

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES  
OF WILD FAUNA AND FLORA

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Seventy-seventh meeting of the Standing Committee  
Geneva (Switzerland), 6–10 November 2023

STATEMENT BY CHINA ON SC77 DOC.33.5

1. This document has been submitted by the People's Republic of China in relation to agenda item 33.5\*.

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\* *The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat (or the United Nations Environment Programme) concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.*

## Statement by China on SC77 Doc.33.5

China notes with concern that SC77 Doc.33.5, submitted by the Secretariat, made unactual and logically erroneous assumptions about China's import of live Asian elephants from Laos between 2010 and 2018, and the Standing Committee is invited to “determine that Article III and Article VII, paragraph 5, of the Convention are not being effectively implemented by China” . However, the document fails to identify the specific practices which violated the Convention concerning China in the trade. In an effort to seek clarification and better understanding, China has written to the Secretariat several times and subsequently held a video consultation with the Secretary-General on 24 October 2023. Unfortunately, no further evidence was forthcoming so that concerns remain. China therefore wishes to inform the Standing Committee via this information document and sincerely asks it to pay close attention to the following information that has not been fully displayed in SC77 Doc. 33.5 when considering the

recommendations and to confirm that China is not in contravention of the Convention.

1. China's imports of live Asian elephants from Laos all occurred before November 2019 (before due diligence was newly added into Res. Conf. 11.3 in writing), after which China, in exercise of the precautionary principle, voluntarily suspended all imports of live elephants.

2. When China imported live Asian elephants from Laos, the trade is not subject to Article III, but to Article 7 paragraph 5 and Article 14 paragraph 1 of the Convention, mainly based on the following factors:

2.1 Many countries, including Laos, have a history of domesticating and breeding Asian elephants for hundreds of years. Prior to 2019, whether Asian elephants in these countries were captive-bred in line with the provisions of Res. Conf. 10.16 were not questioned by relevant bodies, including the Secretariat, Parties, intergovernmental international organizations and non-governmental organizations. Res. Conf 17.7 (Rev CoP18) which calls for inclusion in the process of reviewing trade in animal specimens reported as captive-produced was not applied, either.

It was not until 2021 that the Secretariat officially sent a letter to the Chinese side to learn about the origin of Asian elephants, and not until 2022 brought it to the attention of SC74. Prior to this, China accepted Laos' judgment and use of the source code C of its Asian elephants without a reason to doubt, as is the practice of other importing countries in principle to recognize the importing country's opinion on the determination of source.

2.2 As long as the Management Authority of the exporting country is satisfied that the source of the Appendix I animal is bred in captivity, it may issue the appropriate certificate in lieu of the export permits/certificates required by Article III of the Convention. In this scenario, the importing country, whether imported for zoos (code Z), breeding in captivity (code B) or other purposes, is in compliance with CITES regulations and does not need to issue a certificate of import permit. However, acting with an abundance of precaution, China has always taken stricter domestic measures than the Convention, not only confirming the authenticity and validity of the Asian elephant breeding certificate issued by Laos in

advance, but also issuing the import permit, and relevant efforts had been made *before* CITES adopted a written amendment on due diligence to Res. Conf.11.3 (Rev.CoP18) in November 2019.

3. The assumption in SC77 Doc 33.5 that the use of source code C for elephants exported from Laos is not in accordance with Res. Conf. 10.16 fails to be supported any solid evidence or comply with Conf. 17.7 (Rev. CoP19), even without Animals Committee being consulted. China deeply regrets this and believes that it is essential to implement the existing provisions and to respect the authority and professional expertise of the Animals Committee.

4. Prior to 2019, a number of Parties had imported live Asian elephants from countries such as Laos under Article VII, paragraph 5, of the Convention. According to the CITES trade database, in the period 1999-2008, out of 17 records of live Asian elephants exported from Laos, 13 records used source code C. It would appear that there is a high probability that all Parties involved in the trade in question are in violation of CITES if following the logic in SC77 Doc.33.5. However, it is curious that no new cases of potential compliance in

SC 77 Doc.33.5 were presented by the Secretariat, and that China seems to have been the only Party identified for questions of compliance with the Convention.

