Compelled to Close: Top 5 Reasons for Closing Japan's Domestic Ivory Market

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Japan Tiger and Elephant Fund (JTEF)

JTEF, a non-profit and nongovernment organization, contributes to protecting the world of wildlife by representing their voice and interests, so that global biodiversity and the natural environment of human beings will be conserved.

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Executive Summary

Japan's ivory market is one of the largest legal domestic markets open today, at a time when many other nations are closing their markets to protect elephants from the trade in their ivory tusks. This report reviews the top five reasons Japan needs to act urgently to align with the global community and close its ivory market, including:

1. **Japan's legal ivory market is vulnerable to illegal export of ivory**
   - False optimism about the impact and implementation of the GoJ's awareness campaign to educate Japanese ivory dealers on legal ivory sales
   - Japan's law enforcement efforts to stop illegal ivory export identified as "poor performance below the average" by ETIS analysis
2. **There is limited implementation of strict punishment against recurring illegal domestic ivory trade**
   - Illegal domestic ivory trade is common
   - Regardless of the tightened statutory penalty, there has been persistent avoidance of strict punishment and prosecution
3. **Japan has been legalizing and stockpiling whole tusks with unknown origin courtesy of the government's promotion of tusk registration, regardless of rampant fraudulent registration**
   - Nearly 2,300 ivory whole tusks per year have been flooding into the legal market, getting registration endorsement without meaningful proof of being obtained legally during the pre-convention period by abusing a legal loophole
   - Ivory registration continues to be promoted by the government, ignoring the recommendation by the police witness to the loopholes enabling fraudulent registration


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4. **Ivory dealers are proactively taking steps to neutralize the whole tusk registration regulations, which will be tightened in the near future, abusing the loophole of the law that mandates only whole tusks be registered**
   - Surge of cutting registered whole tusks implies that dealers have a strategy for neutralizing the future tightening of the controls on whole tusk registrations by stockpiling raw material ivory in the form of cut pieces that are not required to be registered
   - A stockpile increase of 24.8 tons of cut pieces further suggests that the countermeasure strategy for avoiding the regulation on whole tusks is already underway
5. **The increase of ivory demand and expansion of ivory market in the near future in Japan are likely**
   - Evidence of increasing demand indicated by boosting production and retailers' stockpiling of ivory *hanko*
   - Concern about shifting of ivory markets in China and Hong Kong SAR to Japan in the near future

Japan's efforts to control the trade have been ineffective and only served to support its ivory industry. Japan should not delay its market closure, but should confirm its determination to close and create a plan for implementation.

Introduction

Africa's elephant population has seen the worst declines in 25 years, with a loss of approximately 111,000 elephants over the nine-year period 2006-2015[1], due to mass poaching for ivory. To protect elephants from poaching and the ivory trade, progressive efforts are being made by nations such as the United States and China to close domestic ivory markets. In 2016, nations agreed by consensus at the 17th meeting of the Conference of the Parties (CoP17) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), to amend Resolution Conf. 10.10 (Rev. CoP16), and recommend, inter alia, the closure of domestic ivory markets "as a matter of urgency" in all countries where there is a legal domestic market "that is contributing to poaching or illegal trade".

The Government of Japan, however has been claiming "Japan's regulations on ivory transactions within its own borders… are already on par with those of other major countries", and it is "continuing to ensure that Japan is not contributing to poaching and illegal ivory trade"[2], and thus Japanese market is not subject to closure as recommended by the CITES resolution[3]. However, Japan's efforts to control its domestic ivory trade are failing and this report outlines the leading compelling reasons Japan should close its ivory market urgently.

1. Japan's legal ivory market is vulnerable to illegal export of ivory

At 23:45 on November 28, 2017, a Chinese sailor was arrested when he attempted to board a container vessel anchored at Tokyo Port. 605 ivory pieces cut in 1cm square and 10cm long on the way to be processed into *hanko* (name-seal stamp), weighing about 7 kg in total, and valued at 310,000 yen (US$2,790) were packed in a paper bag and a backpack he carried[4]. Another Chinese national who transferred them to the sailor was also arrested on December 11, 2017. Furthermore, a board member of an ivory manufacturing company who sold the ivory to the secondly arrested Chinese national was arrested on January 31, 2018[5]. The board member was also the chair of the "Youth Group" of "Japan Federation of Ivory Arts and Crafts Associations (JIA)"[6] which has served the Japanese ivory industry as a conduit to the Ministry of Economy, Trade and Industry (METI), reaffirming the dark side of the Japanese ivory association. However, this specific case is just one example and only the tip of the iceberg. The Elephant Trade Information System (ETIS) report recorded 148 seizures of ivory illegally exported from Japan between 2011 and 2016, including 113 seizures of approximately 2.3 tons of ivory destined to China[7]. And such illegal exports have still continued[8].

The Japanese government "sent a notification on prohibition of ivory import/export to the concerned organizations and keep tourists informed at the major airports about the prohibition" in November 2017[9], and the arrests gave a warning to ivory dealers about taking ivory overseas. The Japanese government issued such a notification again[10] while it also held a seminar about the amendment to the Law for Conservation of Endangered Species of Wild Fauna and Flora (LCES) at 10 places nationwide in March 2018[11] and stressed the concerned businesses informed about the importance of preventing the export of ivory abroad as well as the points of the law amendments[12].

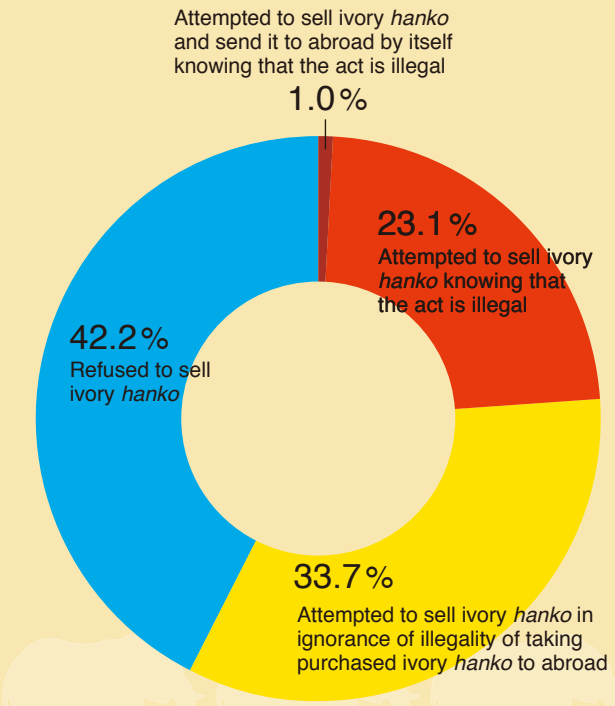
However, an investigation on 317 *hanko* shops by the Environmental Investigation Agency (EIA) and JTEF from the end of March to May in three major urban areas of Tokyo, Osaka and Nagoya[13] revealed that 70 shops accounting for 24% of the identified 303 shops which dealt with ivory *hanko* (73 / 303) attempted to sell ivory *hanko* to the customers who intended to take it as a gift to abroad, knowing that such export is illegal. Moreover, 102 shops accounting for 34% of them (102 / 303) tried to sell ivory *hanko* to such customers in ignorance of the illegality of export (Figure 1).

A TV news covering the attempt of ivory smuggling from Tokyo to Hong Kong.

A TV news reported that the Chinese bought the ivory from an influential Japanese dealer.


A *hanko* shop which has a 100 year-history intended to sell ivory *hanko* knowing that the customer intended to take it to abroad as a gift by explaining: "we are registered and have the permission, so it is probably all right for you", "Elephants are listed in CITES Appendix I, however, I can get such a seal printed with a permission number because my company has been registered. So, it should be OK", "You should not be bothered for taking *hanko* out while an ornament may be "forced out" because it's so tiny, not big."

Figure 1: Responses by the *hanko* shops dealing with ivory *hanko* to the customers intending to take it to abroad



The investigation results mean that the repeated awareness efforts by the Japanese government were ignored by a quarter of *hanko* shops dealing with ivory and were unrecognized by a third. The Japanese government has been falsely optimistic about the impact of their awareness campaign to educate Japanese ivory dealers on legal ivory sales to their customers who might try to take ivory overseas.

How effectively has illegal ivory export been prevented at the border of Japan? Out of the aforementioned 113 seizures of illegally exported ivory, 106 (94%) were made in China while Japan successfully suspended only 7 attempts of such export (6%)[14]. Reflecting on the situation, a new analysis by ETIS[15], grouping the countries with a similar trend, found that Japan's law enforcement efforts at the border "individually exhibit poor performance well below the group's average". In fact, it is quite rare for Japan to prevent ivory from being exported illegally as in the aforementioned Tokyo Port case.

