

Japan's Tireless Ivory Market:

A Trader's Haven
Free of Strict Controls

Contents

Acknowledgement

The author wishes to thank the officials of METI and MoE for providing information regarding operations in the implementation of the Law for Conservation of Endangered Species of Wild Fauna and Flora. He would also like to give special thanks to the Environmental Investigation Agency US (EIA) for supporting this research project, and to EIA's Ms. Amy Zets Croke for giving valuable advice on compiling this report.

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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Published in February 2022, by the Japan Tiger and Elephant Fund

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Executive Summary

Africa's elephants continue to be in crisis due to poaching for trading their ivory, and domestic markets for ivory have been closing worldwide to combat this crisis. The 18th meeting of the Conference of the Parties (CoP18) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) adopted a decision, aimed at promoting the implementation of the recommendation on the closure of domestic ivory markets included in Resolution Conf.10.10 amended at CoP17, which states "the Parties that have not closed their domestic markets for commercial trade in raw and worked ivory are requested to report to the Secretariat for consideration by the Standing Committee to CITES at its 73rd and 74th meetings on what measures they are taking to ensure that their domestic ivory markets are not contributing to poaching or illegal trade."

The Government of Japan (GoJ) submitted reports under the CITES Decision and insisted that "Japan has been implementing stringent measures to ensure that its domestic ivory market is not contributing to poaching or illegal trade". Most importantly, Japan demonstrates a new business registration requiring ivory dealers to fulfill all requirements for registration and renew their registration every five years; a 100%-registration-mandate on whole tusks when they renew or initially receive their business registrations; maintenance of inventory data including transaction records and traceability information records for cut pieces; and, increased scrutiny of the registration of whole tusks by requiring the result of radiocarbon dating. However, GoJ's claims of stringent market controls are flawed and unjustified.

Firstly, according to the GoJ's report, raw and worked ivory dealers must be registered. In this

case, they must fulfill all requirements for registration, which requires renewal every five years. But, our analysis of the GoJ's examination of eligibility of the business registration renewal indicates that businesses are being registered via a token examination with a lack of scrutiny by the competent authorities. Specifically, the reality of the examination of applications for business registration is that the competent authority has left it solely to the authorized private organization, even for the applications by kingpin dealers with track records of illegal trade engagement. Thus, it is obvious that the examination of business registration and renewal is in name only, and it has not exerted any effect on excluding problematic dealers.

Secondly, GoJ insists ivory dealers must register all (whole) tusks in their possession when they renew or initially receive their business registrations. This approach is a countermeasure to the problem of unregulated unregistered whole tusks owned by the businesses; the Japanese domestic law requires whole tusks to be registered prior to transactions, however, exempts them from being registered as far as the owner does not intend to transfer them (even the case of tusks stocked by dealers for being consumed as raw material). Thus, it should be questioned whether the 100%-registration-mandate on whole tusks realized the goal of regulating the stockpile of registered dealers through the whole tusk registration or not. Our analysis indicates that registered dealers successfully evaded this requirement by cutting their whole tusks into pieces and then processing them into *hanko* beforehand. The details are as follows.

Cutting of registered whole tusks surged in 2016, and maintained that scale until November 2019. In 2018 (calendar year), it hit a record

high of more than 19.4 tons for the calendar year, surpassing the highest weights in 1999, when the CITES one-off sold tusks were imported from the southern African countries, and in the following year of 2000; It should be noted that a large part of these “registered” tusks is considered to be actually unregistered tusks posing as registered. Cutting of the other unregistered whole tusks were also huge within that period (after 2016); our analysis estimates that 14.4 tons of those tusks in total were cut between April 2016 and March 2017, which account for 47% of the all whole tusks cut in the same period (an estimate of 30.8 tons).

Subsequently, cutting of registered whole tusks plummeted when the deadline for business registration renewal for the longstanding main players (November 2019) passed and they had to demonstrate that every single whole tusk owned had been registered. In 2020, the amount of cut tusks dipped.

