

Chapter 5 The supervisory scheme over the business and the products certification scheme, for internal trade control on ivory cut pieces and ivory products

5.1 The supervisory scheme over the business related to trade in ivory cut pieces and ivory products

5.1.1 Purpose and outline of the supervisory scheme over the business dealing with designated body part, etc. of international endangered species

Industries processing and trading raw material derived from endangered species as material of certain products is commonly found in Japan. LCES takes account of securing the material for them and for that it established an exemption of the internal trade regulation / registration scheme¹. More specifically, certain body parts and products of international endangered species as being used for materials of products produced in Japan are designated as “raw material part, etc.”², and further, such does “not maintain the whole shape” are prescribed as “designated body part, etc.”³ which is subject to exemption of internal trade regulation / registration scheme⁴.

On the other hand, some measures should be required for preventing smuggled items from entering into the domestic legal market from the viewpoint of securing effective implementation and enforcement of CITES⁵. Therefore, a supervisory scheme over the business transferring or delivering the designated body part, etc. with regard to tusk of Elephantidae and shell of Cheloniidae in particular is in place (“Business activity in connection with a designated internationally endangered species, etc.”⁶).

5.1.2 Mandatory notification

Individuals or companies who are engaged in businesses of transfers or deliveries of “designated body part, etc.” of tusk of Elephantidae (ivory tusks except for whole tusks) shall notify in advance to the Minister of Environment and Minister of Economy, Trade and Industry of their names, addresses, stocks, and the other given

matters^{7 8}.

Those who have made the notification shall notify the Ministers, where they made any changes in the matters notified or terminated the businesses, within 30 days of the changes or termination⁹.

5.1.3 Matters to be adhered to by notified business operators

The notified business operators are mandated to comply with those matters as follows.

Confirm the names and addresses of the transferors, and obtain information from them on the sources of the designated body part, etc. when the manifests are not attached to the designated body part, etc.¹⁰. The manifests can be voluntarily¹¹ made in the case of transferring or delivering the designated body part, etc. as material of the products¹² by the notified business operators^{13 14},

7 LCES Article 33-2. Those to be engaged in the business without notification shall be fined an amount not exceeding 500,000 yen (US\$4,545) LCES Article 62 (a)

8 The amendment to LCES in 2017 applied a business registration scheme instead of the existing business notification scheme. See 7.4.2 in details.

9 LCES Article 33-5 Article 30 Paragraph 3, Ministry Order on Notification Article 3.

10 LCES Article 33-3 Article 1

11 The amendment to LCES in 2017 mandated registered business operators to prepare a manifest containing necessary information concerning the processes, etc. where the ivory cut piece has been acquired by dividing a cut piece which he/she obtained legally. See 7.4.2 in details.

12 The designated body part, etc. for which the manifest may be prepared is limited to the material of the “products” to be certified because preparation of manifest forms a process of products certification scheme (LCES Article 33-6 Paragraph 1). See NOTE 27 about the lineup of the “products”.

13 Manufacturers are supposed to be.

14 A notified business operator may prepare a manifest when he/she fall under any one of the following requirements.

(i) where the person transfers or delivers a designated body part, etc. obtained by dividing a whole tusk received by transfer or a delivery together with the registration card pertaining to the tusk, etc. (LCES Article 33-6, Article 1 (a));

(ii) where the person delivers a designated body part, etc. obtained by dividing a designated body part, etc. received by transfer or a delivery together with the manifest pertaining to the designated body part, etc. (LCES Article 33-6, Article 1 (b));

(iii) where the person transfers or delivers a designated body part, etc. obtained by dividing a whole tusk or a designated body part, etc. imported by him/herself (LCES Article 33-6, Article 1 (c), Ministry Ordinance on Notification Article 6 (a)); or

(iv) where the person, within 3 months after the date of effectuation of the business notification scheme (28th June, 1995), transfers or delivers a designated body part, etc., as status quo or after dividing it, which have been possessed under the confirmation of the Ministers to be legally obtained at the time of the effectuation (LCES Article 33-6, Article 1 (c), Ministry Ordinance on Notification Article 6 (b)).

1 Environmental Agency, 1995

2 See note 3 in Chapter 4

3 Ibid.

4 LCES Article 12 Paragraph 1 (c) and Article 17

5 Environmental Agency, 1995

6 LCES Article 33-2, Cabinet Order Article 5-2. However, “processed product” of Cheloniidae shell is exempted from the targeted designated body part, etc. under the scheme (It means only cut pieces of shell are targeted. Cabinet Order Article 5-3).

in which necessary matters as for the processes of receiving the designated body part, etc.¹⁵ are to be described¹⁶.

Enter the matters they have confirmed, obtained information and other given matters, weight (number in the case of “products”) and major features of the designated body part, etc., date of transfer/receipt, amount of remained stock after transfer/receipt and presence/absence of manifest and manifest ID if present¹⁷ in documents (“ledgers” hereinafter), and shall preserve them for five years¹⁸.

5.1.4 Supervisory measures to the notified business operators

When the notified business operators violates the matters to be adhered to, the minister may issue instructions to take necessary actions¹⁹, and may order them to suspend the whole or a part of their transfer or delivery businesses of the designated body part, etc. for a period not exceeding three months in the cases where they have violated the instructions²⁰.

15 The matters for entry in the manifest are (i) name of preparer, (ii) type, weight and major features of the designated body part, etc., (iii) name and address of the transferor/deliverer of the ivory, (iv) the registration ID (in the case a designated body part, etc. to be transferred/delivered was obtained by dividing a whole tusk) or the manifest ID (in the case a designated body part, etc. to be transferred/delivered was obtained by dividing the designated body part, etc.), or ID of the document proving that the import of whole tusk/a designated body part, etc. was imported under the approval, etc. under FEFT (in the case a designated body part, etc. to be transferred/delivered was obtained by importing or by dividing the imported one), and (v) date of transfer/deliver (date of import)

(LCES Article 33-6 Paragraph 1, Ministry Ordinance on Notification Article 5),

16 As a procedural rule for the manifest, where the manifest has been prepared, the designated body part, etc. shall be transferred or delivered together with said manifest (LCES Article 33-6 Paragraph 2), and it shall be transferred or delivered together with the designated body part, etc. to which it pertains (LCES Article 33-6 Paragraph 3).

Where a notified business operator violated the rules above or includes false information in said manifest, the Ministers may prohibit him/her from preparing a manifest under the provisions for a period specified by the Ministers not exceeding three months (Article 33-6 Paragraph 4). The person violated the order above shall be punished by imprisonment with work for not more than 6 months or a fine of not more than 500,000 yen (US\$ 4,545).

While those administrative measures against violation are set forth, such violation is exempted from the subject of criminal punishment. The weakness of the compliance measure for management of the manifest is based on the nature of voluntary preparation of manifest which forms a part of the process of the products certification scheme as an incentive measure.

See 7.4.2 with regard to preparation of the manifest obligated by the amendment to LCES in 2017.

17 This is not the case when they transfer/deliver products because a manifest is not allowed to prepare for transferring/delivering products. See NOTE 14.