Hanko (name seal stamp) ©JTEF

Ongoing illegal commercial export from Japan to China

On April 15, 2019, Chinese General Administration of Customs released their achievements for ivory seizures. One of the recent examples is the smuggling case from Osaka, Japan to Urumqi, China.

The criminal group bid for ivory products online through a purchasing agency in Japan, then send the products to China from their warehouse in Osaka. To evade custom supervision, they usually miss-declare the packages by international mail, or hide the ivory in the packages of legal items. Their network of buyers locates in 14 cities in 11 provinces. The Urumqi Customs seized suspected smuggled ivory products with a gross weight of 52.4891 kg.

Source: "Special toy turned out to be ivory- investigations against online ivory smuggling", Legal Daily Newspaper on April 17, 2019
http://www.legaldaily.com.cn/index_article/content/2019-04/17/content_7833218.htm

2. There is limited implementation of strict punishment against recurring illegal domestic ivory trade

Domestic trade in ivory is controlled by a Japanese law, the Law for Conservation of Endangered Species of Wild Fauna and Flora (LCES). Any person is prohibited from transferring/receiving[16], exhibiting/advertising for commercial purposes[17] ivory tusks maintaining the whole shape without registration, and to receive fraudulent registration for them[18]. Any business operator dealing with ivory cut pieces / ivory products is not allowed to transfer/receive[19] or exhibit/advertise for commercial purposes[20] without business registration, or to receive fraudulent business registration[21]. A criminal penalty is applied to any violation against those prohibitions[22]. The government of Japan has expected that the toughened statutory penalties in 2013 and 2018 will deter any violations[23].

The criminal cases (by the end of 2018) concerning an illegal act perpetrated after the implementation of the first revision to punitive provisions (July 2, 2013) and the decisions made by prosecutors about whether to pursue conviction are shown in Table 1. The papers of 18 cases violating LCES related to ivory[24], including 9 cases in 2018 were sent to prosecutors during that period. Thus, cases of illegal domestic ivory trade are very common.

There was only one case in which a suspect was arrested by the police. Otherwise, the police just sent papers to prosecutors. It suggests that the police could not expect decision by the prosecutors demanding a strong penalty to the courts for those cases. Furthermore, among 8 cases on which the disposition by the prosecutors is known to JTEF, all the suspects were dismissed in 5 cases and some of them were only fined small amounts, through a summary order in 3 cases. No case was addressed at trial. Even the remaining 10 cases of which the disposition is unknown are likely to be dismissed or just fined through summary order, referring to the similarity of the acts of violation with the other 8 cases.

Thus, the actual penalty over illegal domestic ivory trade is quite low. Regardless of the tightened statutory penalty, there has been persistent avoidance of strict punishment and prosecution.

Table 1: Violation of Law for Conservation of Endangered Species related to ivory (since July 2, 2013)

This table includes the criminal cases concerning an illegal act perpetrated after the implementation of the first tightened penalty of LCES (July 2, 2013) and papers of which were sent to prosecutors by the end of 2018 (as far as the information is available to JTEF). The bracketed year next to the case number means when papers on the case were sent to prosecutors. The bracketed name of prefecture next to the act of violation means the location of the prosecutors office with the jurisdiction of the case.

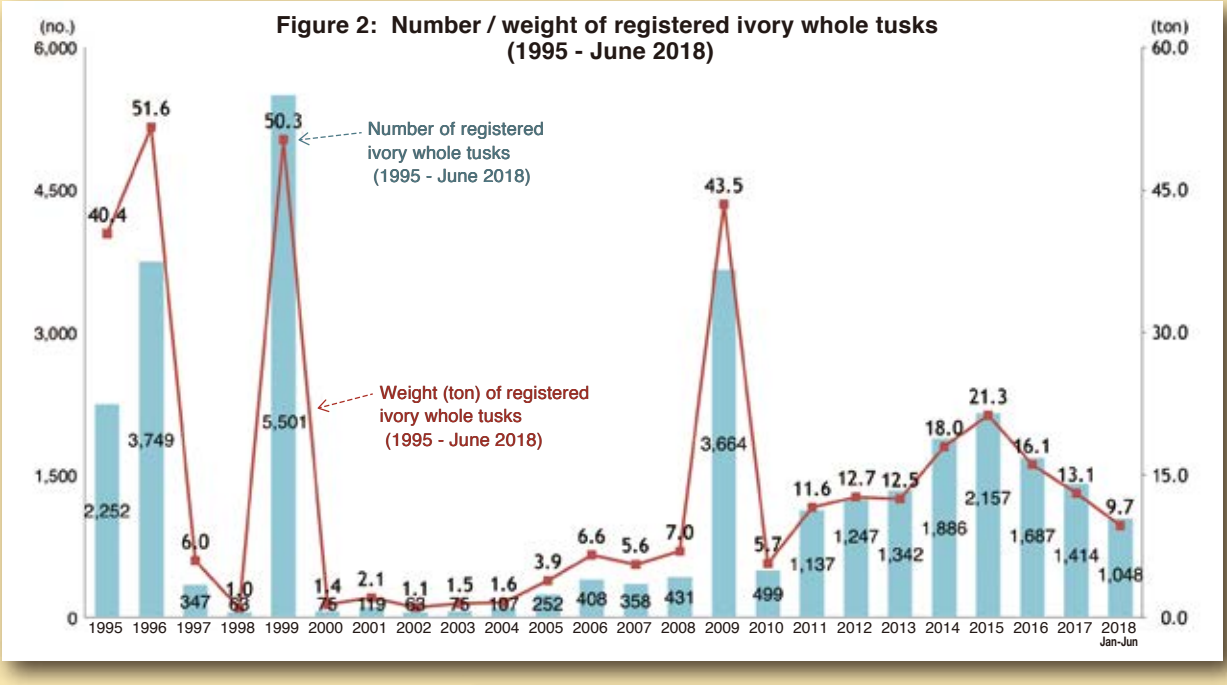
	Act of violation	Decision made by the prosecutor	Reference
Case 1 (2014)	Receiving and transferring of one unregistered whole tusk (Tokyo)	Unknown	Asahi Shimbun 28/02/2014
Case 2 (2016)	Advertising on sales purposes of two unregistered whole tusks (Osaka)	Unknown	Jiji Press 06/06/2016, Sankei Shimbun WEST06/06/2016, Mainichi Broadcasting System 06/06/2016, Yomiuri Shimbun 21/07/2016
Case 3 (2016)	Receiving and transferring of one unregistered whole tusk (Kyoto)	Unknown	Nikkei 16/09/2016, Asahi Shimbun 16/09/2016, 17/09/2016, Jiji Press 16/09/2016, Tokyo Shimbun 16/09/2016
Case 4 (2016)	Receiving and transferring of one unregistered whole tusk (Kanagawa)	No prosecution	Kanagawa Shimbun 17/09/2016, Jiji Press01/03/2017, NNN News 16/09/2016
Case 5 (2016)	Receiving, transferrng and advertising on sales purposes of two unregistered whole tusks (Tokyo)	No prosecution	Asahi Shimbun 24/10/2016, Nikkei Shimbun 24/10/2016, 02/03/2017, Kyodo 24/10/2016, Jiji Press 24/10/2016 Sankei News 24/10/2016
Case 6 (2016)	Receiving and transferring of five unregistered whole tusks (Shizuoka)	Fine by summary order (against a part of the susoects)	Shizuoka Shimbun 24/11/2016, Chunichi Shimbun 25/11/2016, Mainichi Shimbun 26/11/2016, Chunichi Shimbun 28/12/2016
Case 7 (2017)	Receiving and transferring of 18 unregistered whole tusks (Tokyo)	No prosecution	Asahi Shimbun 20/06/2017, Tokyo Shimbun 20/06/2017, Sankei Shimbun 20/06/2017, Nikkei Shimbun 20/06/2017, Kyodo 20/06/2017
Case 8 (2017)	Receiving and transferring of 9 unregistered whole tusks (Tokyo)	No prosecution	Sankei Shimbun 24/08/2017, 30/08, Hokkaido Shimbun 25/08/2017, Mainichi Shimbun 25/08/2017, Nikkei Shimbun 25/08/2017 NNN News 25/08/2017, Sankei Shimbun 30/08/2017
Case 9 (2017)	Receiving, transferrng and advertising on sales purposes of one unregistered whole tusk (Tottori)	Unknown	Toriseikanhatsu No.258, BSS News 02/11/2017
Case 10 (2018)	Receiving and transferring of one unregistered whole tusk (Kyoto)	No prosecution	Kyouseiho No.120 (2018), Jiji Press 16/02/2018, Kyoto Shimbun 16/02/2018, 30/03/2018, Sankei Shimbun 17/02/2018
Case 11 (2018)	Receiving and transferring of one unregistered whole tusk (Gifu)	Fine by summary order (against a part of the susoects)	Giseikan No.406 (2017), Giseikan No.55 (2018), Giseikan No.192 (2018), Giseikan No.228 (2018), Gifu Shimbun 22/05/2018, Kyodo 18/07/2018
Case 12 (2018)	Receiving and transferring of one unregistered whole tusk (Gifu)	Unknown	Giseikan No.381 (2018)
Case 13 (2018)	Advertising on sales purposes of ? unregistered whole tusks (Fukuoka)	Unknown	Nishinihon Shimbun 13/11/2018
Case 14 (2018)	Advertising on sales purposes of one unregistered whole tusk (Fukuoka)	Unknown	Fukukeiseikei No.1938 (2018), Asahi Shimbun 12/11/2018, Nishinihon Shimbun 13/11/2018
Case 15 (2018)	Advertising on sales purposes of one unregistered whole tusk (Fukuoka)	Unknown	Fukukeiseikei No.1938 (2018), Asahi Shimbun 12/11/2018, Nishinihon Shimbun 13/11/2018
Case 16 (2018)	Receiving 3 unregistered whole tusks, advertising on sales purposes of one unregister whole tusk and operating without business notification (Saitama)	Unknown	Life Investigation Agency website http://blog.livedoor.jp/liablog/archives/1920886.html
Case 17 (2018)	Receiving 3 unregistered whole tusks, receiving one whole tusk without the registration card and receiving fraudulent registration of 9 whole tusks (Miyagi)	Fine by summary order (against a part of the susoects)	Miya-Hon-Kan No.417, Miya-Hon-Kan No.508&Fuku-Sei-Kan No.70&Yama-Sei-Kan No.114&Iwa-Sei-Kan No.200, Miya-Hon-Kan No.622&Fuku-Sei-Kan No.90&Yama-Sei-Kan No.145&Iwa-Sei-Kan No.248 , Miya-Hon-Kan No.664&Fuku-Sei-Kan No.103&Yama-Sei-Kan No.153&Iwa-Sei-Kan No.266, Kahoku Shimpo 21/09/2018, 10/10/2018, 11/10/2018, Mainichi Shimbun 11/10/2018, 13/11/2018, Yomiuri Shimbun 10/10/2018, 11/10/2018, Kyodo 31/10/2018
Case 18 (2018)	Transferring one ivory products by an unregistered business operator and advertising on sales purposes of it by another unregistered business operator (Osaka)	Unknown	Daiseikan No.529, Kyodo 26/12/2018, Sankei Shimbun26/12/2018, Asahi Shimbun 26/12/2018, Mainichi Shimbun 26/12/2018