This series of phenomena suggest that since 2016, when the main players of the ivory market predicted a tightening of the regulation on whole tusk trade in the near future, the main players of the market took countermeasures to evade any future regulation by using the legal loophole which mandates only whole tusks to be registered. In other words, they cut the unregistered whole tusks in their possession beforehand, including ones posing as registered by using the registration cards, indicating specific numbers, given to other tusks which have been already consumed, and other unregistered ones in possession, so that these whole tusks were changed into cut pieces and then blank *hanko*. In conclusion, the 100%-registration-mandate for whole tusks not only did not achieve a positive outcome, but also put enormous amount of ivory

pieces and products with unknown origin and acquisition on the market.

Thirdly, according to the GoJ’s report, ivory dealers must prepare and keep inventory data including transaction records and traceability information records for cut pieces. Our analysis of that system found that the inventory data including transaction records and traceability information records for cut pieces recorded in each registered dealer’s ledger have not been used for tracing ivory sales transactions from the beginning (1995), and it is unlikely that such ledger-recording system will be contributing to securing the traceability after all this time.

Furthermore, there is a fundamental problem in terms of securing traceability of ivory cut pieces and products. Ensuring traceability means that each identified item, the legality of which has been verified, can be traced in order to prevent illegal items from entering into the legal trade. However, all ivory items except for whole tusks, or any type of ivory cut pieces and products (without remaining whole shape) are exempted from the mandate on registration, meaning no official verification of legal origin and acquisition is in place. Securing the traceability of ivory cut pieces and ivory products is, in both institution and practice, completely impossible at present.

Fourthly, the GoJ claims that tightening the examination of the whole tusk registration application process by requiring the results of carbon-dating will enable GoJ to scrutinize more closely whether or not a tusk was imported to/obtained in Japan before the CITES trade ban. However, our analysis on the effectiveness of this new requirement found that carbon-dating is not a meaningful tool in general as it judges when the elephant possessing the tusk concerned died,

rather than judging when the tusk was acquired by the applicant for registration. Moreover, the implementation endorsed by GoJ, which leaves sampling for testing to the registration applicants could raise the risk of laundering.

However, the most serious problem is that the tightening of the examination on whole tusk registration by using carbon-dating was intentionally delayed by GoJ, and tusk registration promoted, so that a vast amount of tusks with unknown origin and acquisition were salvaged, legalized and then released into the market before the measure was put in place. As the result, up to 182 tons of whole tusks registered for legal trade were stockpiled without engagement in the carbon-dating as of the time of the end of September 2019. GoJ reported that the recent ivory stockpile includes about 66 tons of cut pieces, 968,000 pieces of *hanko*, 3.18 million accessories and their parts, etc. besides slightly less than 17,000 whole tusks with about 178 tons in weight as of the end of December 2020. Japan's stockpile of 244 tons, including 178 tons of the registered whole tusks and 66 tons of the cut pieces reported by the registered dealers, account for 89% of the whole ivory stockpile in Asia (275.3 tons) and 31% of the world's stockpile (796 tons), at least as reported to the CITES Secretariat by 28 February 2021.

In conclusion, GoJ has consistently failed to regulate its domestic ivory market effectively, so that a legal market open to any ivory derived from tusks with unknown origin and acquisition has been established. Japan's stockpile is vast and the market remains tireless. Japan's legal market is perfect as a cover for illegally imported ivory and a supply source for illegal export. The only path Japan can take to truly eliminate the abundant loopholes is to close its legal domestic market urgently.