18 LCES Article 33-3 Article 2, Ministry Order on Notification Article 2

19 LCES Article 33-4 Article 1

20 LCES Article 33-4 Article 2

As above, an administrative disposition or “instruction” is the provision of issuing a suspension order²¹, however, it has not been actively used. Recently, an ivory manufacturer, Nippon Ivory received an “instruction” in September 2016^{22 23}.

The powers for collection reports and on-the-spot inspections may make the aforementioned supervisory measures effective. The Ministers may seek reports from the notified business operators and may have their personnel enter the facilities where the businesses dealing with the designated body part, etc. are conducted to have them inspect documents and other articles or to make enquiries to the parties concerned^{24 25}.

Those having violated the business-suspension orders shall be imprisoned for a term not exceeding 6 months or fined an amount not exceeding 500,000 yen (US\$4,545) (LCES Article 59 (c)).

The business activities to be suspended are limited to transferring and delivering, so receiving of a designated body part can be continued.

Furthermore, the suspension order does affect only the transferring/delivering of a designated body part, etc., therefore, it does not influence the trade in whole tusks by the business operator imposed by a suspension order at all (At the beginning, the administrations are not authorized to issue an “instruction” against the transferring /delivering whole tusks).

21 The amendment to LCES in 2017 authorized the administrations to impose with a business suspension order or even revocation of business against the operators who has violated the provisions of LCES, not via an administrative disposition. See 7.4.2 in details.

22 In 2nd September, 2016, METI and MoE imposed an administrative disposition (“instruction”) to Nippon Ivory Co. Ltd. (Hamamatsu City, Shizuoka Prefecture) based on LCES Article 33-4 Paragraph 1.

The disposal reason is “it has not recorded the provisioned matters (the matters they have confirmed or obtained information and other given matters) on the ledger since 1st April 2011 at latest in violation of LCES Article 33-3 Paragraph 2 and Ministry Order on Notification Article 2” (METI, 2016.d).

23 The business operator is a major member of “Tokyo Ivory Arts and Crafts Cooperative Association” forming “Japan Federation of Ivory Arts and Crafts Association” (JIA) together with “Osaka Ivory Arts and Crafts Cooperative Association”, and had announced the policy and activities of JIA until a while after the crackdown. It was also the buyer No.17 in the phone survey (see 4.4.3) and the seller No.1 (see 4.4.5) in the door-to-door survey. It suggested during the surveys to buy unregistered whole tusks (applicable to the category ii) of the legality. See 4.4.3, 2)), abrupt diversion of registration card issued for the other whole tusks which have been already divided (see 4.8.3, 1)), cover purchased unregistered whole tusks with legalized stock of whole tusk for manufacturing (see 4.8.4, 2)), divide the purchased whole tusks without registration swiftly for disguising as purchasing cut pieces not mandated to be registered (see 4.8.5, 3)), and intend to sell ivory in spite of knowing it is exporting to China (see 4.4.5, 8)). It also referred to the existence of Chinese groups which provide agent service for transporting ivory to China (ibid.).

In November 2016, the paper on the case that Nippon Ivory purchased 5 unregistered whole tusks between February 2015 and June 2016 was sent to prosecutors (Case 15 on Table 8-2 and Annex 4).

24 LCES Article 33 Paragraph 1 which will be applied *Mutatis Mutandis* Pursuant to Article 33-5.

Those having false reports, obstructed or evaded the on-the-spot inspections, and so on shall be fined an amount not exceeding 300,000 yen (US\$2,727) (LCES Article 63 (g)).

25 Collection reports on on-the-spot inspections are conducted by the personnel of METI and MoE (LCES Article 33 Paragraph 1 which will be applied *Mutatis Mutandis*

5.2 The products certification scheme as an incentive measure

The registered certification organizations to the Ministers (“certification organization” hereinafter)²⁶ may, based on applications of producers of products²⁷ made of ivory tusk as raw material body part, etc. certify²⁸ that their products are made of legally-obtained materials²⁹.

The certification organization shall, when the certification is made, issue to the applicants the marks indicating to that effect for each product item concerned that the products have been certified³⁰.

It is left to the producers’ option whether the application for certifying products would be made. The retailers may also decide, based on their own will, if they attach the marks on the products concerned, however, the marks shall not be attached to anything other than the products certified with regard to the marks³¹.

Pursuant to 33-5). In METI, the HQ is in charge of manufacturers and wholesalers and the each regional Bureau of Economy, Trade and Industry is in charge of retailers. METI claimed that it has strengthen on-the-spot inspection recently (METI, 2015.g).

26 LCES Article 33-7 Paragraph 1, 33-8 Paragraph 1 and 6

27 The following products shall be made of ivory tusks as material, the parts of which ivory is used for shall not be negligible and the ivory used in the parts shall be readily recognizable (Cabinet Order Article 5-5, Ministry Order on Notification Article 7);

“accessories”, “furnishing goods”, “musical instruments”, “hanko”, “indoor recreational equipment”, “stationeries”, “smoking supplies”, “Buddhist altar articles”, “tea utensils”, “tableware”, and “convenience goods”.

28 A notified business operator may receive a certification for a product when he/she fall under any one of the following requirements.

(i) where the person receives a designated body part, etc. as the material of the product together with the manifest pertaining to the designated body part, etc. (LCES Article 33-7 Article 2 (a));

(ii) where the person receives a whole tusk as the material of the product together with the registration card pertaining to the tusk (LCES Article 33-7 Article 2 (b));

(iii) where the person imported a whole tusk/ designated body part, etc. as the material of the product (LCES Article 33-7 Article 2 (c), Ordinance on Notification Article 8 (a));

(iv) where the person, within 3 months after the date of effectuation of the products certification scheme (28th June, 1995), applied for the certification of a product produced from a whole tusk/a designated body part, etc. as material, which have been possessed under the confirmation of the Ministers to be legally obtained at the time of the effectuation (LCES Article 33-7 Article 2 (c), Ministry Ordinance on Notification Article 8 (b)).

29 “Products are made of legally-obtained materials” (Title of LCES Article 33-7) specifically means “products are made of the designated materials satisfying the requirements to the registrations (of the whole tusks)” (LCES Article 33-7 Paragraph 1).

30 LCES Article 33-7 Paragraph 3. Those having obtained certification by a falsehood or other illegal means shall be fined an amount not exceeding 300,000 yen (US\$ 2,727) (LCES Article 63 (h)).

31 LCES Article 33-7 Paragraph 3 and Article 63 (i). Sale of the certification marks together with products without certification is not prohibited unless the marks are not attached to the products. It means that a product without certification, even produced from illegally obtained unregistered ivory, can be legally sold with a certification mark issued for

The products certification scheme were established under the recognition that attachment of the marks will make consumers possible to choose the products made of legally-obtained materials, and it will lead that products made of materials acquired from legal origin will be popular in the market³².

But, in reality the trade in the products attached with the marks is not so popular and expected results to the scheme have not been recognized due to its nature as non-mandatory measure, even after over 20 years since implementation of the scheme³³. The *raison d'être* of the scheme has been questioned by numerous critics³⁴.