3. Japan has been legalizing and stockpiling whole tusks with unknown origin courtesy of the government's promotion of tusk registration, regardless of rampant fraudulent registration

An ivory whole tusk is not allowed to be traded without registration[25]. The tusk registration can be received only for the whole tusk, which was imported into or obtained within Japan before CITES was applied to it or before international trade in ivory was banned by CITES (January, 1990) (hereinafter referred to as "pre-Convention acquisition"), imported into or obtained within the exporting countries before CITES was applied to it, or imported into Japan as "one-off sold" ivory in 1999 and 2009[26]. As shown in Figure 2, most of registered tusks were pre-Convention acquisition ivory except for ones in 1999 and 2009. The tusk registration surged in 2011, and has overwhelmingly exceeded 1,000 in number and 10 tons in weight every year since then. While 2,157 tusks of around 21 tons in weight hit the record-high in 2015 since 2011, 1,048 tusks weighing 9.7 tons were registered within just the early 6 months of 2018.

The major reason why the number of registration in 2018 outpaced those in 2016 and 2017 is considered to be a campaign by the government for promoting whole tusk registration. It was launched on August 31, 2017[27] and is planned to end on May 31, 2019[28]. Figure 3 shows that the registration rate was at a higher pace particularly in 2018 so that 1,905 tusks were registered within the first year (from August 31, 2017 to August 30, 2018)[29]. Most recently, it was announced that 3,407 tusks in total were registered on or before March 1, 2019 (18 months into the campaign)[30]. The registration rate reaches to nearly 2,300 per year. The question is whether those tusks had been truly obtained legally before the international ban or not.

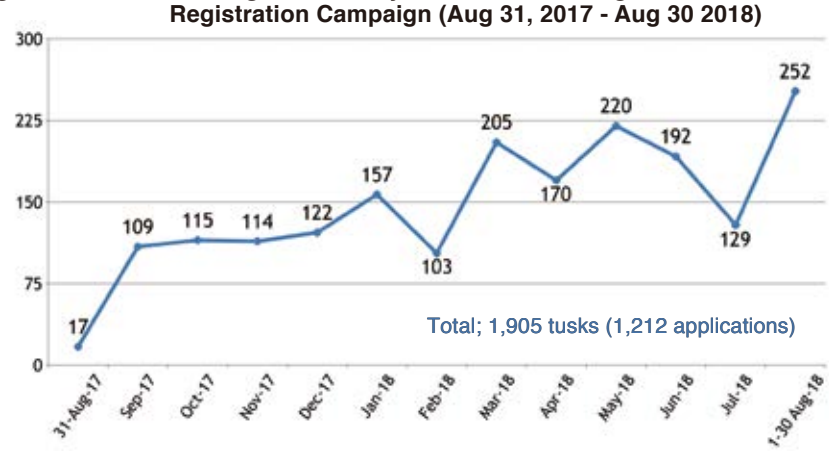
Figure 2: Number / weight of registered ivory whole tusks (1995 - June 2018)



*All the tusks were registered as of imported into or obtained in Japan before the international ban (pre-Convention acquisition) except for (i)two tusks in 2003, two in 2005, 7 in 2007 and 8 in 2008 (19 tusks in total) as of impored into or obtained in the (re-)exporting countries before the ban, and (ii)5,446 tusks in 1999 and 3,365 in 2008 as of the one-off sold ivory derived from the populations in Appendix

Source:
Ministry of Environment, 2012, Response on March 16th 2012 to the letter from Japan Tiger and Elephant Fund, Wildlife Division, Nature Conservation Bureau, Ministry of Environment (in Japanese)
Ministry of Environment, 2013, Response on October 10th 2013 to the letter from Japan Tiger and Elephant Fund, Wildlife Division, Nature Conservation Bureau Ministry of Environment (in Japanese)
Ministry of Environment, 2013, Response on October 28th 2013 to the e-mail from Japan Tiger and Elephant Fund, Wildlife Division, Nature Conservation Bureau Ministry of Environment (in Japanese)
Ministry of Environment, 2015, Response on February 6th 2015 to the e-mail from Japan Tiger and Elephant Fund, Wildlife Division, Nature Conservation Bureau Ministry of Environment (in Japanese)
Ministry of Environment, 2016, an e-mail on March 25th 2016 from Wildlife Division, Nature Conservation Bureau Ministry of Environment to Japan Tiger and Elephant Fund (in Japanese)
Ministry of Environment, 2016, an e-mail on March 31st 2016 from Wildlife Divisionm Nature Conservation Bureau Ministry of Environment to Japan Tiger and Elephant Fund (in Japanese)
Ministry of Environment, 2018, Response on October 29th 2018 to the e-mail from Japan Tiger and Elephant Fund, Wildlife Division, Nature Conservation Bureau Ministry of Environment (in Japanese)

Figure 3: Number of registered ivory whole tusks during the first half of Ivory Registration Campaign (Aug 31, 2017 - Aug 30 2018)

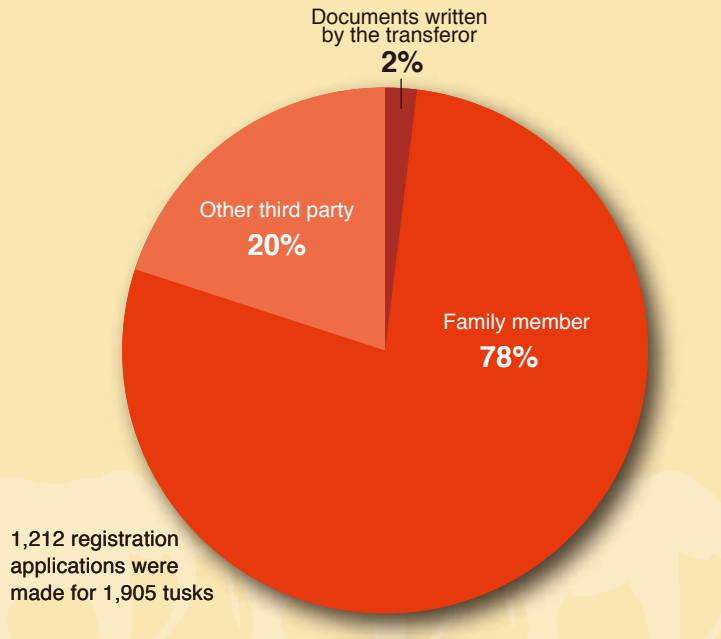


Source: Ministry of Environment, 2018, Response on October 29th 2018 to the e-mail from Japan Tiger and Elephant Fund, Wildlife Division, Nature Conservation Bureau Ministry of Environment (in Japanese)