Introduction and Background

In October 2016, 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), aiming to take steps to save Africa's elephants, adopted an amendment to Resolution Conf.10.10 to recommend all countries "in whose jurisdiction there is a legal domestic market for ivory that is contributing to poaching or illegal trade, take all necessary legislative, regulatory and enforcement measures to close their domestic markets for commercial trade in raw and worked ivory as a matter of urgency".¹ This was followed by the decision adopted by CITES CoP18 held in August 2019, which directed "the Parties that have not closed their domestic markets for commercial trade in raw and worked ivory are requested to report to the Secretariat for consideration by the Standing Committee to CITES at its 73rd and 74th meetings on what measures they are taking to ensure that their domestic ivory markets are not contributing to poaching or illegal trade"².

The international community is concerned that Japan's legal ivory market has been playing a key role as a supply source of ivory for illegal export as well as a cover for ivory that is illegally smuggled into the country³. For instance, research by the Environmental Investigation Agency (EIA) confirmed at least 76 ivory shipments from Japan were seized in other countries based on open-source information between January 2018 and December 2020⁴. The persistent illegal ivory exports from Japan are not just a coincidence, rather a consequence of the existence of the authorized legal market selling any kind of ivory items. The ivory dealers have easily established a cunning business, and take it as given that many customers will export the ivory they bought while the dealer can formally stay within the regulations over domestic ivory trade with little difficulty⁵. Considering these situations, the legislative response by Japan to control its domestic ivory market should be strictly scrutinized for its effectiveness.

The Government of Japan (GoJ) submitted reports under CITES Decision 18.117, its first report in 2020 and its updated version in 2021 for consideration of the 74th Standing Committee (SC74)⁶. The contents are mostly the same and insist that “Japan has been implementing stringent measures to ensure that its domestic ivory market is not contributing to poaching or illegal trade”. Japan’s reports include the sections of “Legislation on ivory control” and “Strengthened management measures on domestic ivory transactions”. Nevertheless, its effort should primarily be evaluated on the basis of development, review and implementation of legislative provisions because the effectiveness of “management (or enforcement) measures” are generally supported by the legislation concerned⁷.

In this regard, GoJ highlights six bullet points as follows⁸.

- a) Raw and worked ivory business operators must be registered. Business operators must fulfill all requirements for registration, which requires renewal every five years.
- b) Business operators must register all tusks (Note: “tusks” here mean whole tusks) of their possession.
- c) Business operators must prepare and keep inventory data including transaction records and traceability information records for cut pieces.
- d) Business operators must indicate information including their business registration number and business operator’s name, at the time of display or advertisement.
- e) The Japanese government publishes a list of registered business operators.
- f) Heavier penalties are to be imposed on business operators’ offense, i.e. introduction of imprisonment, increased fines.

In addition to those points, GoJ underlines an intense scrutiny for the registration of a whole tusk by requiring the result of scientific radiocarbon dating.

Regarding points “d)” and “e)”: mandatory indication of identification information by the registered dealers, and publication of the list of them including such information, will provide the opportunity for end-consumers to verify only the legal status of the dealers, not the legality of origin and acquisition of ivory items sold by them.

In terms of “f)”: the effectiveness of a tightening statutory penalty, 18 cases on illegal domestic ivory trade, which were committed after the implementation of stricter penalty in 2013 and 2018 were analyzed. And, it concluded that the actual penalties for offenders were quite low, and that there is persistent avoidance of strict punishment and prosecution about illegal wildlife trade cases, regardless of a tightening statutory penalty⁹.

In this report, points “a)”, “b)”, “c)” and perceived scrutiny of the application for whole tusk registration by using carbon-dating will be discussed in detail in Chapters 1, 2, 3 and 4, respectively.

Chapter 1 Examination of the business registration

1.1 Outline of this chapter

According to the GoJ (as per a) in its report prepared for the review by SC74), raw and worked ivory dealers must be registered. In this case, they must fulfill all requirements for registration, which requires renewal every five years. But, is the eligibility of the business registration or renewal rigorously examined as proclaimed? The analysis indicates that businesses are being registered via a token examination with a lack of scrutiny by the competent authorities.