5. Even if it is determined now, or in the future, that the origin of live Asian elephants exported from Laos in the past did not meet the requirements of Res. Conf.10.16 for captive breeding, the determination cannot be applied retroactively to hold the importing Parties mentioned in paragraph 4 responsible. This is because importing Parties, like China, are likely to have cleared the import of relevant specimens in accordance with the then established procedures of the Convention, or issued import certificates/permits without being reminded by the Secretariat and other relevant bodies to the Convention at that time. No aspects in these practices were violating the provisions of the Convention.

6. It is a common practice for zoos and aquaria around the world to import live Appendix I animals for display, captive breeding, scientific research and public education, and to charge admission fees. Whether the purpose code Z is used for commercial purposes is highly controversial and subject to interpretation world-wide.

7. The process of the technical mission is clearly documented in Doc. 33.5, including the two facilities that are Chinese state-owned zoo-type entities, which not only allow visitors to see a variety of animals, learn about animal conservation, and etc., but also carry out rescue and breeding work for Asian elephants. Unfortunately, without adequately reflecting the full range of non-commercial aspects, including but not limited to scientific education and rescue for release, the document appears to drive towards a conclusion that an admission fee immediately equates to “a primarily commercial purpose”.

In this regard, China invites the Standing Committee, Parties, intergovernmental international organizations, non-governmental organizations, the private sector and other stakeholders to pay close attention to the full set of facts and CITES regulations, to conduct in-depth discussions and consultations with all interested Parties, to carefully consider the logic failure that admission fee equates to primarily commercial purpose, as laid out in SC77 Doc.33.5. The implications for the global zoo industry will be obvious and far-reaching.

8. In summary, China would like to draw attention

of Parties, especially those that have imported live Appendix I species, that SC77 Doc.33.5 sets a lot of dangerous precedents, such as, a) subjective determinations of source of the trade, without following the existing non-compliance with the existing provisions, providing sufficient scientific evidence, or soliciting the professional view of the Animal Committee, b) holding importing Parties responsible directly, without taking into consideration the timeliness of the Convention's resolutions and information gaps, and without identifying specific aspects and reasons of trade that violates the Convention, c) negating the common practices that import countries generally respect the determination of source code by exporting countries.

9. China strongly calls on all members of the Standing Committee to carefully identify the logical, procedural and factual errors in SC77 Doc.33.5, and to respectfully request a clear explanation from the Secretariat, as appropriate, and to correctly determine the responsibilities of importing countries, and to earnestly uphold the authority of the Convention and the Animals Committee. The following proposal is also made to replace Doc. 33.5 Paragraph 56, for



consideration by the members of the Standing Committee.

9.1. The Standing Committee is invited to draw attention to the failure to implement Res. Conf.17.7 in the process of conducting the technical assessment and making the recommendations for conclusions, the failure to obtain the support of the professional opinion of the Animal Committee, and the timeliness of the written resolution of the relevant provisions on due diligence, as well as the fact that China, as the importing country, was not alerted by the Secretariat and other Parties or bodies to the possibly incorrect use of the source code.

9.2. The Standing Committee is invited to be aware that Article III and Article VII, paragraph 5, of the Convention may not have been effectively implemented in the past, in particular concerning two main elements: i) the source code may not meet the criteria set out in Resolution Conf. 10.16 (Rev. CoP19); ii) whether zoo-type imports are commercial is still highly controversial world-wide.

9.3. The Standing Committee is invited to decide that the Secretariat shall report the information on the export of Asian elephants in accordance with Res. Conf.

17.7 (Rev CoP19) and other procedures, among which the Animals Committee is invited to draw professional conclusions after research and propose solutions. China should give serious consideration to the recommendations of SC77 DOC 33.10 and the follow-up the conclusions of Animals Committee in accordance with the Res. Conf. 17.7, and in consultation with CITES Secretariat regarding the CITES provisions as appropriate. China shall not issue an permit/certificate for the import of Asian elephants from Laos with primarily commercial purpose until it has been confirmed that the use of the source code of Asian elephants in Laos complies with CITES requirements.

9.4. The Standing Committee is invited to encourage Parties to strengthen their cooperation with Laos to support the *in-situ* conservation of the Asian elephants.