3. Japan has been legalizing and stockpiling whole tusks with unknown origin courtesy of the government's promotion of tusk registration, regardless of rampant fraudulent registration (continued)

The Japan Wildlife Research Center (JWRC) serves as the designated registration organization under the supervision by the Ministry of Environment[31]. The Center, in principle, has requested registration applicants to submit a document issued by a public organization including the relevant customs clearance document to demonstrate age of acquisition[32]. But, JWRC has also allowed registration applicants to substitute a written statement by a third party about the how-and-when the tusk was acquired by the applicant (hereinafter referred to as "third party certificate") for it[33]. However, such a third party certificate, from its nature, could not be an objective proof for the how-and-when of acquisition because it is impossible for the registration organization to examine whether evidence comprised of personal experiences are true or not. This problem was recognized by JWRC and the government at least 18 years ago[34]. However, 1,212 applications made for the registration of 1,905 whole tusks during the aforementioned first half of registration promotion campaign period were accepted by submitting third party certificates, meaning there was no case in which a document issued by a public organization or any other objective evidence was submitted[35]. The seriousness of this problem can be understood more clearly when examining who the "third parties" are (Figure 4).

Figure 4: The "third party" who wrote the third party certificate received by the registration organization for confirming the date of acquisition of the applied whole tusk during the first half of registration promotion campaign period (Aug 31,2017 - Aug 30,2018)



Source: Ministry of Environment, 2018, Response on October 29th 2018 to the e-mail from Japan Tiger and Elephant Fund, Wildlife Division, Nature Conservation Bureau Ministry of Environment (in Japanese)

The preparers of the 1,212 third party certificates comprise of 2% (26 / 1,212) of the persons/companies who had transferred the ivory in question to the current owners, 78% (946 / 1,212) of the family members of the owners, and 20% (240 / 1,212) of the other third parties (he/she should be the acquaintances of the applicants). The total of the family members and the other third parties is 98% of the total.

As the data illustrate clearly, the Japanese government has taken an ends-justify-the-means approach to increase the registered whole tusks, giving the registration to anyone even where the document produce is an unreliable line dropped by his/her family member or a friend. Considering that the law requires the registration as the primary condition for trading it domestically, what the government has been doing should be described as supplying a vast amount of whole tusks into the legal ivory market, deliberately ignoring the risk of laundering an ivory tusk of questionable legality.

The poster distributed by the Ministry of the Environment for encouraging ivory owners to apply for registration of them under the existing registration process full of flaws

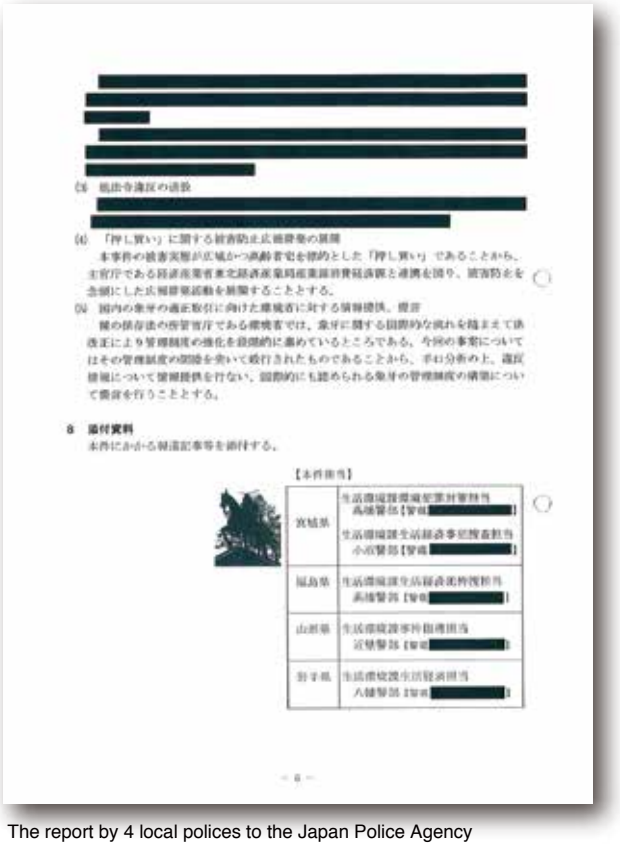
The concern that the present registration scheme could have enabled laundering of whole tusks with unknown acquisition was reconfirmed by a revelation last year of fraudulent registration of them. In October

2018, three suspects were arrested on suspicion of receiving unregistered ivory whole tusks, and later found to have received fraudulent registration for 9 tusks they had already purchased. According to reports, the suspects manufactured third party certificates describing when the tusks were acquired with statements such as, "I saw them at home 30 years ago", or by pretending to be the ageing mother of the ivory owner in order to document when they were acquired. They received fraudulent registration for those 9 tusks in between August 2016 and January 2018[36]. It is reported: "The ivory registration system based on the LCES aims to clarify the time and circumstances of acquisition and prevent illegal transactions such as smuggling, but this case highlighted that deterrence expected to the system has not worked"[37].

Ivory tusks seized in Tokyo in 2017 (image)

The four prefectural polices in charge of the case considered that "the illegal acts were perpetrated by abusing the loophole of the controls, and decided to provide information on the modus operandi of the case based on our analysis and make a recommendation to the Ministry of the Environment about establishment of ivory controls to be recognized by international community"[38]. It is an unprecedented situation when the police recommend to a Ministry to improve flawed implementation of the law. The police say proudly that the crackdown at this time "must raise a question about the responses by the concerned Ministry from the view point that a robust ivory trade control should be established so that no criticism may arise on it from any country"[39]. However, MoE still did nothing to reject the third party certificates and continued the registration promotion campaign even after such recommendation was made in November, 2018[40].

On March 22, 2019, after four months MoE has continued registration operation status quo since the



The report by 4 local polices to the Japan Police Agency

recommendation, it officially announced that after the registration campaign it will tighten the registration process by requiring a carbon-dating to those applying for ivory whole tusk registration from July 1, 2019 onward[41]. This announcement was officially made after 3,407 whole tusks were registered through dubious means to supply the legal market. In fact, the decision had already been scheduled in 2017 which suggests that it was the government's intent to accelerate stockpiling ivory before tightening restrictions[42]. Needless to say, the carbon-dating is not required for the whole tusks already registered before the date (approximately 160 tons in total[43]).

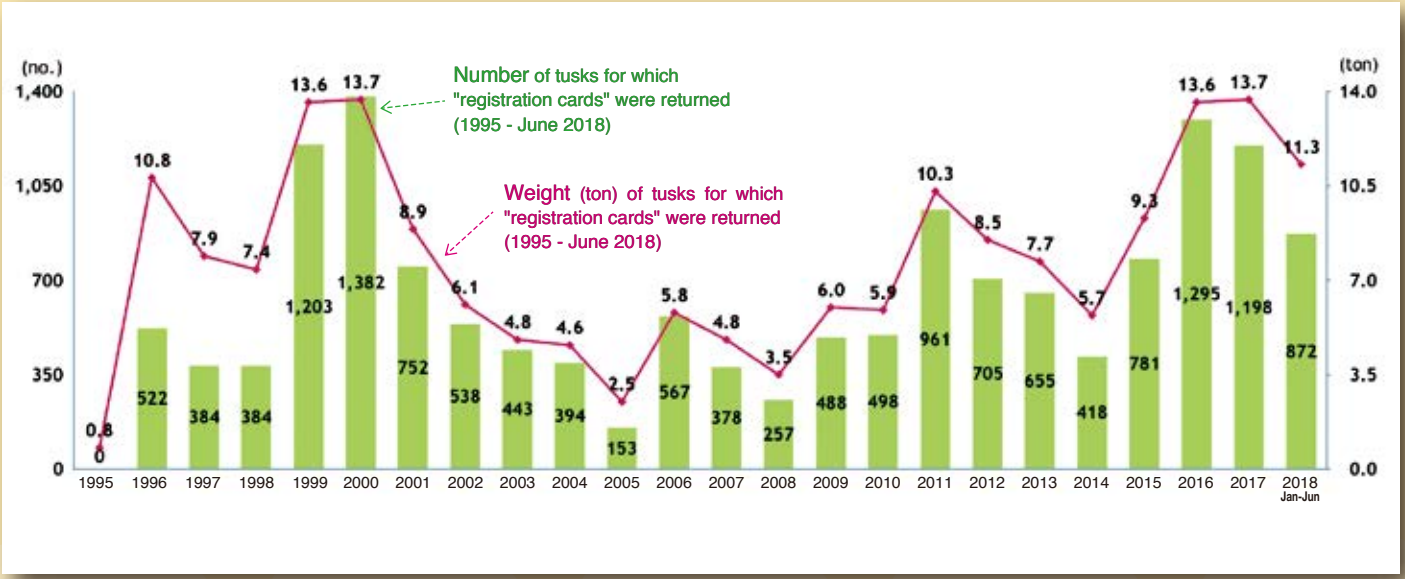
4. Ivory dealers are proactively taking steps to neutralize the whole tusk registration regulations which will be tightened in the near future, abusing the loophole of the law that mandates only whole tusks be registered

