



United States Department of the Interior



FISH AND WILDLIFE SERVICE
International Affairs
5275 Leesburg Pike, MS: IA
Falls Church, VA 22041-3803

February 13, 2023

In reply refer to: [REDACTED]



Dear [REDACTED]:

We have received your application dated December 5, 2022, to re-export live *Macaca fascicularis*, commonly referred to as the crab-eating macaque or long-tailed macaque, under the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES). After careful review and consideration of your application, your request has been denied for the reasons outlined below.

The crab-eating macaque is listed under CITES as Appendix II. In order for us to issue a re-export certificate for an Appendix-II specimen that was previously imported into the United States, the Division of Management Authority (DMA) must consider any reliable, relevant information concerning the validity of a CITES document, regardless of whether the shipment was cleared by the U.S. Fish and Wildlife Service (Service) [50 CFR 23.60(h)]. For a specimen that is captive-bred, this determination may include confirming whether the parental stock was legally acquired [50 CFR 23.37(c), 23.60(b), (e)]. We may also seek to verify the validity of a CITES document under which a specimen was previously imported if we have reason to believe that a CITES document is not valid, including if we have reasonable grounds to believe that the specimen identified as bred in captivity is a wild specimen, was produced from illegally acquired parental stock, or otherwise does not qualify as bred in captivity [50 CFR 23.26(d), 23.63.]. The applicant must provide sufficient information for us to make a legal acquisition finding and other required determinations [50 CFR 23.33, 23.34, 23.60(c)].

The Service's CITES implementing regulations in Part 23 are consistent with CITES requirements, including Article IV, paragraph 5 (a) which requires a Management Authority of the State of re-export to be satisfied that the specimen was imported into that State in accordance with the provisions of the Convention and Article II, paragraph 4, which states that Parties shall not allow trade in specimens of species included in Appendices I, II, and III except in accordance with the provisions of the Convention.

Further, Resolution Conf. 11.3 (Rev. CoP18), paragraph 2 a) additionally recommends that "if the Management Authority of the State of import or re-export has reason to believe that specimens of CITES species are traded in contravention of the laws of any country involved in the transaction, or has reason to believe that the specimen accompanied by a CITES document may not have been traded in accordance with the provisions of the Convention (e.g., when they have reason to believe that the specimen may not have been legally acquired, that the required non-detriment finding may not have been made, or that any other CITES requirement(s) may not have been fulfilled), . . . where there is uncertainty with regard to the legal acquisition finding, the required non-detriment finding, or other CITES requirement(s), . . . it should not authorize the import or re-export of the specimen concerned and should not issue an import permit or a re-export certificate." Resolution Conf. 18.7 on Legal acquisition findings, recommends that

Management Authorities be guided by the recommendations in Resolution Conf. 11.3 (Rev. CoP18) on Compliance and enforcement, paragraph 2 a). Consistent with these recommendations DMA may also consult with the country of export, but as stated in Resolution Conf. 18.7, paragraph 3 c), “the applicant is responsible for providing sufficient information for the Management Authority to determine that the specimen was legally acquired, such as statements or affidavits made under oath and carrying a penalty of perjury, relevant licenses or permits, invoices and receipts, forestry concession numbers, hunting permits or tags, or other documentary evidence” [codified in 50 CFR 23.33, 23.34, 23.60(c)].

The Service has become aware of information that calls into question the legal origin of specimens of the crab-eating macaque that you are requesting to re-export. On November 3, 2022, the U.S. Department of Justice issued an indictment in the Southern District of Florida, 22-20340-CR-Williams, regarding the smuggling of crab-eating macaque from Cambodia into the United States. The indictment includes specific information gathered from emails, financial documents, and shipping documents demonstrating a conspiracy between high-ranking Cambodian officials with CITES oversight responsibilities and a Hong Kong company to launder and smuggle wild crab-eating macaques as captive-bred.

The indictment identifies facilities established in Cambodia for the captive breeding of crab-eating macaques to be sold on the world market and indicates that these facilities illegally purchased crab-eating macaques from black-market suppliers who had illegally collected these crab-eating macaques from the wild. Further, the indictment indicates that these facilities euthanized captive-bred specimens found unsuitable for export and transferred their identification tags to the wild-caught macaques and secured CITES export permits that falsely identified these wild-caught macaques as captive-bred.

This new information has informed our determination of legal acquisition, including whether trade in the specimens was in accordance with the provisions of CITES. Information provided with your application indicated that prior export(s) of the specimens [REDACTED] from Cambodia, was authorized under CITES document(s) with a source code “C”. Source code “C” may only be used for specimens that qualify as bred-in-captivity according to CITES Resolution Conf. 10.16 on Specimens of animal species bred in captivity [codified in 50 CFR 23.5, 23.24, 23.63]. The validity of those CITES documents are now in question. DMA must be able to confirm that the crab-eating macaque specimens previously imported under a CITES document were legally acquired in order to authorize re-export of those specimens. Because we are unable to determine that the specimens you are requesting to re-export were legally acquired, we are unable to make a legal acquisition finding as required by CITES and 50 CFR 23.60. Therefore, we must deny your application.

As provided in 50 CFR 13.29(a), you may request reconsideration of our decision to deny your application. Such a request must be submitted in writing with the original signature of the person requesting reconsideration or by that person’s legal representative, must contain a certification statement as provided at 50 CFR 13.12(a)(5), should refer to your file number CS0102103/PER1367099, and must be received in this office within 45 calendar days of the date of this letter.

In accordance with 50 CFR 13.29(b), the request for reconsideration shall state the decision for which reconsideration is being requested and shall state the reason(s) for the reconsideration, including presenting any new information or facts pertinent to the issue(s) raised by the request for reconsideration.

If you have any questions, please contact Amy Brisendine of this office: Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, Virginia 22041-3803 (703-358-2104 or Amy_Brisendine@fws.gov).

Sincerely,

MARY

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Mary Cogliano, Ph.D.

Branch of Permits Manager

Division of Management Authority