5.3 Management by the administrations of the information obtained through the process of the supervisory scheme over the business

5.3.1 Details of mandatory notification and submission of notification form

Those engaged in the business dealing with designated body part, etc. of ivory tusk shall submit a notification form³⁵ to the Minister of Environment and the Minister of Economy, Trade and Industry with the following matters entered in³⁶;

- Name, address and name of the representative of the company

- Name and address of the business facility

- Start date of the business

- Stocks at the notification

“Products” including ones in-process: by number

The other designated body part, etc. or cut pieces including chips: by weight

another product. It is concerned that those attempts would actually be realized because certification marks are impossible to be “attached” in reality on certified products, particularly hanko. The diameter of certification marks are as large as 3 cm (LCES Article 33-7 Paragraph 3, Ministry Order on Notification Article 9 and Standardized Form No.2), therefore, “their use on hankos was rather impractical” as the CITES Secretariat pointed out (CITES SC41.6.1 (Rev.) . CITES SC54 Doc.26.1 (Rev.1)). Accordingly, the criminal penalty (LCES Article 63 (i)) is almost meaningless.

Furthermore, it is not prohibited to trade certification marks separated from the relevant products certified. It means that manufacturers conducting illegal activities can buy in certification marks separated from the relevant products for using them as a cover up of illegal activities.

That provision on certification marks is determined in evidently different way from the provisions prohibiting the trade of registration cards separated from the relevant whole tusks (LCES Article 21, Paragraph 3). The difference is considered to come from the nature of the products certification scheme as not mandatory but incentive-based.

32 Environmental Agency, 1995

33 Kitade & Toko, 2016

34 CITES Panel of the Experts, 1997, Kiyono, 1997, Sakamoto, 1999, CITES SC54 Doc.26 (Rev.1)

35 Format No.1 “Notification for the Business dealing with International Endangered Species” http://www.meti.go.jp/policy/mono_info_service/mono/paper_consumer_goods/main_05.html#todokede

36 Ministry Order on Notification Article 1 Paragraph 2

The notification form shall be submitted to the Head Quarter of METI in the case of manufacturers and wholesalers while it shall be to the competent Regional Bureaus of Economy, Trade and Industry (BETIs)³⁷.

A notification form for change³⁸ to be submitted where the business operator has made any change³⁹ in matters notified shall include identification of the business operator, date of notification, address of destination, types of designated body part, etc., the matter of change and the reason for change⁴⁰. A notification form for termination⁴¹ has to be submitted where the business operation has terminated its business activities shall include identification of the business operator, date of notification, address of destination, types of designated body part, etc. and date of termination, and the weight, features and disposal measures of the designated body part, etc.⁴².

The copies of the notification forms submitted are supposed to be shared to the Ministry of Environment (the Head Quarter and the Regional Offices of MoE)⁴³.

5.3.2 Entering the matters recorded in the notification forms to the dedicated system

When a new notification form is submitted, a serial number of the business operator, identification of the business operator⁴⁴, date of notification, start date of business and stocks owned at the time of notification will be entered in the sub-system for the Head Quarter included in the whole dedicated system of METI. In situations where the notification is made by a manufacturer or a wholesaler, the details will be entered in the sub-system of BETIs in the case the notification is made by a retailer. The process of entering the matters on the notification form for change⁴⁵ and termination is same as the process above⁴⁶.

37 Website of METI http://www.meti.go.jp/policy/mono_info_service/mono/paper_consumergoods/20150812tebiki.pdf

38 Format No.4 "Notification for Change of the Business dealing with International Endangered Species" http://www.meti.go.jp/policy/mono_info_service/mono/paper_consumergoods/main_05.html#todokede

39 Needless to say, change of stock as the result of general operation is not included in the matters to be notified.

40 Ministry Order on Notification Article 3 Paragraphgraph.1

41 Format No.5 "Notification for Termination of the Business dealing with International Endangered Species" http://www.meti.go.jp/policy/mono_info_service/mono/paper_consumergoods/main_05.html#todokede

42 Ministry Order on Notification Article 3 Paragraphgraph.2

43 METI, 2015.h

44 Name of the division in charge and name of the person in charge would be described where necessary (Ibid.).

45 Ibid.

46 Ibid.

5.3.3 Mandatory record on the ledgers and preservation of them, and collection reports of a copy of the ledgers

As aforementioned, the notified business operators are mandated to enter given matters in the ledgers and preserve them for five years⁴⁷.

Each type of ledger form⁴⁸ is prepared for raw ivory (cut pieces including tips) and products⁴⁹. The manufacturers are supposed to use the ledger form for both raw ivory and products⁵⁰ while the wholesalers and retailers are supposed to use the form for products⁵¹.

Requests for the report⁵² (submission of a copy of each ledger) under the name of the Ministers, are made around October to the manufacturers every year and to the wholesalers and retailers every second year⁵³. The letter of requests had been sent from the Head Quarter of METI to the manufacturers and wholesalers, and sent from the competent BETIs to the retailers until 2014 FY. Since 2015 FY, the Head Quarter started to send the letter to all business operators by itself⁵⁴.

When the data entry and calculation are completed

47 LCES Article 33 Paragraph 1 and 2, Ministry Order on Notification Article 2

48 The format No.2 "Ledger for the Business Operator dealing with International Endangered Species on the matters confirmed and caught", and the format No.3 "Sheet 'A' for the ledger (raw material)" and "Sheet 'B' for the ledger (products)"

http://www.meti.go.jp/policy/mono_info_service/mono/paper_consumergoods/main_05.html#todokede

The format No.2 is for the entry of same matters as entered at the first notification (METI, 2015.h). So, the matters confirmed or caught at the time of time of individual trades are supposed to be entered in the sheet "A"/"B". Thus, the "ledger" is used hereinafter the documents using the format "A"/"B".

49 "Products" include final products and products in-process (Ministry Order on Notification Article 1 Paragraphgraph.1).

The "products in-process" is considered to be such thing that has been finished alone as a part of some products, so no more processing is required for, but not supposed to be traded alone (METI, 2015.h). For example, a bead to form necklace or beads, and a key to form the piano are applicable to the "products in-process" (ibid.).

50 Thus, manufacturers use two types of ledgers; one using sheet "A" and the other using sheet "B".

51 Only the ledger using sheet "B" is supposed to be used. Wholesalers and retailers are not supposed to deal with cut pieces because they are not involved with manufacturing (METI, 2015.g).

52 LCES Article 33 Paragraph 1, 2 and 4 are applied to Mutatis Mutandis Pursuant to Article 33-5.

53 METI, 2015.h. Format No.4 "Notification for Change of the Business dealing with International Endangered Species" is to be enclosed for the convenience of the business operators to submit the notification for change if any. http://www.meti.go.jp/policy/mono_info_service/mono/paper_consumergoods/main_05.html#todokede

54 METI, 2015.h.

Previously, the business operators which have multiple business facilities in several areas with different jurisdiction of BETI, complained about the complexity of submission of the reports. At the opportunity of outsourcing the entry task, the address of submission of the reports was integrated to the Head Quarter of METI in 2015 (ibid.). Additionally, METI would accept the desire from the operators who wish to integrate the management of the ledger to their HQs under the condition to submit the list of the business facilities (ibid.).

ed, the copies of ledgers of the manufacturers and wholesalers are to be kept in the Head Quarter of METI while ones of retailers are in the competent BETIs⁵⁵.