One of the highlights presented by the amendment to LCES, implemented in 2018, was the introduction of an obligation for ivory dealers to submit proof that all of the whole tusks owned by them have been registered when they apply for business registration or renewal[44]. The measure seems to aim to wipe out unregistered whole tusks from the stockpile of the ivory dealers, of which acquisition is completely unknown, in order to eliminate one of the covers of smuggled ivory tusks. The first deadline for submitting proof of registration of all tusks, which is imposed on a part of ivory dealers who have operated their business since before the amendment implementation in June 2018, is scheduled for December 2019[45]. However, ivory dealers, or manufacturers in particular, who own a considerable amount of raw ivory and have acted as the main players in Japan's ivory market[46] seem to have mounted a countermeasure to neutralize the new regulation. The registration of tusks as the condition for trade is only required for whole tusks[47]. So, tusks can be cut into pieces to avoid the registration requirement. Though ivory manufacturers who would deal with cut pieces of raw ivory and / or ivory products on a regular basis should receive a business registration[48], they can trade them freely once they receive it. It is likely that ivory manufacturers have started to cut whole tusks so as to stock and trade them in the form of cut pieces prior to the submission deadline, abusing the registration system loophole. The data on cutting registered whole tusks suggests as much (Figure 5).

Cutting of registered whole tusks surged in 2016. Levels were maintained in 2017, and were exceeded in the first half of 2018. This trend might arise partially because a lot of whole tusks had been registered since 2011 so that the dealers could increase cutting of them at ease. But, it does not explain the whole story because new registration decreased in 2016 and 2017 consecutively after peaking in 2015 (see Figure 2) while cutting of registered tusks increased in 2016, up to 65% from the previous year and continued that trend in 2017.

In December 2015, EIA published the results of the investigation of Japanese ivory buyers[49] in the afterglow of the joint statement between the US and China about the closure of their domestic ivory markets, and revealed the telephone conversation with the officer of Japan Wildlife Research Center[50] at the venue of the CITES Standing Committee in January 2016. Because those findings revealed serious loopholes of the tusk registration scheme and the reality of inappropriate registration operation settling for abuse of the loophole, MoE was

Figure 5: Number / weight of tusks for which "registration cards" were returned due to cutting the tusks (1995 - June 2018)



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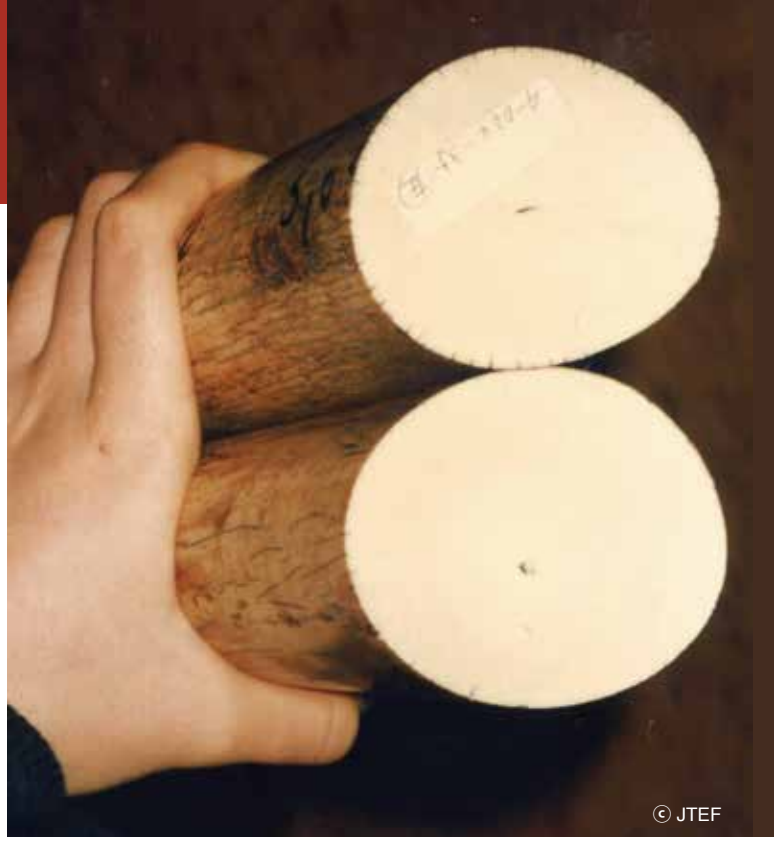
Ministry of Environment, 2013, Response on October 28th 2013 to the e-mail from Japan Tiger and Elephant Fund, Wildlife Division, Nature Conservation Bureau Ministry of Environment (in Japanese)
Ministry of Environment, 2015, Response on February 6th 2015 to the e-mail from Japan Tiger and Elephant Fund, Wildlife Division, Nature Conservation Bureau Ministry of Environment (in Japanese)
Ministry of Environment, 2016, an e-mail on March 25th 2016 from Wildlife Division, Nature Conservation Bureau Ministry of Environment to Japan Tiger and Elephant Fund (in Japanese)
Ministry of Environment, 2016, an e-mail on March 31st 2016 from Wildlife Divisionm Nature Conservation Bureau Ministry of Environment to Japan Tiger and Elephant Fund (in Japanese)
Ministry of Environment, 2018, Response on October 29th 2018 to the e-mail from Japan Tiger and Elephant Fund, Wildlife Division, Nature Conservation Bureau Ministry of Environment (in Japanese)

forced to give a documented warning to JWRC[51]. Subsequently, MoE established a committee on the amendment to the LCES in June 2016[52]. As just described, the series of the events in 2016 raised the expectation that a review of the whole tusk registration scheme is likely in the near future. These circumstances led ivory dealers and manufacturers to increase the cutting of whole tusks starting in 2016 in order to be freed from the constraints of the upcoming regulation.

The attempt by the manufacturers to stockpile raw material ivory in the form of cut pieces can be more clearly identified, as evidenced by the change in weight on stockpile of cut pieces (Figure 6).

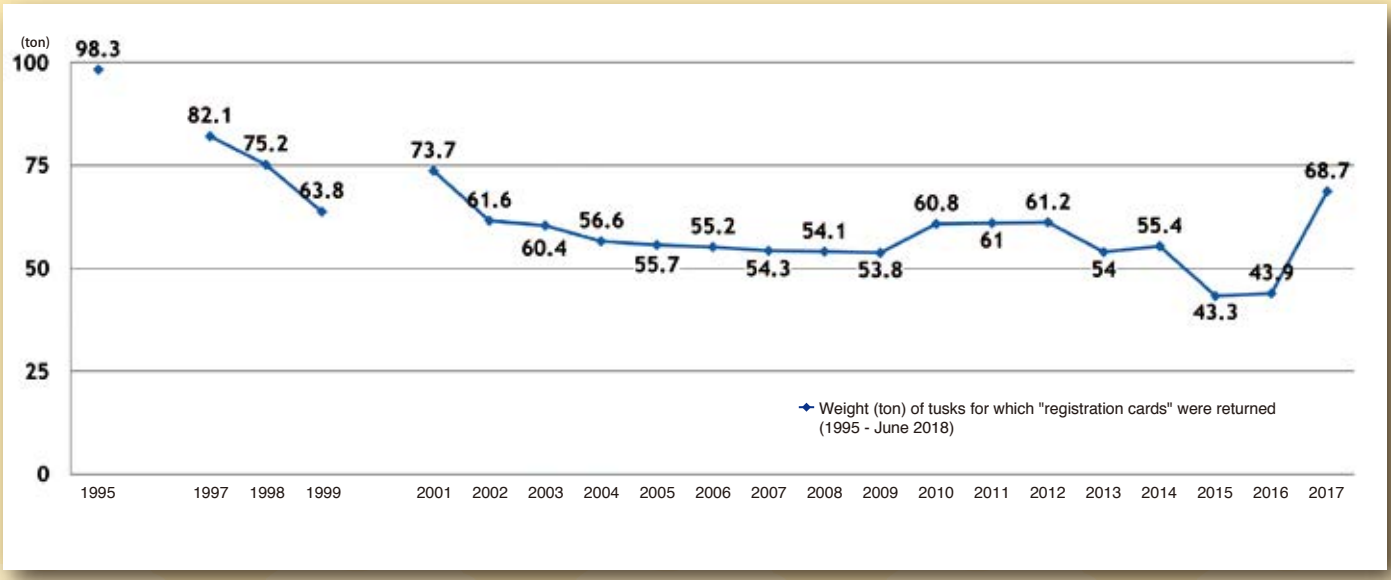
The stockpile of ivory cut pieces had slowly decreased since 2002 and then had rapidly dropped between 2012 and 2016 after a temporal increase in 2010, the next year of the second one-off sold ivory was imported. Then, the accumulation of cut pieces suddenly increased in 2017 and 24.8 tons were added to the previous year[53].

