

KEY CONCERNS AND RECOMMENDATIONS: SC70 DOC. 27.3.1: APPLICATION OF ARTICLE XIII IN THE LAO PEOPLE'S DEMOCRATIC REPUBLIC

September 19, 2018

The lack of progress made by Lao PDR (Laos) to tackle wildlife and timber trafficking is a serious concern for EIA. Laos has been the subject of Article XIII compliance proceedings since 2014.¹ Concerns regarding lack of compliance by Laos were identified by the CITES Secretariat back in 2011.² In light of continued failure to demonstrate adequate progress, EIA calls for Laos to be subject to a recommendation to suspend trade in specimens of CITES-listed species. Below are detailed comments and recommendations regarding SC70 Doc. 27.3.1: Application of Article XIII in the Lao People's Democratic Republic.

Key Concerns

Regarding paras 13, 14

While PM Order No. 5/2018 is a welcome step, it is yet to be embodied in appropriate national laws and regulations and should address certain loopholes in the Order. EIA is concerned about provisions in the Order that support the “transformation” of existing commercial wildlife farms into safari parks or zoos. The Secretariat’s report also refers to draft guidelines for the systematic management of wildlife farming, however these guidelines have only been provided in Laotian language and the Secretariat’s report offers no comments on the substance of these guidelines. EIA is concerned that the PM Order and the guidelines would enable the conversion of tiger farms in Laos, including those that are implicated in tiger and other wildlife trafficking, into so-called zoos/safari parks, which may only serve as a front for future illegal trade.

Regarding para 25

The report indicates that during 2017 and 2018 Laos has continued to systematically violate the Convention for *Dalbergia oliveri/bariensis* (Burmese rosewood) – having already done so for Siamese rosewood (*D. cochinchinensis*) from 2013 – 2016.

These newer rosewood CITES violations centre on the issuance of around 540 CITES Export Permits during 2017 and the first half of 2018 – the majority of which were for exports of *D. oliveri* to China – without having conducted Non Detriment Findings (NDFs) as required by Article IV paragraph 2.a. In Lieu of these violations, the Secretariat rightly recommends the imposition of a suspension on trade in all specimens of *Dalbergia* species originating in Laos – effectively extending a trade suspension imposed on Laos for *D. cochinchinensis* in 2016.

However, EIA remains concerned that the Secretariat’s report and the recommended trade suspension, have overestimated the effectiveness of Laos’ enforcement of domestic legislative measures (in particular enforcement of PM Order 15/2016, see SC70 Doc. 27.3.1 paragraph 19), while not accounting for evidence of on-going illegal rosewood exports from Laos to China in violation of Article IV paragraph 2.b of the Convention, which requires export permits be issued only once Legal Acquisition Findings have taken place (please see Annex 1 below).

¹ CITES SC65 summary record

² SC67 Doc. 12.1.

EIA recommends that the proposed trade suspension be strengthened to include the condition that it only be lifted once Laos demonstrates the exercise of credible verification of legal acquisition that takes into account laws fundamental to the governance and enforcement of its forestry and timber trade sectors. Failure to do so will likely result in significant on-going violations of the Convention by Laos in rosewood trade.

Regarding paras 28-29

EIA has produced an assessment of progress made by 19 countries under the National Ivory Action Plan Process (NIAP).³ Our findings presented in the report highlight that there is an urgent need for Laos to revise its NIAP and to strengthen NIAP implementation.

Regarding para 33

We note that following the seizure of three tiger carcasses in January 2018, there is no mention in the Secretariat's report of DNA samples or stripe pattern photographs having been taken from the seized tiger specimens, and no attempt therefore has been made to liaise with counterparts in Thailand to cross-reference against their DNA and stripe pattern databases in accordance with Resolution Conf. 12.5 (rev. CoP17), *Conservation of and trade in tigers and other Appendix-I Asian big cat species*. It is understood that the three carcasses are currently being stored at the Vinasakhone tiger farm, but it is not clear as to why.

Regarding para 42

The recent study on lion bone trade not only implicates Laos in illegal cross-border trade in lion bone, but also highlights a serious lack of oversight on behalf of the Laos CITES authorities with regards to imports of large quantities of lion bone; despite Laos being highlighted as one of the two biggest importers of lion parts in recent years, the Laos CITES authorities has claimed that there have been no imports of lion parts into the country.

Regarding para 45

Lao's six captive tiger facilities offer no educational or conservation value and, on the contrary, have been linked to illegal trade in tigers⁴ and other wildlife. We are disappointed to note that the Secretariat's report supports the Lao Government's plan to convert tiger farms into tourist facilities, pre-empting the outcome of the audit of tiger facilities due to begin in September 2018. It is a matter of serious concern that by supporting this action, the Secretariat is potentially condoning past criminal activities of captive tiger facilities in Laos and is endorsing the continuation of such operations. The Secretariat's report itself recognises the "discrepancy" in captive tiger numbers in Laos; CITES missions to Laos have recorded "missing tigers" in some facilities where the tigers have been likely moved to other facilities in Laos, Vietnam and China.⁵

³ EIA (2018), *Taking Stock: An assessment of progress under the National Ivory Action Plan process*, <https://eia-international.org/reports-mm/niap/>.