The copies are shared once a FY to MoE (the Head Quarter of MoE and the Regional Offices of it)⁵⁶.

5.3.4 Entry in and calculation on the dedicated system of the data included in the ledgers

The HQ of METI enters in its dedicated system of the data on the submitted copies of the ledgers. Simple tasks are outsourced⁵⁷. The data of manufacturers and wholesalers are entered in the sub-system for HQ and one of retailers is in the sub-system for BETIs⁵⁸.

When the entry is completed, the HQ counts up the numerical data on both HQ sub-system and BETIs sub-system, and keeps them as the national data⁵⁹.

The data entered in the dedicated system of METI is limited to the stocks of the designated body part, etc. at the end of each FY⁶⁰. More specifically, weight and primary features of cut pieces including tips⁶¹ (e.g. 2kg of “Naka-giri” or cut pieces hewed out from the center of tusks), and number and major character of products (e.g. 5 pieces of broaches and 4 pieces of “Netsuke” or small sculptures) are supposed to be entered⁶².

Specific data about each individual trade or “When”, “To or from who”, “How many (much)”, “What character of designated body part, etc. in trade”⁶³ is completely excluded from the input list⁶⁴.

55 Consequently, if the official of METI in charge needs to look at the copy of a ledger of a retailer, he has to refer to the competent BETI which is preserving the copy (ibid.).

56 Ibid.

57 METI claims that outsourcing the routine work (see NOTE 54) will make the whole operation efficient, so that the personnel in HQ and the BETIs can share more time to on-the-spot inspection and inquires by phone to the business operators (Ibid.).

58 Ibid.

59 Ibid.

60 Ibid.

61 Government of Japan reported the CITES SC of stocks on raw ivory as “Cut pieces” and “Tips” (See 5.4.2, 2)). Those included in “cut pieces” as with certain size or weight such as “head of tusk”, “center of tusk”, “bottom of tusk”, “half-finished products” and so on. Those included in “tips” as without certain size or weight such as “tips (hanko)”, “tips (musical instrument)” and “tips (others)” (ibid. Format No.3 “List of Code for the Products” for the Business Operator dealing with International Endangered Species). http://www.meti.go.jp/policy/mono_info_service/mono/paper_consumergoods/main_05.html#todokede

62 Ibid.

63 In particular, identification of transferor/transferee, source of the designated body part, etc. obtained by the transferor, weight (number in the case of “products”) and major features of the designated body part, etc., date of transfer/receipt, amount of remained stock after transfer/receipt and presence/absence of manifest and manifest ID if present (see 5.1.3).

64 METI, 2015.h

It is obvious that METI does not intend to monitor the manufacturing and trading process of ivory cut pieces and products.

5.3.5 Searchable information on the dedicated system, which was originally recorded in the ledgers

As aforementioned, the data entered in the dedicated system is limited to matters regarding stocks at the end of each FY⁶⁵. Therefore, merely the stocks at that time are able to be searched on the system. Needless to say, it is impossible to search and calculate a stock at a different date from the final day of any FY⁶⁶.

Incidentally, the dedicated system of METI is not designed as to calculate the stocks at the end of FYs by the business types (manufacture, wholesaler or retailer) except for the stock of hanko⁶⁷.

In conclusion, if the administrations wish to get the information regarding trading process of cut pieces and products, they have to consolidate all the paper-based copies of ledgers kept at HQ regarding manufacturers and wholesalers, and ones sent from the competent BETIs regarding retailers, and then to compare those to each other. More specifically, all the ledgers of three business types (manufacturers, wholesalers and retailers) have to be compared in order to trace back the trading process from final products to original raw material, But this obviously requires too much amount of work to be practical.

5.4 Detailed data on the business dealing with designated body part, etc. of international endangered species

5.4.1 Number of notified business operators which responded to the request of reports

“Number of notified business operators who responded to the request of reports” does not mean the number of notified business operators at a specific date, but means number of business operators who engaged in the deal at

65 METI, 2015. e, f

66 METI, 2015.d.

It is also difficult to retrace each past stock of the yearend due to the design of the system, therefore, non-automatic operation is necessary to know it (ibid.). The reason for the inconvenience can be guessed that the dedicated system of METI is designed to overwrite the data of individual stock automatically when a stock owned by a new business operator who started his business within the FY concerned, or one who is terminating his/her business notified to METI after the deadline for counting up.

67 METI, 2015. e

least for one day within the FY concerned and submitted a copy of ledgers in compliance with the obligation⁶⁸.

It means that the number reflects the comprehensive numbers of the business operators who have actually engaged in the business during each FY (from April to March) more precisely than the number of them at a specific date. Particularly, it provides much more accurate information than the comparison between the numbers of them at a different date within the FY concerned.

Then, the trend of “the number of notified business operators which responded to the request of reports” by the type of business will be looked into year by year.

Table 5-1 Changes in number of ivory manufacturers (who made reports)

FY of calculation	2000	2002	2005	2008	2009
Period subject to calculation	2000.4 - 2001.3	2002.4 - 2003.3	2005.4 - 2006.3	2008.4 - 2009.3	2009.4 - 2010.3
FY of collection of reports	2001	2003	2006	2009	2010
Number of business operators who made reports	163	187	278	289	229
FY of calculation	2010	2011	2012	2013	2014
Period subject to calculation	2010.4 - 2011.3	2011.4 - 2012.3	2012.4 - 2013.3	2013.4 - 2014.3	2014.4 - 2015.3
FY of collection of reports	2011	2012	2013	2014	2015
Number of business operators who made reports	262	252	267	267	303

* Request on reports (submission of a copy of ledgers) has been made around October every year.

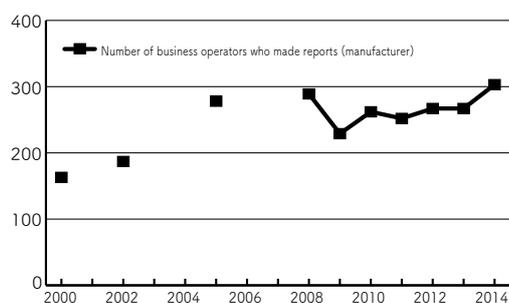
* "number of business operators who made reports" means the number of business operators who engaged in the deal at least for one day within the FY concerned and submitted a copy of ledgers in compliance with the obligation.

Sources : METI, 2002, METI, 2004, METI, 2007, METI, 2015.b, METI, 2016.b

1) Ivory manufacturers

The number of ivory manufacturers had considerably increased from 2002 FY to 2005 FY, but decreased from 2008 FY to 2009 FY, stabilized between 2010 FY and 2013 FY, and in 2014 FY, it shifted to increase and recorded the largest number as ever⁶⁹.

Figure 5-1 Changes in number of ivory manufacturers (who made reports)



68 METI, 2015.c

69 GoJ reported to the CITES Standing Committee that the number of manufacturers was 293 on May 8th 2014(CITES SC65 Doc. 42.1 Addendum Annex 2) and 319 in September 2015(CITES SC 66 Doc. 29 Annex 20).