The stockpile of cut pieces can increase in two main ways, including by cutting of registered / unregistered whole tusks and acquisition of cut pieces from non-business people. Of these factors, the weight of cut registered whole tusks was shown in Figure 5. Because the date of



counting registered whole tusks (June 30 and December 31) is different from the one on cut pieces (March 31), it is impossible to figure out how much registered whole tusks contributed to the increase of 24.8 tons of cut pieces stockpile. However, the weight of cut registered whole tusks was just 13.5 tons in 2016 and 13.6 tons in 2017[54]. It may suggest that cutting unregistered whole tusks and acquisition of cut pieces from private citizens, in addition to cutting registered whole tusks, have contributed to the increase of cut pieces stockpile.

Figure 6: Weight (ton) on stockpile of ivory cut pieces (1995 - 2017)



Source:
Ministry of Economy, Trade and Industry, 2002, Response on September 13th 2002 to the question from Sakamoto M., Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
Ministry of Economy, Trade and Industry, 2004, Response on November 30th 2004 to the question from Sakamoto M., Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
Ministry of Economy, Trade and Industry, 2007, Response on January 31st 2007 to the question from Sakamoto M., Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
Ministry of Economy, Trade and Industry, 2012, Response on February 21st 2012 to the question from Sakamoto M., Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
Ministry of Economy, Trade and Industry, 2012, Response on May 18th 2012 to the question from Sakamoto M., Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
Ministry of Economy, Trade and Industry, 2015, Response on February 13th 2015 to the question from Japan Tiger and Elephant Fund, Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
Ministry of Economy, Trade and Industry, 2015, Response on June 19th 2015 to the question from Japan Tiger and Elephant Fund, Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
Ministry of Economy, Trade and Industry, 2016b, Response on July 7th 2016 to the question from Japan Tiger and Elephant Fund, Lifestyle Industries Division, Manufacturing Industries Bureau (in Japanese)
Ministry of Economy, Trade and Industry, 2018, Response on November 29th 2018 to the question from Japan Tiger and Elephant Fund, Lifestyle Industries Division, Manufacturing Industries Bureau (in Japanese)

5. The increase of ivory demand and expansion of ivory market in the near future in Japan are likely

In the Japanese ivory market, 80% of raw ivory material is carved into *hanko*[55]. As such, most of whole tusks to be cut and cut pieces with a suitable size could have been consumed for *hanko* production. The change in each ivory *hanko* stockpile of manufacturers, wholesalers and retailers are shown in Figure 7 - 9.

There had not been a significant change in the stockpile since 2007 until 2015. The manufacturers' stockpile showed a gradual increase, the wholesalers' was stabilized, and the retailers' showed a gradual reduce.

However, the trend has dramatically changed recently. The manufacturers' stockpile started to surge in 2016 and reached to 465,000 pieces in 2017, up

24% from the previous year (374,000 pieces). The stockpile of retailers also increased to 306,000 pieces in 2017, up 25% from the previous year (244,000 pieces). On the contrary, the stockpile of wholesalers decreased in 2017 by 7%.

The trend suggests that manufacturers have boosted the production of ivory *hanko* and that retailers have all together bought it up, cutting into wholesalers' stockpile. Considering that retailers would never lay in a costly stock if they are not confident that their customers would buy it, the trend may suggest that the demand for ivory *hanko* is likely to be stimulated in Japanese ivory market.

This firm demand for ivory *hanko* is

Figure 7: Number on stockpile of ivory *hanko* (1995-2017)
Manufacturers

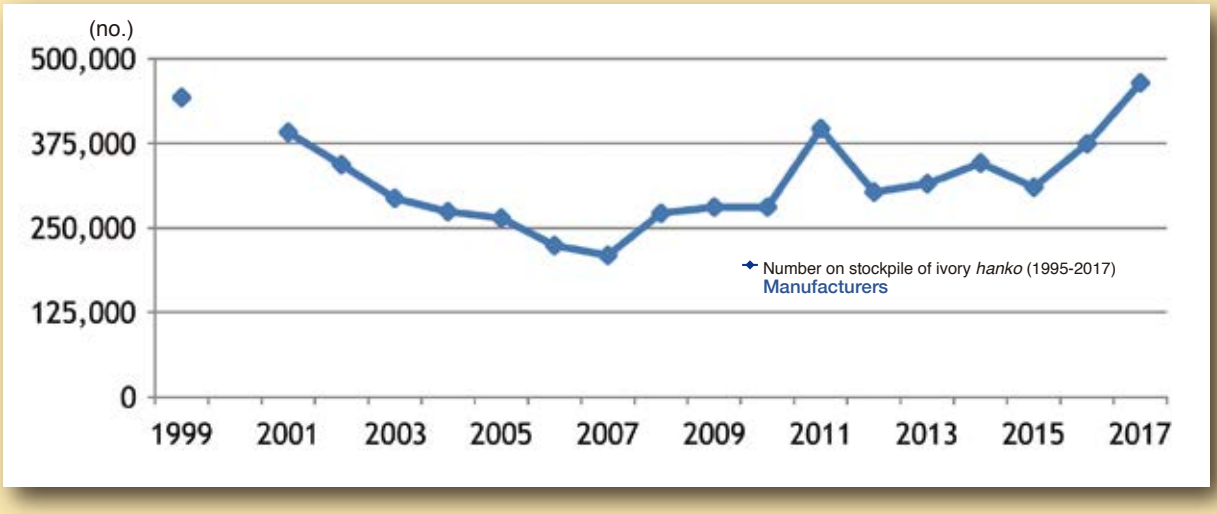
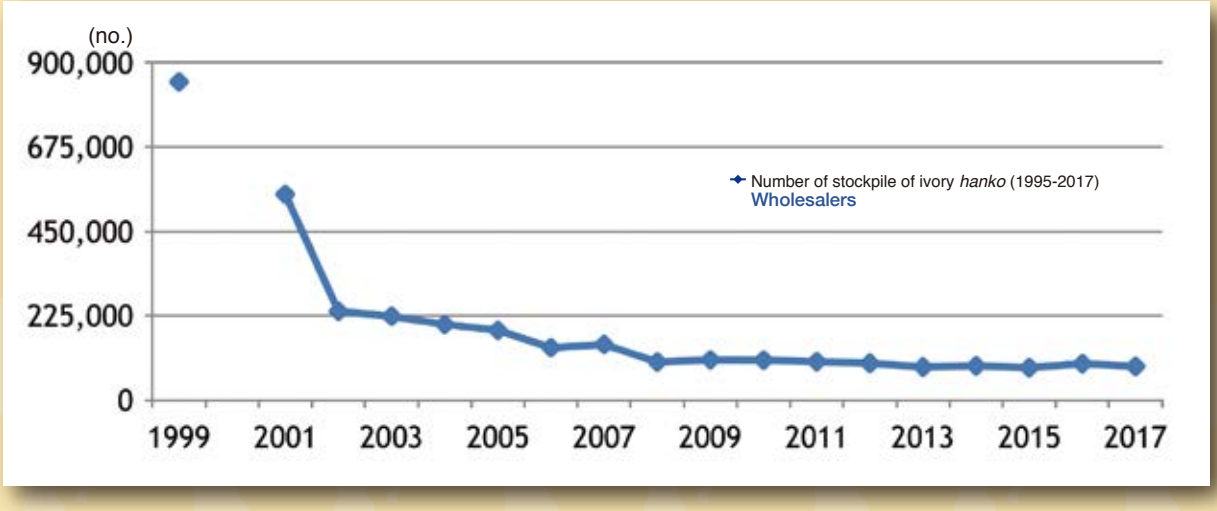