⁴ EIA, ENV, WFFT (2017), *Cultivating Demand: The Growing Threat of Tiger Farms*, <https://eia-international.org/report/cultivating-demand-growing-threat-tiger-farms/>.

⁵ SC69 Doc. 29.2.1.

At least three captive tiger facilities in Laos have been implicated in serious illegal activity:

- The U.S. Department of the Treasury has sanctioned the Zhao Wei transnational criminal organisation, responsible for the Kings Romans Casino and tiger facility in Laos' Golden Triangle Special Economic Zone, for involvement in drug trafficking, human trafficking, money laundering, bribery, and wildlife trafficking.⁶
- Vannaseng Trading Company has been implicated in a case of illegal ivory trade and money laundering out of Uganda.⁷
- Over 300 tigers have disappeared from the Vinasakhone tiger farm, by the tiger farm owners own account, but adequate information or evidence as to where they have gone is yet to be provided.⁸

As such the companies and individuals responsible for these facilities should be the target of investigation resulting in appropriate prosecution and sentencing and should not be allowed to simply continue their business under the façade of a tourism or conservation. In particular, we urge CITES Parties that have provided funding and support for the tiger audit in Laos to consider the above concerns given that their well-meaning support could potentially serve as an enabling factor for continued operation of these facilities implicated in illegal activities.

Regarding para 46

The Standing Committee at its 69th meeting (SC69) had recommended the establishment of a *Committee on Tiger Farms composed of government officials, relevant national organizations, members of the Cat Specialist Group of the Species Survival Commission of the International Union for Conservation of Nature (IUCN/SSC), the World Association of Zoos and Aquaria (WAZA), the CITES Secretariat and other international organizations.*⁹ Laos is yet to establish such a Committee. Further, contrary to the composition recommended by SC69, the Secretariat's SC70 report notes that the Committee would only include the CITES Secretariat, the South-East Asian Association of Zoos and Aquariums and IUCN Cat Specialist Group. We note that in addition to the IUCN's Captive Breeding Specialist Group, there are experts in managing large numbers of big cats for non-commercial purposes, or expertise in running sanctuaries where there is no buying, selling, breeding or handling of wildlife, who should be invited to participate in the Committee. This could include Big Cat Rescue, 4PAWS and Wildlife Friends Foundation Thailand.

⁶ <https://home.treasury.gov/news/press-releases/sm0272>.

⁷ <http://www.monitor.co.ug/News/National/Foreigners-sent-for-trial-over-ivory/688334-4011216-ijtwsnz/index.html>.

⁸ EIA, ENV, WFFT (2017), *Cultivating Demand: The Growing Threat of Tiger Farms*.

⁹ SC69SR-p. 25.

Recommendations

EIA supports CITES trade suspensions against Laos and recommends the following amendments to the Secretariat's recommendations highlighted in **bold and underlined**:

- a) *Parties shall suspend commercial trade in specimens of the genus *Dalbergia* spp., including finished products such as carvings and furniture from Lao PDR, until Lao PDR makes scientifically based non-detriment findings **and credible verification of legal acquisition** for trade in the relevant species, including *D. cochinchinensis* and *D. oliveri*, to the satisfaction of the Secretariat.*
- b) *adopt adequate legislative measures to implement the Convention that meet the minimum requirements set out in Resolution Conf. 8.4 (Rev. CoP15) on National laws for implementation of the Convention **and strengthening implementation of its NIAP including extending protection to both African and Asian elephants and closing Lao's legal domestic ivory market**:*
- cc) **Provide a clear timeframe for enacting key elements of the PM Order No. 5/2018 into appropriate legislation and regulations**
- j) *investigate and prosecute mid- to high-profile cases involving organized or transboundary activities, such as those identified by various international partners **and including individuals and businesses implicated in illegal trade from and through captive tiger facilities in Laos**; and continue to provide to the Secretariat the results (arrests and prosecutions) of any investigations conducted by competent national authorities to determine the origin of specimens in illegal trade, the identities of individuals involved in smuggling, and the results of any legal proceedings against alleged perpetrators for the period July 2018-January 2019; [...]*
- m) *finalize the full audit of the tigers kept in captivity, combined with a marking scheme and genetic analysis of the animals to establish their origin in collaboration with relevant international organizations to comply with paragraph 1 g) of Resolution Conf. 12.5 (Rev. CoP17) on Conservation of and trade in tigers and other Appendix-1 Asian big cat species and Decision 14.69. **Ensure that the audit provides an explanation for discrepancies in tiger numbers and that Laos' next report to Standing Committee due on February 1, 2019 includes an explanation and evidence (such as documents related to exchange / sale / export), for the movement of tigers from and through these facilities. Upon completion of the audit, consult with the advisory committee of experts, before making decisions on how to manage tigers in captive facilities:***
- mm) **suspend breeding of tigers in captivity pending outcome of the audit and relevant investigations into trade in captive tiger specimens;**
- n) *establish an appropriate advisory mechanism with involvement of relevant international organizations, **including those with expertise in looking after tigers in captivity and running wildlife sanctuaries where there is no breeding, buying, selling, or handling by visitors**, to provide support and advice on ~~the transformation of the tiger farms management options for tigers currently in captive facilities, pending outcomes of the audit, and definitions of 'conservation purposes' and other ambiguous terms used in PM Order No. 5~~*