The reason why the number of manufacturers increased remains obscure. One assumption is that small private management businesses for manufacturing sculptures or crafts may be increasing while new notification by businesses with huge stocks has decreased⁷⁰.

The point of the assumption is noteworthy because it suggests that new type of ivory demand from small-scaled ivory carvers have generated and got widely spread in Japanese domestic ivory market.

This assumption can be supported by the fact that huge volume of cut pieces (including scraps) have been bought in internet trade recently⁷¹. While there is no doubt that most of them have been flown out to China⁷², the domestic demand for small cut pieces may possibly be larger or getting larger than supposed so far.

2) Ivory wholesalers

The number of wholesalers has not fluctuated so much and remains between 500 and 600 since 2004 FY⁷³.

Table 5-2 Changes in number of ivory wholesalers (who made reports)

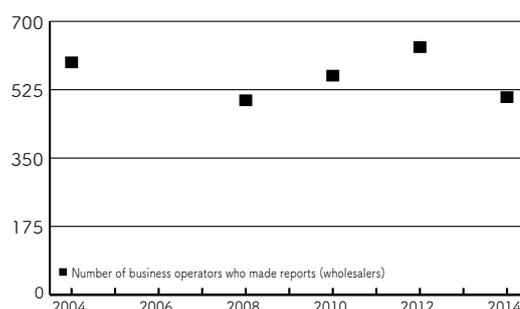
FY of calculation	2004	2008	2010	2012	2014
Period subject to calculation	2004.4 - 2005.3	2008.4 - 2009.3	2010.4 - 2011.3	2012.4 - 2013.3	2014.4 - 2015.3
FY of collection of reports	2005	2009	2011	2013	2015
Number of business operators who made reports	595	498	561	634	506

* Request on reports (submission of a copy of ledgers) has been made around October every second year

* "number of business operators who made reports" means the number of business operators who engaged in the deal at least for one day within the FY concerned and submitted a copy of ledgers in compliance with the obligation

Sources : METI, 2007, METI, 2015.b, METI, 2016.b

Figure 5-2 Changes in number of ivory wholesalers (who made reports)



70 METI, 2015. d

71 See 2.3.4 5).

72 See 3.1.1, 3.1.2, 3.1.3, 4.4.3, 7), 4.4.5, 7).

73 GoJ reported to the CITES Standing Committee that the number of wholesalers was 537 on May 8th 2014(CITES SC65 Doc. 42.1 Addendum Annex 2) and 584 in September 2015(CITES SC 66 Doc. 29 Annex 20).

3) Ivory retailers

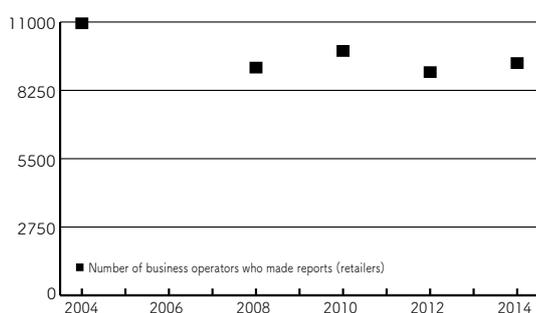
The number of retailers has slightly decreased since 2004 FY until 2008 FY, then stabilized thereafter at 9,000 around⁷⁴.

Table 5-3 Changes in number of ivory retailers (who made reports)

FY of calculation	2004	2008	2010	2012	2014
Period subject to calculation	2004.4 - 2005.3	2008.4 - 2009.3	2010.4 - 2011.3	2012.4 - 2013.3	2014.4 - 2015.3
FY of collection of reports	2005	2009	2011	2013	2015
Number of business operators who made reports	10949	9166	9835	8984	9349

* Request on reports (submission of a copy of ledgers) has been made around October every second year
 * "number of business operators who made reports" means the number of business operators who engaged in the deal at least for one day within the FY concerned and submitted a copy of ledgers in compliance with the obligation
 Sources : METI, 2007, METI, 2015.b, METI, 2016.b

Figure 5-3 Changes in number of ivory retailers (who made reports)



5.4.2 Change on stocks of cut pieces possessed by the notified business operators

1) Change on stocks of cut pieces at the end of FYs

As aforementioned⁷⁵, stocks recorded in the copies of ledgers yearly submitted by manufacturers are supposed to be entered into the dedicated system of METI and calculated. The result is shown in Table 5-4 and Figure 5-4.

The yearly change on stock of cut pieces shows the deduction between the increase caused by division of registered whole tusks⁷⁶ and decrease caused by producing products from cut pieces. The numerical value of the deduction does not suggest the amount of annual consumption of cut pieces.

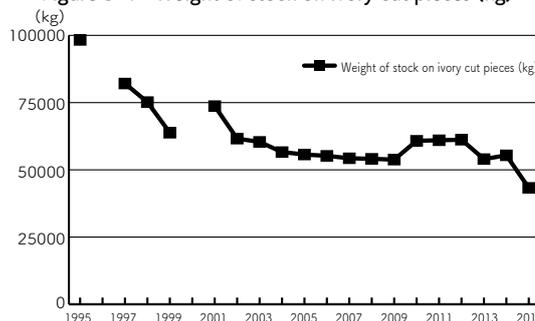
The decrease of stocks in cut pieces obviously suggests that consumption of processed cut pieces exceeds the amount of whole tusks divided for manufacturing. This suggests that production by the ivory manufacturers is active.

Table 5-4 Changes in stock of ivory cut pieces (including scraps) at the end of FYs reported by the notified business operators

	July, 1995	1996	July, 1997	July, 1998	July, 1999	2000
Weight of stock	98.3	-	82.1	75.2	63.8	-
Change from the previous FY	-	-	-16.2(2Y)	-6.9	-11.4	-
	March, 2001	March, 2002	March, 2003	March, 2004	March, 2005	March, 2006
Weight of stock	73.7	61.6	60.4	56.6	55.7	55.2
Change from the previous FY	+9.9(2.5Y)	-12.1	-1.2	-3.8	-0.9	-0.5
	March, 2007	March, 2008	March, 2009	March, 2010	March, 2011	March, 2012
Weight of stock	54.3	54.1	53.8	60.8	61	61.2
Change from the previous FY	-0.9	-0.2	-0.3	+7.0	-0.8	+0.2
	March, 2013	March, 2014	March, 2015			
Weight of stock	54	55.4	43.3			
Change from the previous FY	-7.2	+1.4	-12.1			

* The supervisory scheme on the business dealing with designated body part, etc. of international endangered species was brought to effect in June 1995. The designated body part, etc. mandated to be notified at the time was limited to any cut pieces no less than 1kg in weight and no less than 20 cm in length.
 * All the cut pieces was mandated to be notified in March 1999 (the limitation of weight and size of cut pieces was lifted).
 * Lack of data on 1996 and 2000 is due to no calculation by METI of stocks at the end of those years.
 Sources : METI, 2002, METI, 2004, METI, 2007, METI, 2012.a, METI, 2012.b, METI, 2015.a, METI, 2015.b, METI, 2016.b

Figure 5-4 Weight of stock on ivory cut pieces (kg)



After the business operators notified their initial stocks of cut pieces in 1995, the stock decreased gradually, and has stabilized between 2002 and 2014 except for a temporal increase occurred in 2010 subsequent to the import of second one-off sold ivory in 2009. The trend is influenced by the production adjustment by manufacturers⁷⁷.