Figure 8: Number of stockpile of ivory *hanko* (1995-2017)
Wholesalers

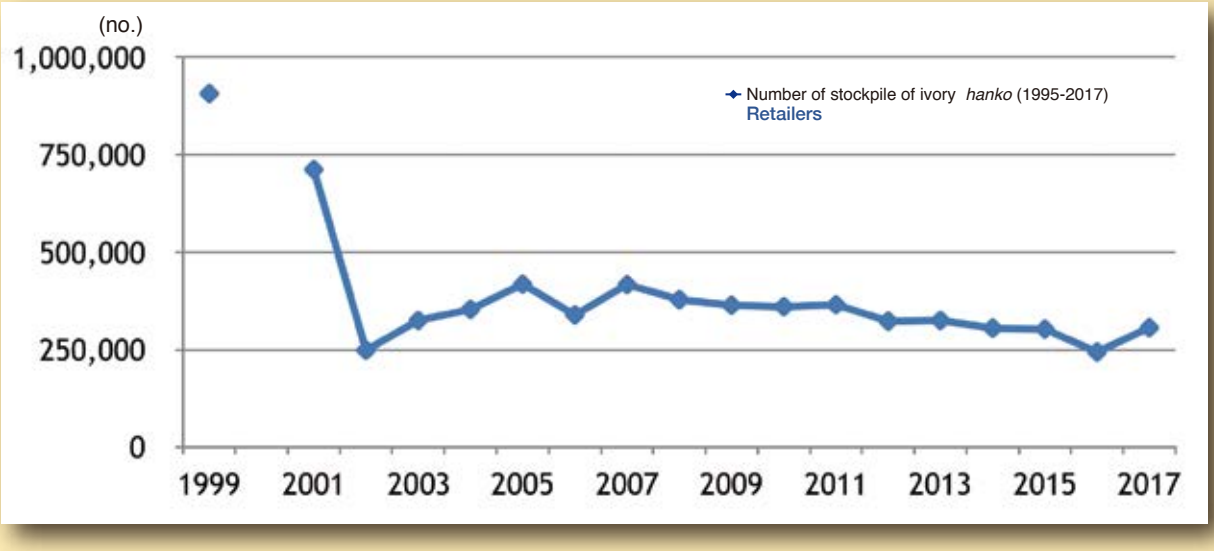


due some part to the existence of the "seal registration" as a legal system while there is a lot of option of luxury *hanko* material. Apart from Japan, only Taiwan and Korea have a seal registration system, and theirs were introduced by Japan during the colonization era. Mainland China, the birthplace of *hanko*, has adopted the signature as the social system even though *hanko* name seals are also common as gifts / crafts[56]. Many seizures of ivory *hanko* have been found, which were destined to the far East[57], and the destination countries are often announced as China or countries other than Japan[58], but it cannot be ruled out that *hanko* evaded the seizure could have been destined to Japan as the final place of consumption[59].

Furthermore, the working document on "Domestic Markets for Frequently Illegally Traded Specimens" to be discussed at CoP18 points out "The bans also seem to have had the effect of shifting ivory markets to other countries, often adjacent to the country where the ban was imposed"[60]. Given their proximity, historical tie between their ivory markets and the recent market closure/announcement of closure in China and Hong Kong SAR, the risk of the Chinese ivory market demand shifting to Japan can become a reality in the near future. Any significant shift found in illegal ivory supply chain involving Japan, e.g. an emergence of Japanese ivory buyers in Nigerian illegal ivory market in 2018[61], should be carefully kept tabs on.

A *hanko* shop adevertised URGENT ARRIVAL of IVORY in 2019.

Figure 9: Number of stockpile of ivory *hanko* (1995-2017)
Retailers



Source:
Ministry of Economy, Trade and Industry, 2002, Response on September 13th 2002 to the question from Sakamoto M., Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
Ministry of Economy, Trade and Industry, 2004, Response on November 30th 2004 to the question from Sakamoto M., Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
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Ministry of Economy, Trade and Industry, 2012, Response on February 21st 2012 to the question from Sakamoto M., Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
Ministry of Economy, Trade and Industry, 2012, Response on May 18th 2012 to the question from Sakamoto M., Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
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Ministry of Economy, Trade and Industry, 2015, Response on June 19th 2015 to the question from Japan Tiger and Elephant Fund, Paper Industry, Consumer & Recreational Goods Division, Manufacturing Industries Bureau (in Japanese)
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Ministry of Economy, Trade and Industry, 2018, Response on November 29th 2018 to the question from Japan Tiger and Elephant Fund, Lifestyle Industries Division, Manufacturing Industries Bureau (in Japanese)

Conclusion

The Government of Japan announced that it will require applications for whole tusk registration after July 1, 2019 to include carbon-dating results as supporting proof for the date on acquisition of the whole tusk but the measure is not applied to the tusks already registered before the date. Furthermore, it intends to continue to allow production and sales of a variety of ivory products in its legal market as ever.

Japan has already stocked over 160 tons of whole tusks (with dubiety about the legal acquisition), fully enjoying the benefit of the tusk registration campaign promoted by the government. In addition, there are 70 tons of legal cut pieces stockpiled, and unknown unregistered whole tusks and cut pieces held by private citizens. Such ivory should continue playing a roll of "cover" for illegal ivory and the source of items to be illegally exported abroad.

Furthermore, ivory dealers have already prepared for neutralizing future tightening of the controls on whole tusks by stockpiling raw ivory material in the form of cut pieces.

Japan should not delay its market closure, but should confirm its determination to close and create a plan for implementation, following the call of the African Elephant Coalition comprised of 32 African nations.

Recommendation

To Parties:

Support the recommendations in CoP18 Doc. 69.5 that calls for adopting the draft Decision to request Parties with legal domestic markets for commercial trade in ivory, including Japan, to close its market expeditiously, as well as associated Decisions to enable adequate monitoring of and compliance with the Decision.

To Japan:

Make a political statement to ban domestic ivory trade except for bona fide "narrow exemptions" in order to comply with CITES Resolution Conf.10.10; and,

Prepare a roadmap toward the ban, which includes specific measures to be needed and a short-term schedule considering the matter of urgency.

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African Elephant Status Report 2016: an update from the African Elephant Database. Occasional Paper Series of the IUCN Species
Survival Commission, No. 60 IUCN / SSC Africa Elephant Specialist Group. IUCN, Gland, Switzerland
2. SC70 Doc.27.4 Annex 11
3. MoFA, METI and MoE, 2016
http://www.meti.go.jp/committee/kenkyukai/seizou/zouge_torihiki/pdf/003_01_00.pdf (in Japanese)

1.Japan's legal ivory market is vulnerable to illegal export of ivory

4. Asahi Shimbun 24/12/2017
5. Asahi Shimbun 2/2/2018
6. Ibid.
7. Kitade, T. and Nishino, R., 2017, Ivory Towers: An assessment of Japan's ivory trade and domestic market. TRAFFIC. Tokyo, JAPAN
8. For example, Sina.com 10/04/2019, "Hangzhou Customs seized 69 pieces of ivory products in the first quarter, mostly Japanese ivory shaft heads"
http://zj.sina.com.cn/news/2019-04-10/detail-ihvhiqax-1349063.shtml
The article said, "certain ivory trade with correct official documents is still legal in Japan. This has made arts and crafts trade a "cover-up" for ivory smuggling. Having seen many similar cases, Hangzhou custom claims that they will pay extra attention to imported arts and crafts from Japan."
9. Public-private council for the promotion of appropriate ivory trade measure, 2017, Follow-up report of the public-private council for the promotion of appropriate ivory trade measure (CITES SC 69 Inf. 35), Government of Japan
http://meti.go.jp/press/2017/11/20171122002/20171122002-2.pdf
10. METI website:
https://www.meti.go.jp/policy/external_economy/trade_control/02_exandim/06_washington/download/20180523_caution_zougehanbai.pdf
11. METI website: http://www.meti.go.jp/policy/mono_info_service/mono/seikatsuseihin/zougebekkou/seminar_30_shunohozon.html
12. A document distributed at the seminar states that "The visitors into Japan who purchased ivory products are likely to take them out to abroad. It violates the Foreign Exchange and Foreign Trade Law unless the person would comply with the requirements by the law. Therefore, any person who intend to sell ivory products are requested to call attention to the customers that import/export of ivory is prohibited in principle. And if appropriate, the seller could be required to refrain to sell them voluntarily."
http://www.meti.go.jp/policy/mono_info_service/mono/seikatsuseihin/zougebekkou/downloadfiles/faq.pdf
13. EIA website https://eia-global.org/reports/20181007-japan-ivory-*hanko*-report
14. Kitade and Nishino, 2017
15. CoP18 Doc. 69.3 (Rev. 1) Annex 1

2.There is limited implementation of strict punishment against recurring illegal domestic ivory trade

16. LCES Article 12, Paragraph 1, Article57-2, Section 1
17. LCES Article 17, Article 58, Section 2
18. LCES Article57-2, Section 2
19. LCES Article 12, Paragraph 1, Article57-2, Section 1
20. LCES Article 17, Article 58, Section 2
21. LCES Article57-2, Section 2
22. The strictest statutory penalty is imprisonment for not more than five years and/or a fine not more than 5 million yen while it is a fine not more than 100 million yen against company (LCES Article57-2, Article 65, Paragraph 1, Section 1).
23. The Environment Committee in the House of Councilors, 2013, "2. Summary of the Bill" in the Information packet for "Bill for partially amendments to LCES" (Cabinet Bill No. 66), the Office for research, Secretariat of the House of Councilors (in Japanese)
24. Some news article reported "according to the Japan Police Agency, there were 18 crackdowns related to illegal ivory trade between 2013 and 2017" (Nishinihon Shimbun 13/11/2018), or "The prefectural police reported that the number of illegal ivory trade cases has been increasing year by year: one in 2014, 3 in 2015, 6 in 2016 and 14 in 2018." (Chunichi Shimbun19/04/2019) . Thus, the actual number of the cases is assumed to be more.