8. Regarding legal imports of lion bone

- q) **taking into consideration the findings in SC70 Doc. 54.1, provide an explanation of the reported imports/exports of any lion products into / out of Laos.**

ANNEX 1: EVIDENCE OF ON-GOING ILLEGAL ROSEWOOD EXPORTS FROM LAOS TO CHINA

In May 2016, through PM Order 15/2016 *On Strengthening Strictness of Timber Harvest Management and Inspection, Timber Transport and Business*, Lao's effectively banned the export of "logs, big size sawed timbers, sawn timbers, spited wood, roots, stumps, knots, branches and standing trees or decorative trees that are harvested from natural forest in any cases"¹⁰.

China Customs reports¹¹ that from June 2016 (the month after PM Order 15/2016 came into force) until March 2018, China imported 216 Million USD of rosewood logs and 87 Million USD of sawn rosewood from Laos under customs codes (44039930 & 44079910) historically used for rosewood or "hongmu" species, including both *D.cochinchinensis* and *D.oliveri*.

These trade data indicate that Laos is still firmly one of China's top suppliers of rosewood raw timber. Laos supplied 87% of China's 2017 sawn rosewood imports (under HS code 44079910) from all countries worldwide, and 88% of its imports from January to March 2018. Similarly, Laos supplied 47% of China's 2017 rosewood log imports (under HS code 44039930) and 44% of those imported from January to March 2018.

All of this trade in these commodities (logs and sawn timber) appears to violate Laos PM Order 15/2016 – which suspended all exports of logs and sawn timber.

While China's declared imports under these customs codes will have incorporated imports of all rosewood or "hongmu" species available in Laos, including species not listed on CITES appendixes (such as Burmese Padauk, *Pterocarpus macrocarpus*), it is highly likely that *D.oliveri* shipments make up a proportion of them.

If *D.oliveri* imports from Laos are included in the January 2017 – March 2018 China Customs statistics for HS 44039930 and 44079910, then all such shipments would have been in violation of Article IV paragraph 2.b of the Convention, as they would have been accompanied by Laos CITES export permits issued without a credible Legal Acquisition Finding (LAF, soon to be renamed Verified Legal Acquisition – VLA), and in lieu of commodities not allowed for export under current Laos law.

China Customs has also disclosed some increased imports of rosewood furniture from Laos during 2017 and 2018, under the HS codes 94035010 and 94036010, and it is possible that some of the *D.oliveri* exported by Laos (under the majority of the 540 Export Permits issued from January 2017 to June 2018) were captured in these furniture trade statistics. If so, these exports could theoretically comply with PM Order 15/2016. However, it is worth noting that between June 2016 and March 2018, China's rosewood furniture imports were worth only 8 Million USD, thirty-eight times less than the combined 303 Million USD value of rosewood logs and sawn timber imported within the same time period.

SC70 Doc. 27.3.1 does not state what form of commodity Laos' exports of *D.oliveri* comprised – logs, sawn timber, or furniture – and none of the trade has yet been disclosed to the CITES Trade Database. This makes it impossible to discount the likelihood that a majority of Laos' exports of *D.oliveri* occurred as logs or sawn timber (as has historically been the case), in violation of PM Order 15/2016, and therefore Article IV paragraph 2.b of the Convention.

¹⁰ Paragraph 8 of SC69 Doc 29.2.1, <https://cites.org/sites/default/files/eng/com/sc/69/E-SC69-29-02-01.pdf>

¹¹ Source: Global Trade Atlas, <https://www.gtis.com/gta/>

The Need to Strengthen the Proposed Trade Suspension:

Under the trade suspension recommended in SC70 Doc. 27.3.1, if/when Laos' capacity to conduct NDFs for *Dalbergia's* meets the Secretariat's satisfaction, the trade suspension will be lifted.

Yet if Laos has been and recommences exporting *D. oliverias* logs and sawn timber, such exports will still violate domestic legislation, and in turn Article IV paragraph 2.b of the Convention.

EIA urges Parties and the CITES Secretariat to ensure the Standing Committee includes evidence of effective and credible verification of legal acquisition (LAF/VLA) as a pre-condition for the lifting of the trade suspension on *Dalbergia spp.* specimens of Laos origin.