In 2015, stock of cut pieces significantly decreased though processing whole tusks have increased⁷⁸ (so that the stock of cut pieces should have increased). It suggests that production was so active that the stock of cut pieces decreased even though the supply into it had increased⁷⁹.

74 GoJ reported to the CITES Standing Committee that the number of retailers was 7,570 on May 8th 2014 (CITES SC65 Doc. 42.1 Addendum Annex 2) and 8,219 in September 2015 (CITES SC 66 Doc. 29 Annex 20).

75 See 5.3.3 and 5.3.4.

76 Amount of tusks for which the registration cards were returned almost shows the amount of divided (processed) registered whole tusks. See 4.3, particularly table 4-1.

77 See 4.3.2, 2)

78 Ibid.

79 Ibid.

2) Report to the CITES Standing Committee

The government of Japan reported the CITES SC of stocks on “Cut pieces” and “Tips”^{80 81} as in Table 5-5.

Table 5-5 Stock of cut pieces (“cut pieces” and “scraps”) reported to the CITES Standing Committee

	Unit : kg		
	May 8th, 2014	February 1st, 2015	September 1st, 2015
“Cut pieces”	203,063	52,628	53,277
“Tips”	1,410	1,423	669
Sources	SC65Doc.42.1Addendum Annex2	SC66 Doc.29. Annex 2	

The figure of around 204 tons of stock in total at the time of May 8th 2014 reported at SC65 draws special attention. It was in a different class from the figure of 54 tons in total reported at SC 66. The difference reached to about 150 tons.

Furthermore, as shown in Table 5-4, according to the data provided by METI, stock of cut pieces (including tips) has stabilized within the range of 50 - 60 tons since 2001 FY until 2013 FY. So, it should be questioned, from where such a high volume of 150 tons could have come from.

As clearly suggested from the aforementioned, official increase on stock of cut pieces is to be found when supply of stock derived from processing (registered) whole tusks exceeds decrease of cut pieces due to consumption for production. It means that the maximum increase of cut pieces stock is limited by the volume of processed whole tusks. But, the weight of processed (registered) whole tusks has actually never exceeded 14 tons so far (See Table 4-1). Therefore, 150 tons of increase is unlikely within a short span like one or two years.

In fact, stocks to be reported to the SC are supposed to be one at the most recent end of FY, which the calculation of stock was completed for⁸². More specifically, the figure of stock GoJ intended to report to SC65 held in July 2014 was one at the end of 2012 FY (March 31st 2013), which was the most recent figure calculated at that time⁸³. In a similar way, the figure of stock “calculated at the time of September 1st 2015” GoJ intended to report to SC66 held in January

2016 was one at the end of 2013 FY (March 31st 2014)⁸⁴. On the other hand, the figure of stock “calculated at the time of February 1st 2015” (about 54 tons in total⁸⁵) reported to SC66 should mean the stock at the end of 2012 FY (March 31st 2013), which is identical with the stock reported at SC65.

Those facts suggest that METI recognized its mistake on the figure (204 tons) reported to SC 65⁸⁶, made another calculation at February 1st 2015 and reported the result to SC66.

The question is why the report was made in such a sloppy way, which were officially required based on CITES Resolution Conf.10.10⁸⁷.

As mentioned earlier, it is impossible to monitor the process of manufacturing and transaction of ivory under the current practice by GoJ. What is even worse is that, GoJ made serious mistakes even on the volume of stocks of cut pieces at the end of a FY, which is the only data GoJ is able to report regarding the monitoring of the cut pieces. Furthermore, the mistake could have been avoided only if the person with authority could verify the past level of the stock. The incident suggests that there is a systematic problem on information management by GoJ more than an individual matter.

Incidentally, the CITES Resolution Conf.10.10 further requires the Parties to report the reason on why there is a significant change of stock comparing to last year if any, however, GoJ did not publicize the “reason”.

84 METI, 2015.g

85 The figure accords with one which the author is provided by METI. See table 5-4.

86 Such an extreme miss-calculation cannot happen unless the unit for the figure would be misused (e.g. “g” might be misused for “kg”).

87 The Paragraph “e)” of “Regarding trade in elephant specimens” of the CITES Resolution Conf.10.10 (Rev. CoP17) “Trade in elephant specimens” urges the Parties including those with a legal internal trade in ivory in their jurisdiction as follows. (See Chapter 6.)

e) maintain an inventory of government-held stockpiles of ivory and, where possible, of significant privately held stockpiles of ivory within their territory, and inform the Secretariat of the level of this stock each year before 28 February, inter alia to be made available to the programme Monitoring the Illegal Killing of Elephants (MIKE) and the Elephant Trade Information System (ETIS) for their analyses, indicating: the number of pieces and their weight per type of ivory (raw or worked); for relevant pieces, and if marked, their markings in accordance with the provisions of this Resolution; the source of the ivory; and the reasons for any significant changes in the stockpile compared to the preceding year.

80 The ivory pieces reported by the business operators as “cut pieces”, “head of tusk”, “bottom of tusk” or the others with certain size or weight are regarded as “Cut pieces”, and ones generated in the process of producing hanko, musical instrument and other products are regarded as “Tips”. (METI, 2015. h). The term of “Tips” used in the document prepared by GoJ should mean “Chips” or “Scraps” in English.

81 CITES SC65 Doc. 42.1 Addendum Annex 2, CITES SC 66 Doc. 29 Annex 20

82 METI, 2015.e, f

83 METI, 2015.f

5.4.3 Change in stock of ivory hanko possessed by the notified business operators (business type wise)

1) Change on stocks of ivory hanko at the end of FY

As aforementioned⁸⁸, number of hanko in particular stocked at the end of each FY can be calculated on business types wise by the dedicated system of METI. The result of calculation is shown in Table 5-6.

Table 5-6 Changes in stock of ivory hanko at the end of FYs reported by the notified business operators

	July, 1999	2000	March, 2001	March, 2002	March, 2003	March, 2004
Manufacturers	442,955	-	391,425	343,610	293,824	274,051
Wholesalers	848,838	-	548,753	236,822	223,531	201,626
Retailers	906,660	-	711,914	248,556	325,026	353,313
Total	2,195,453	-	1,652,092	828,988	842,381	828,990

	March, 2005	March, 2006	March, 2007	March, 2008	March, 2009	March, 2010
Manufacturers	264,634	223,924	209,275	271,685	280,799	280,788
Wholesalers	186,114	139,665	148,301	101,363	107,209	106,381
Retailers	417,999	339,259	416,947	378,369	364,006	360,316
Total	868,747	702,848	774,523	751,417	752,014	747,485

	March, 2011	March, 2012	March, 2013	March, 2014	March, 2015
Manufacturers	396,728	302,943	315,456	345,881	310,281
Wholesalers	102,338	98,229	88,060	91,305	86,471
Retailers	365,283	323,236	325,049	305,244	302,729
Total	864,349	724,408	728,565	742,430	699,481

* Hanko has been included in the "designated parts of international endangered species" since March 1999.