3.Japan has been legalizing and stockpiling whole tusks with unknown origin courtesy of the government's promotion of tusk registration, regardless of rampant fraudulent registration

25. LCES Article 12, Paragraph 1, Section 6, Cabinet Order for Implementation of LCES Article 6
26. LCES Article 20, Paragraph 1, Cabinet Order for Implementation of LCES Article 8
27. MoE website http://www.env.go.jp/nature/kisho/zouge-torihiki.html
Though MoE names the initiative as the "campaign for bringing out ivory stockpile in the open", what it all boils down to is to call for the general public on receiving registration of tusks under their ownership.
28. Ministry of Environment, 2019, On the rigorous examination method of the registration of ivory that holds the whole shape -To the ban in principle of domestic transaction of whole tusks -, Press Release on March 22, 2019 http://www.env.go.jp/press/106580.html
29. Ministry of Environment, 2018, Response on October 29th 2018 to the e-mail from Japan Tiger and Elephant Fund, Wildlife Division, Nature Conservation Bureau Ministry of Environment (in Japanese)
30. MoE, 2019
31. JWRC website http://www.jwrc.or.jp/service/cites/overview.htm
32. JWRC website http://www.jwrc.or.jp/service/cites/regist/kikan/1.htm
33. The environment committee in the House of Councilors, 2017, The Minutes Vol. 15 of the environment committee in the House of Councilors, the 193th Diet (dated May 25th,2017) (in Japanese)
34. Japan Wildlife Research Centre, 2001, "Improvement of operation on registration of internationally endangered species of wild fauna and flora in accordance with Article 20, Paragraph 1 of Law for Conservation of Endangered Species of Wild Fauna and Flora",the document No.JWRC 77-1 dated December 27th 2001 (in Japanese)
35.MoE, 2018
36. Kahoku Shimpo 11/10/2018
37. Yomiuri Shimbun 11/10/2018
38. Miyagi Prefectural Police, Fukushima Prefectural Police, Yamagata Prefectural Police and Iwate Prefectural Police, 2018, Investigation on the case of a violation of the "Specified Commercial Transaction Law" and "Law for Conservation of Endangered Species of Wild Fauna and Flora", occurred in the range of three police jurisdictions and 11 prefectures (the 3rd report) , Miya-Hon-Kan No.664&Fuku-Sei-Kan No.103&Yama-Sei-Kan No.153&Iwa-Sei-Kan No.266 (in Japanese)
Mainichi Shimbun 13/11/2018
39. Miyagi Prefectural Police, et.al., 2017
40. Mainichi 23/3/2019
41. MoE, 2019
42. Ministry of Environment, 2017, Reference material No.7 "Strengthening program on ivory trade control", "Summary of the Bill" in the Chapter I of the Information packet for "Bill for partially amendments to LCES" (Cabinet Bill No. 33), the Office for research, Secretariat of the House of Councilors (in Japanese)
43. The numerical value can be calculated by deducting the weight of whole tusks for which the registration cards were returned during the period between 1995 and June 2018 (187 tons) from the weight of newly registered tusks during the same period (344 tons). Refer to the Figure 2 and 5.

4.Ivory dealers are proactively taking steps to neutralize the whole tusk registration regulations which will be tightened in the near future, abusing the loophole of the law that mandates only whole tusks be registered

44. LCES Article 33-6, Paragraph 3
45. The Supplement to LCES (June 2, 2017, Law No.51) Article t, Paragraph 2
46. The following facts are some of the examples suggesting the influence of the ivory associations which is organized by such influential ivory manufacturers.
✓Annually the ivory associations hold an auction of raw ivory materials to trade the stockpile among the association members. The price reached at the auction determines the regular price of raw ivory in the ivory industry.
Anon., 1997, "Mysterious reason for increasing price of blank *hanko* even though ivory import/export ban was lifted", Monthly Magazine Gendai Insyo (Modern *hanko*), August 1997 edition, Gendai Publishing (in Japanese)
Martin E.B., 1985, The Japanese Ivory Industry, WWF Japan (in Japanese)
✓Most of the members of the associations are major ivory manufacturers in Japan. Some of them used to be importers until the international trade in ivory was banned by CITES. Between 1975 and 1979 an average of some 300 tonnes of ivory was imported every year to Japan, and two thirds of the import was through five of the largest dealers of the ivory associations (Martin, 1985).
✓66% of the total cut pieces notified to the government was in possession of the association members.
Government of Japan, 1996, Ivory Control System in Japan. Proceedings of the African Range States Meeting in Dakar, Senegal, Environment Agency and Ministry of International Trade and Industry
✓The 14 companies comprising of 15 dealers participated in the ivory auction for the one-off experimental export from the three southern African countries, were all members of the ivory associations.
Anon., 1999, "The report: Totally won a bid of 50 tons of ivory in 3 countries, will import in July after 10 years!!", Monthly Magazine Gendai Insyo (Modern *hanko*), June 1999 edition, Gendai Publishing (in Japanese)
47. LCES Article 12 Paragraph 1 Section 4, Cabinet Order to implement LCES Article 6
48. LCES Article 33-6, Paragraph 1
49. EIA website https://content.eia-global.org/posts/documents/000/000/010/original/EIA_Japans_Illegal_Ivory_Trade.pdf?1485972867
50. EIA website https://eia-global.org/press-releases/japanese-wildlife-official-promoted-illegal-ivory-trade
51. Ministry of Environment, 2016, Document No. 1601181 dated January 18th 2016, Wildlife Division, Nature Conservation Bureau, Ministry of Environment (in Japanese)
52. MoE website http://www.env.go.jp/nature/kisho/hozen/arikata/index.html
53. Ministry of Economy, Trade and Industry, 2018, Response on November 29th 2018 to the question from Japan Tiger and Elephant Fund, Lifestyle Industries Division, Manufacturing Industries Bureau (in Japanese)
54. Even the weight of registered whole tusks cut for 18 months between January 2016 and June 2017, which encompasses the one-year period between April 2016 and Mach 2017 (22 tons) does not reach to the weight of the increased cut pieces stockpile (24.8 tons).

5. The increase of ivory demand and expansion of ivory market in the near future in Japan are likely

55. Kageo Takaichi, 1992, "Future of ivory import", Monthly Magazine *Hanko* Field February 1992 issue, Sankei-sya Publishing (in Japanese)
Vigne & Martin, 2010, Consumer demand for ivory in Japan declines, Pachyderm No. 47 January–June 2010, IUCN/SSC
56. Kohsuke Uchimura, 2019, *Hanko* culture of Japan pressured by digitalization is facing a crossroad,News Week Japan edition February 1, 2019
https://www.newsweekjapan.jp/nippon/season2/2019/02/230935_2.php
57. UNODC report in 2010 describes "In Ethiopia, in particular, large volumes of ivory items obviously destined for the Far East were recovered (chopsticks, cigarette holders and signature seals)."
UNODC, 2010, The globalization of crime - A transnational organized crime threat assessment P.163
The most recent ETIS report also describes about illegal trade involving Zimbabwe and Angola "This trade most frequently involves the use of couriers travelling by air and, overall, the items typically being moved concern ivory bangles, pendants, chopsticks and name seals."
CoP18 Doc. 69.3 (Rev. 1)
58. CoP18 Doc. 69.3 (Rev. 1)
59. The 6.5 tons of ivory seized in Singapore in 2002, destined to Yokohama Port, contained 42,120 *hanko*.
Samuel K. Wasser, Celia Mailand, Rebecca Booth, Benezeth Mutayoba, Emily Kisamo, Bill Clark, and Matthew Stephens, 2007, Using DNA to track the origin of the largest ivory seizure since the 1989 trade ban, PNAS March 6, 2007 104 (10) 4228-4233; https://doi.org/10.1073/pnas.0609714104
The 2.8 tons of ivory seized in Osaka Port in 2006, shipped from Malaysia, contained 17,929 *hanko*.
Sakamoto M., 2007, Memo on court hearing on 23rd Apr., 4th Jun., 25th Jun and 10th Jul. in 2007 at Osaka District Court regarding Case of violating Customs Law (2007,WA, No.1033) (in Japanese)
60. CoP18 Doc. 31
61. Sone Nkoke Christopher, 2019, LAGOS, NIGERIA: A snapshot survey of the illegal ivory market, TRAFFIC Bulletin Vol. 31 No. 1 (2019)
https://www.traffic.org/site/assets/files/12036/lagos-iivory-markets.pdf

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