meaning of this Act.

12 (b) SPECIAL DESIGNATION.—In each report required  
13 under subsection (a), the Secretary of State, in consulta-  
14 tion with the Secretary of the Interior and the Secretary  
15 of Commerce, shall identify each country of concern listed  
16 in the report the government of which has actively en-  
17 gaged in or knowingly profited from the trafficking of en-  
18 dangered or threatened species.

19 (c) SUNSET.—This section shall terminate on the  
20 date that is 5 years after the date of the enactment of  
21 this Act.

1           **TITLE III—FRAMEWORK FOR**  
2           **INTERAGENCY RESPONSE**

3   **SEC. 301. PRESIDENTIAL TASK FORCE ON WILDLIFE TRAF-**  
4           **FICKING.**

5           (a) RESPONSIBILITIES.—In addition to the functions  
6 required by Executive Order 13648 (78 Fed. Reg. 40621),  
7 the Task Force shall be informed by the Secretary of  
8 State’s annual report required under section 201 and con-  
9 sidering all available information, ensure that relevant  
10 United States Government agencies—

11           (1) collaborate, to the greatest extent prac-  
12 ticable, with the national wildlife services, or other  
13 relevant bodies of each focus country to prepare, not  
14 later than 90 days after the date of submission of  
15 the report required under section 201(a), a United  
16 States mission assessment of the threats to wildlife  
17 in that focus country and an assessment of the ca-  
18 pacity of that country to address wildlife trafficking;

19           (2) collaborate, to the greatest extent prac-  
20 ticable, with relevant ministries, national wildlife  
21 services, or other relevant bodies of each focus coun-  
22 try to prepare, not later than 180 days after prepa-  
23 ration of the assessment referred to in paragraph  
24 (1), a United States mission strategic plan that in-  
25 cludes recommendations for addressing wildlife traf-

1       ficking, taking into account any regional or national  
2       strategies for addressing wildlife trafficking in a  
3       focus country developed before the preparation of  
4       such assessment;

5           (3) coordinate efforts among United States  
6       Federal agencies and non-Federal partners, includ-  
7       ing missions, domestic and international organiza-  
8       tions, the private sector, and other global partners,  
9       to implement the strategic plans required by para-  
10      graph (2) in each focus country;

11          (4) not less frequently than annually, consult  
12      and coordinate with stakeholders qualified to provide  
13      advice, assistance, and information regarding effec-  
14      tive support for anti-poaching activities, coordination  
15      of regional law enforcement efforts, development of  
16      and support for effective legal enforcement mecha-  
17      nisms, and development of strategies to reduce illicit  
18      trade and reduce consumer demand for illegally  
19      traded wildlife and wildlife products, and other rel-  
20      evant topics under this Act; and

21          (5) coordinate or carry out other functions as  
22      are necessary to implement this Act.

23      (b) **DUPLICATION AND EFFICIENCY.**—The Task  
24      Force shall—

1           (1) ensure that the activities of the Federal  
2 agencies involved in carrying out efforts under this  
3 Act are coordinated and not duplicated; and

4           (2) encourage efficiencies and coordination  
5 among the efforts of Federal agencies and inter-  
6 agency initiatives ongoing as of the date of the en-  
7 actment of this Act to address trafficking activities,  
8 including trafficking of wildlife, humans, weapons,  
9 and narcotics, illegal trade, transnational organized  
10 crime, or other illegal activities.

11       (c) CONSISTENCY WITH AGENCY RESPONSIBIL-  
12 ITIES.—The Task Force shall carry out its responsibilities  
13 under this Act in a manner consistent with the authorities  
14 and responsibilities of agencies represented on the Task  
15 Force.

16       (d) TASK FORCE STRATEGIC REVIEW.—One year  
17 after the date of the enactment of this Act, and annually  
18 thereafter, the Task Force shall submit a strategic assess-  
19 ment of its work and provide a briefing to the appropriate  
20 congressional committees that shall include—

21           (1) a review and assessment of the Task  
22 Force’s implementation of this Act, identifying suc-  
23 cesses, failures, and gaps in its work, or that of  
24 agencies represented on the Task Force, including  
25 detailed descriptions of—

1 (A) what approaches, initiatives, or pro-  
2 grams have succeeded best in increasing the  
3 willingness and capacity of focus countries to  
4 suppress and prevent illegal wildlife trafficking,  
5 and what approaches, initiatives, or programs  
6 have not succeeded as well as hoped; and

7 (B) which foreign governments subject to  
8 subsections (a) and (b) of section 201 have  
9 proven to be the most successful partners in  
10 suppressing and preventing illegal wildlife traf-  
11 ficking, which focus countries have not proven  
12 to be so, and what factors contributed to these  
13 results in each country discussed;

14 (2) a description of each Task Force member  
15 agency's priorities and objectives for combating wild-  
16 life trafficking;

17 (3) an account of total United States funding  
18 each year since fiscal year 2014 for all government  
19 agencies and programs involved in countering poach-  
20 ing and wildlife trafficking;

21 (4) an account of total United States funding  
22 since fiscal year 2014 to support the activities of the  
23 Task Force, including administrative overhead costs  
24 and congressional reporting; and

1           (5) recommendations for how to improve United  
2 States and international efforts to suppress and pre-  
3 vent illegal wildlife trafficking in the future, based  
4 upon the Task Force’s experience as of the time of  
5 the review.