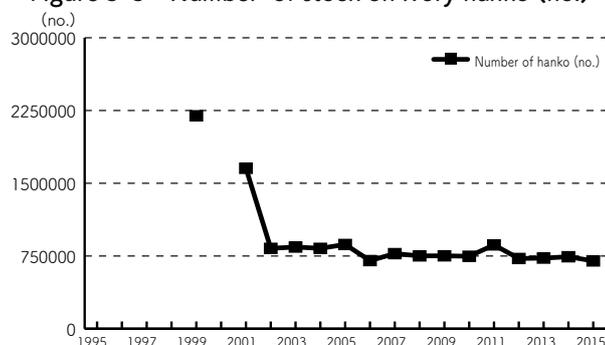
* Lack of data on 2000 is due to no calculation by METI of stocks at the end of the year.

Sources: METI, 2002, METI, 2004, METI, 2007, METI, 2012.a, METI, 2012.b, METI, 2015.a, METI, 2015.f, METI, 2016.b

The change in total stocks owned by the three business types at the end of each FY is shown in Figure 5-5.

The change of the total stocks of ivory hanko between the FYs may come about by income of the produced⁸⁹ and outgo of the sold to the consumers within each FY concerned. A decrease of it suggests that consumption of ivory hanko by the consumers quantitatively overwhelms the supply by the manufacturers.

Figure 5-5 Number of stock on ivory hanko (no.)



The hanko stock (in total of business types) decreased from 2.2 million to 1.65 million between

88 See 5.3.5.

89 See 5.4.2, 1) regarding that ivory manufacturers have conducted production adjustment in a consistent way.

1999 and 2001. Subsequently, it drastically decreased from 1.65 million to 0.83 million in one year between 2001 and 2002.

This suggests that the hanko stocks rapidly decreased due to the strong production adjustment by the manufacturers though the consumers bought ivory hanko aggressively⁹⁰.

Afterward, the ivory hanko stocks have been maintained at low level comparing to one in 1999⁹¹ due to the continuance of the strong production adjustment until 2014.

In 2015, the ivory hanko stocks slightly decreased after three years. As aforementioned⁹², manufacturing was so active in the year that cut pieces stock decreased in spite of increase of processed whole tusks, while the hanko stocks decreased. The fact suggests that consumers purchased ivory hanko so actively that the stocks decreased though the production adjustment was relaxed. Incidentally, in 2015, the consumer confidence index recovered from the previous year then recorded the highest during past 9 years⁹³. The active consumer confidence might encourage the consumption of ivory hanko in concert with the persistent demand for ivory hanko.

2) Report to the CITES Standing Committee

The government of Japan reported the CITES SC the stocks of hanko as in Table 5-7⁹⁴.

Table 5-7 Stock of ivory hanko reported to the CITES Standing Committee

	May 8th, 2014	February 1st, 2015	September 1st, 2015
Hanko	711,124	728,565	754,057
Sources	SC65 Doc. 42.1 Addendum Annex 2	SC66 Doc. 29. Annex 2	

There is a slight difference between the number of hanko stock reported to SC65 as calculated on May 8th 2014 and to SC66 as calculated on February 1st 2015 though they calculated the stock existed at the same date or 31st March, 2013 (the end of 2012FY)⁹⁵.

The difference may arise due to the design of METI's dedicated system which may give a different figure for the stock at the end of same FY depending on the time of calculation because the calculation by the system is based on the updated information (e.g. an income of a stock owned by a new notified operator who notified his business

90 See 4.3.2, 2)

91 Ibid.

92 See 4.3.2, 2), 5.4.2, 1).

93 See Figure 4-1

94 CITES SC65 Doc. 42.1 Addendum Annex 2, CITES SC 66 Doc. 29 Annex 20

95 See 5.4.2, 2)

after the former date of calculation) at the time of calculation⁹⁶.

5.4.4 Stocks of other ivory products

As mentioned earlier, the dedicated system of METI is not designed as to calculate the stocks, except for the case of hanko, on business type basis.

The following figures were reported to CITES SC regarding those products⁹⁷.

Table 5-8 Stock of "worked ivory (except for hanko)" reported to the CITES Standing Committee Unit: no.

	May 8th, 2014	February 1st, 2015	September 1st, 2015
Accessories including parts	2,784,300	2,809,599	2,784,896
Furnishing goods including parts	—	61,031	58,772
Stationeries including parts	—	144	136
Smoking supplies including parts	—	1,215	1,163
Buddhist altar articles including parts	—	43,665	42,798
Musical instruments including parts	41,281	44,112	43,174
Tableware including parts	—	16,696	16,637
Tea utensils including parts	—	12,889	12,189
Indoor recreational equipment including parts	—	4,397	4,367
Convenience goods including parts	—	23,230	23,040
"Netsuke"	10,561	—	—
Others	157,795	14,948	10,140
Sources	SC65 Doc.42.1 Addendum Annex2	SC66 Doc.29. Annex 2	

* All the "worked ivory" has been included in the "designated parts of international endangered species" since October 2004 (Limitation to hanko was lifted)

5.5 Discussion

5.5.1 The loophole of the supervisory scheme over the business, derived from the separation between the scheme and the internal trade regulation / registration scheme

The supervisory scheme over the business aims to supervise the business dealing with designated body part, etc. of ivory, i.e. cut pieces and ivory products.

Accordingly, the matters to be adhered by the notified business operators (confirming the transferor, obtaining the source of the ivory, and

⁹⁶ See NOTE 66

If a new business operator who notified its stock after May 8th 2014 had started its business before the end of 2012 FY (March 2013), its stock is supposed to be included into the stock of 2012FY. It means that the existing data of 2012FY stock at the calculation of May 8th 2014 was supposed to be overwritten by the data. Thus, the stock at the end of the same FY should possibly change depending on the time of deadline.

⁹⁷ CITES SC 65 Doc. 42.1 Addendum Annex 2, CITES SC 66 Doc. 29 Annex 20

recording and preserving those information) are limited to ones in terms of the way except for whole tusks (cut pieces and ivory products). Therefore, the administrations cannot enforce the watchdog measures or collection reports and on-the-spot inspections established for the matters above in order to monitor whole tusks trade. Consequently, the administrators, can neither make any enquiry to the notified operators about whole tusks trade nor inspect the real whole tusks during 'on the spot' inspection⁹⁸.

Furthermore, the administrations cannot issue any instruction to the business operators who violated the trade regulation on whole tusks⁹⁹. Therefore, as seen in Takaichi Case¹⁰⁰, which purchased 58 unregistered whole tusks and were sentenced guilty, no supervisory measure was taken by the administrators against a notified business operator who violates the internal trade regulation even seriously¹⁰¹.

5.5.2 Strong supervisory measures found in licensing or registration business are not applied to the business dealing with ivory designed as notification-system based

Any person is eligible to carry out "business dealing with designated body part, etc. of international endangered species" if he/she notifies the routine matters to the Ministries in advance. This notification system-based business is fundamentally different from licensed or registered businesses¹⁰² in terms of involvement of the administrations.

More specifically, the involvement of the administrations to the business dealing with designated body part, etc. of international endangered species is compared with one applied to general licensed or registered businesses with regard to "rejection",

⁹⁸ See 7.4.2, 4) with regard to the inspection of a whole tusk during the on-the-spot inspection under the amendment to LCES 2017 which shall come into effect by June, 2018.

⁹⁹ See 5.1.4

¹⁰⁰ See 4.8.2, 1)

¹⁰¹ The amendment to LCES 2017 defined the business dealing with ivory cut pieces and products as "business activities in connection with special internationally endangered species, etc." which is to be mandated to be registered to the administrations and provision general violation of LCES as the cause of rejection on registration. Therefore, the registered business operators who violated LCES are (as different from the existing notified business operators) able to be subject to the business suspension order without any administrative deposition requesting improvement as a prerequisite of the order, furthermore such violation is even leading to the revocation of the registration (see 7.4.2, 3)).

¹⁰² In the case of licensed/registered business, the applicant has to be verified by the administrations if he/she falls under any cause of rejection, and he/she cannot start the business until the administrations admit there is no such cause and then license/register him/her.

Table 5-9 Comparison on involvement of the administrations to the business dealing with designated parts of international endangered species with the involvement to general licensed or registered businesses

	Licensed or registered businesses in general	The business dealing with designated parts of international endangered species (mandated to be notified)
Rejection	Licensed or registered business can only be done when a competent administrative agency grants benefit to the applicant for doing the business through licensing or registration as a kind of disposition. The agency should review the application and respond to the applicant in the affirmative or negative. When the applicant is found not to be capable of complying with the matter to be adhered, to have violated the concerned or related laws, and the other given matters, the application should be rejected.	Notification is not a disposition by administrative agencies but merely an act taken to notify them of given matters. Therefore, any response of them in the affirmative or negative is not supposed to be. Those to be engaged in the business dealing with designated parts of international endangered species just have to notify his/her names, addresses, stocks and other given matters to the administrations without any public review for starting its business.
Renewal	Licensing or registration has an expiration date. Those licensed or registered with the businesses should renew their license or registration periodically. It should be reviewed at each renewal whether any rejectable reason designated by the law is or not.	The dealers with notification are not required periodic notification apart from ones to be done when they made any changes in the matters notified or they have terminated the businesses.
Revocation	When any existing rejectable reason, fraudulent licensing / registration or renewal of it, violation of the law and the other given matters by the law is found, the licensing / registration should be revoked.	“Revocation of notification” is logically impossible because notification is merely an act taken to notify administrations of given matters. The administrations may only issue instructions to take necessary actions, and may order them to suspend the whole or a part of their businesses dealing with the designated parts for a period not exceeding three months in the cases where they have violated the instructions.

Reference: LCES, Administrative Procedure Act (Act No. 88 of November 12, 1993) Article2, Act on Welfare and Management of Animals (Act No. 105 of October 1, 1973), Act on Game Protection and Management, and Securing Safety of Hunting (Act No.88 of July 12, 2002) and Act on Promotion of Distribution and Utilization on Legally Logged Timber (Act No.48 of May 20, 2016), Antique Dealings Act (Act No.108 May 28, 1949).

“renewal” and “revocation” in Table 5-9.

According to the table, the involvement by the administrations to the business dealing with designated body part, etc. of international endangered species is obviously more limited and even weaker than one applied to licensed or registered businesses¹⁰³.

5.5.3 Existence of products certification scheme is the reason on why the administrators could not put a priority on strengthening watchdog operation

1) Necessity of intensive information collection and analysis for securing the traceability with regard to internal movement of ivory

The watchdog measures on the individual trades made by the notified business operators prescribed in LCES are based on collection reports (requiring a copy of ledgers) and on-the-spot inspections¹⁰⁴.

More frequent collection reports and more comprehensive analysis of the information on the ledgers will definitely make the on-the-spot inspection more effective. Considerable collection reports and thorough analysis of the information are particularly required to trace such complex process as one from processing raw ivory (whole tusks and cut pieces) to final production.

¹⁰³ As aforementioned (NOTE 100), the amendment to LCES 2017 designed a registration scheme for the business dealing with ivory cut pieces and products instead of existing notification scheme (See 7.4.2, 3)).

¹⁰⁴ See 5.1.4.

2) Reality of watchdog operation on traceability of cut pieces and ivory products by the administrations

On the contrary to the required procedure mentioned above, METI collects copy of the ledgers once in a year from manufacturers and once in two years from wholesalers and retailers¹⁰⁵.

Furthermore, the copies submitted are paper-based, and information on individual trade described in the ledgers are never electronically stored¹⁰⁶. The dedicated system or database of METI, therefore, has the function only to calculate the stock of the business operators at the end of each FY in addition to confirming the updated information on the notified business operators, and do nothing for monitoring the individual trade in cut pieces and ivory products. Under those situations, simply increasing on-the-spot inspections¹⁰⁷ will not produce any results.

The reality of METI’s supervision, however, deserves more serious concern that it does not only reach to the levels expected but also has basic problems, judging by the unbelievable mistake¹⁰⁸ on the report to CITES SC about the stock of cut pieces¹⁰⁹.

¹⁰⁵ See 5.3.3.

¹⁰⁶ See 5.3.4.

¹⁰⁷ See Note.25.

¹⁰⁸ See 5.4.2 2).

¹⁰⁹ See 5.4.2, 2).

Incidentally, the post of the official in charge of the supervision in HQ of METI has been vacant at the end of June, 2016 since the beginning of April, 2016. His work has been taken by only his boss (the assistant division chief) during the period. Afterwards, a personnel reform was made in METI, and the position in charge of supervisory service on ivory business operators was divided into international af-

3) The reason why strengthening supervision over the business is not politically prioritized

The reality that strengthening supervision over the business is not politically prioritized and not sufficiently resourced may be partially influenced by the fact that the business is designed as notification-system based¹¹⁰.

One primary aspect to be noted here is the existence of the products certification scheme¹¹¹. As far as such incentive-based scheme exists as one of the two pronged measures for internal trade control in cut pieces and ivory products, it does not make sense to make the other pronged scheme significantly standing out. Furthermore, it can be guessed that the officials generally interpret the concept of LCES as that trade control in those items (cut pieces and ivory products) exempted from trade regulations will be desirably achieved not through intensive supervision but through the preference of motivated consumers.

Continuation of the products certification scheme which has been proved as objectively ineffective does more harm than good¹¹². The scheme should be abolished and more resources for watchdog operations should be increased.

fairs and internal affairs, and one official (assistant division chief) each has been deployed to each position. It means the watchdog operation is still left to only one official in charge of internal affairs (at the time of April, 2017).

110 See 5.5.2

111 See 5.2.

112 GoJ claims that it intends to enhance "publicity efforts to promote certified ivory product marks" (see 7.2.3), however, there is no reason for expecting any achievement considering the saying is not more than the slogan repeated over 20 years.