6           (e) TERMINATION OF TASK FORCE.—The statutory  
7 authorization for the Task Force provided by this Act  
8 shall terminate 5 years after the date of the enactment  
9 of this Act or such earlier date that the President termi-  
10 nates the Task Force by rescinding, superseding, or other-  
11 wise modifying relevant portions of Executive Order  
12 13648.

13 **TITLE IV—PROGRAMS TO AD-**  
14 **DRESS THE ESCALATING**  
15 **WILDLIFE TRAFFICKING CRI-**  
16 **SIS**

17 **SEC. 401. ANTI-POACHING PROGRAMS.**

18           (a) WILDLIFE LAW ENFORCEMENT PROFESSIONAL  
19 TRAINING AND COORDINATION ACTIVITIES.—The Sec-  
20 retary of State and the Administrator of the United States  
21 Agency for International Development, in collaboration  
22 with the heads of other relevant United States agencies  
23 and nongovernmental partners where appropriate, may  
24 provide assistance to focus countries to carry out the rec-  
25 ommendations made in the strategic plan required by sec-

1 tion 301(a)(2), among other goals, to improve the effec-  
2 tiveness of wildlife law enforcement in regions and coun-  
3 tries that have demonstrated capacity, willingness, and  
4 need for assistance.

5 (b) AUTHORITY TO PROVIDE SECURITY ASSISTANCE  
6 TO COUNTER WILDLIFE TRAFFICKING AND POACHING.—

7 (1) IN GENERAL.—The President is authorized  
8 to provide defense articles, defense services, and re-  
9 lated training to security forces of focus countries  
10 for the purpose of countering wildlife trafficking and  
11 poaching where appropriate.

12 (2) TYPES OF ASSISTANCE.—

13 (A) IN GENERAL.—Assistance provided  
14 under paragraph (1) may include intelligence  
15 and surveillance assets, communications and  
16 electronic equipment, mobility assets, night vi-  
17 sion and thermal imaging devices, and organi-  
18 zational clothing and individual equipment, pur-  
19 suant to the applicable provision of the Arms  
20 Export Control Act (22 U.S.C. 2751 et seq.) or  
21 the Foreign Assistance Act of 1961 (22 U.S.C.  
22 2151 et seq.).

23 (B) LIMITATION.—Assistance provided  
24 under paragraph (1) may not include signifi-  
25 cant military equipment.

1           (3) SPECIAL RULE.—Assistance provided under  
2 paragraph (1) shall be in addition to any other as-  
3 sistance provided to the countries under any other  
4 provision of law.

5           (4) PROHIBITION ON ASSISTANCE.—

6           (A) IN GENERAL.—No assistance may be  
7 provided under subsection (b) to a unit of a se-  
8 curity force if the President determines that the  
9 unit has been found to engage in wildlife traf-  
10 ficking or poaching.

11           (B) EXCEPTION.—The prohibition in sub-  
12 paragraph (A) shall not apply with respect to a  
13 unit of a security force of a country if the  
14 President determines that the government of  
15 the country is taking effective steps to hold the  
16 unit accountable and prevent the unit from en-  
17 gaging in trafficking and poaching.

18           (5) CERTIFICATION.—With respect to any as-  
19 sistance provided pursuant to this subsection, the  
20 Secretary of State shall certify to the Committee on  
21 Foreign Relations of the Senate and the Committee  
22 on Foreign Affairs of the House of Representatives  
23 that such assistance is necessary for the purposes of  
24 combating wildlife trafficking.



1           (6) NOTIFICATION.—Consistent with the re-  
2           quirements of the Arms Export Control Act (22  
3           U.S.C. 2751 et seq.) and the Foreign Assistance Act  
4           of 1961 (22 U.S.C. 2151 et seq.), the Secretary of  
5           State shall notify the appropriate congressional com-  
6           mittees regarding defense articles, defense services,  
7           and related training provided under paragraph (1).

8   **SEC. 402. ANTI-TRAFFICKING PROGRAMS.**

9           (a) INVESTIGATIVE CAPACITY BUILDING.—The Sec-  
10          retary of State and the Administrator of the United States  
11          Agency for International Development, in collaboration  
12          with the heads of other relevant United States agencies  
13          and communities, regions, and governments in focus coun-  
14          tries, may design and implement programs in focus coun-  
15          tries to carry out the recommendations made in the stra-  
16          tegic plan required under section 301(a)(2) among other  
17          goals, with clear and measurable targets and indicators  
18          of success, to increase the capacity of wildlife law enforce-  
19          ment and customs and border security officers in focus  
20          countries.

21          (b) TRANSNATIONAL PROGRAMS.—The Secretary of  
22          State and the Administrator of the United States Agency  
23          for International Development, in collaboration with other  
24          relevant United States agencies, nongovernmental part-  
25          ners, and international bodies, and in collaboration with

1 communities, regions, and governments in focus countries,  
2 may design and implement programs, including support  
3 for Wildlife Enforcement Networks, in focus countries to  
4 carry out the recommendations made in the strategic plan  
5 required under section 301(a)(2), among other goals, to  
6 better understand and combat the transnational trade in  
7 illegal wildlife.

8 **SEC. 403. ENGAGEMENT OF UNITED STATES DIPLOMATIC**  
9 **MISSIONS.**

10 As soon as practicable but not later than 2 years  
11 after the date of the enactment of this Act, each chief of  
12 mission to a focus country should begin to implement the  
13 recommendations contained in the strategic plan required  
14 under section 301(a)(2), among other goals, for the coun-  
15 try.

16 **SEC. 404. COMMUNITY CONSERVATION.**

17 The Secretary of State, in collaboration with the  
18 United State Agency for International Development,  
19 heads of other relevant United States agencies, the private  
20 sector, nongovernmental organizations, and other develop-  
21 ment partners, may provide support in focus countries to  
22 carry out the recommendations made in the strategic plan  
23 required under section 301(a)(2) as such recommenda-  
24 tions relate to the development, scaling, and replication  
25 of community wildlife conservancies and community con-

1 servation programs in focus countries to assist with rural  
2 stability and greater security for people and wildlife, em-  
3 power and support communities to manage or benefit from  
4 their wildlife resources sustainably, and reduce the threat  
5 of poaching and trafficking, including through—

6           (1) promoting conservation-based enterprises  
7           and incentives, such as eco-tourism and sustainable  
8           agricultural production, that empower communities  
9           to manage wildlife, natural resources, and commu-  
10          nity ventures where appropriate, by ensuring they  
11          benefit from well-managed wildlife populations;

12          (2) helping create alternative livelihoods to  
13          poaching by mitigating wildlife trafficking, helping  
14          support rural stability, greater security for people  
15          and wildlife, sustainable economic development, and  
16          economic incentives to conserve wildlife populations;

17          (3) engaging regional businesses and the pri-  
18          vate sector to develop goods and services to aid in  
19          anti-poaching and anti-trafficking measures;

20          (4) working with communities to develop secure  
21          and safe methods of sharing information with en-  
22          forcement officials;

23          (5) providing technical assistance to support  
24          sustainable land use plans to improve the economic,

1 environmental, and social outcomes in community-  
2 owned or -managed lands;

3 (6) supporting community anti-poaching efforts,  
4 including policing and informant networks;

5 (7) working with community and national gov-  
6 ernments to develop relevant policy and regulatory  
7 frameworks to enable and promote community con-  
8 servation programs, including supporting law en-  
9 forcement engagement with wildlife protection au-  
10 thorities to promote information-sharing; and

11 (8) working with national governments to en-  
12 sure that communities have timely and effective sup-  
13 port from national authorities to mitigate risks that  
14 communities may face when engaging in anti-poach-  
15 ing and anti-trafficking activities.

16 **TITLE V—TRANSITION OF OVER-**  
17 **SEAS CONTINGENCY FUND-**  
18 **ING TO BASE FUNDING**

19 **SEC. 501. SENSE OF CONGRESS ON FUNDING.**

20 It is the sense of Congress that the President and  
21 Congress should provide for an appropriate and respon-  
22 sible transition for funding designated for overseas contin-  
23 gency operations to traditional and regular annual appro-  
24 priations, including emergency supplemental funding, as  
25 appropriate.

1 **TITLE VI—OTHER ACTIONS RE-**  
2 **LATING TO WILDLIFE TRAF-**  
3 **FICKING PROGRAMS**

4 **SEC. 601. AMENDMENTS TO FISHERMAN'S PROTECTIVE ACT**

5 **OF 1967.**Section 8 of the Fisherman's Protective

6 **Act of 1967 (22 U.S.C. 1978) is amended—**

7 (1) in subsection (a)—

8 (A) in paragraph (1), by inserting “, in  
9 consultation with the Secretary of State,” after  
10 “Secretary of Commerce”;

11 (B) in paragraph (2), by inserting “, in  
12 consultation with the Secretary of State,” after  
13 “Secretary of the Interior”;

14 (C) in paragraph (3), by inserting “in con-  
15 sultation with the Secretary of State,” after “,  
16 as appropriate,”;

17 (D) by redesigning paragraph (4) as para-  
18 graph (5); and

19 (E) by inserting after paragraph (3) the  
20 following new paragraph:

21 “(4) The Secretary of Commerce and the Sec-  
22 retary of the Interior shall each report to Congress  
23 each certification to the President made by such  
24 Secretary under this subsection, within 15 days after  
25 making such certification.”; and

1           (2) in subsection (d), by inserting “in consulta-  
2           tion with the Secretary of State,” after “as the case  
3           may be,”.