1.2 For a business to be registered, requirements were to be examined at the first registration renewal period

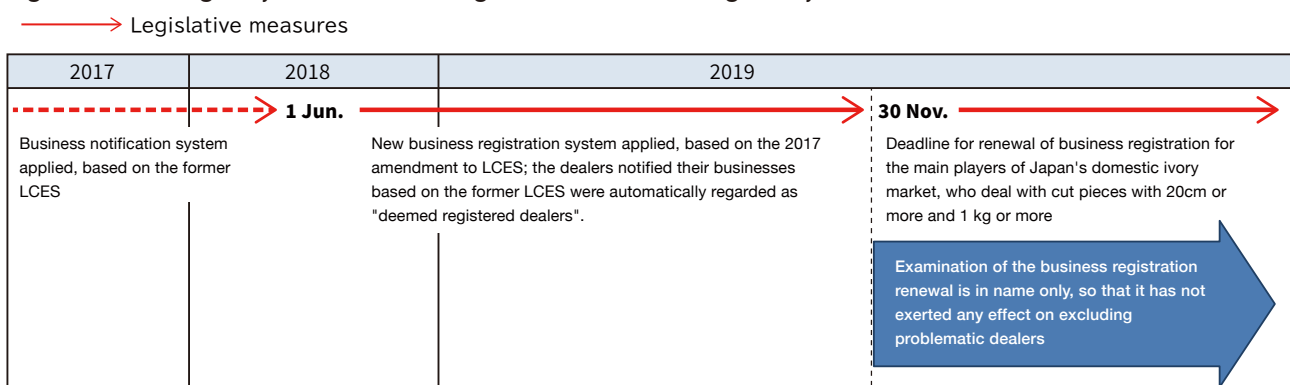
The 2017 amendment to the Law for Conservation of Endangered Species of Wild Fauna and Flora (LCES)¹⁰ was implemented on 1 June 2018¹¹. From this point, the business registration system was applied to the ivory dealers¹², replacing the previous system, which is “just having to file a notification previously in entering the business”¹³. The previous system could not allow the competent authorities to intervene for prohibition of his/her business no matter how problematic the ivory dealer was. Accordingly, the “business operators handling ivory products are now subject to registration requirements with the government, in order to engage in business

(the registration must be renewed every five years)”¹⁴; the Government of Japan insists that “the registration of business operators involves rigorous examination of each application, which put them under more thorough control”.¹⁵

Some transitional measures necessary for introducing the business registration system were taken. First of all, all of the dealers who had filed a notification based on the previous law were automatically deemed as registered dealers at the time of implementation of the amendment on 1 June 2018 (hereinafter referred to “deemed registered dealers”)¹⁶. According to the transitional measures, whether they comply with the requirements for the business registration or not was to be examined at their first registration renewal¹⁷. The renewal deadline for those who had filed their business notification on or before 17 March 1999 was set to 30 November 2019 while the deadline for others was set to 31 May 2021¹⁸.

The business registration requirements include not being under bankruptcy proceedings, not having a certain criminal records, demonstrating registration for every single whole tusk possessed (see Chapter 2), etc¹⁹. The examination of the requirements is subject to a private institution²⁰, a registration organization²¹ which is authorized and controlled by the Ministry of Environment (MoE).

Figure1: Is the eligibility of the business registration/its renewal rigorously examined?



1.3 Main players in Japan's domestic ivory market and the kingpins of them

The main players of Japan's domestic ivory market include some long-standing manufacturers, especially those supported by a strong business base including huge stockpiles and strong ties with large wholesalers; they are heavily dependent on ivory, among other materials²². In fact, the Government of Japan (hereinafter referred to "GoJ") had exclusively required businesses dealing with raw ivory pieces both 20 cm or more in length and one kilogram or more in weight (considered major ivory manufacturing) to notify the GoJ since the start of the business notification system in 28 June 1995 until 18 March 1999, when the scope of the system was expanded²³. It means that GoJ regarded such major manufacturing dealing with larger raw ivory pieces as the keystone of the domestic ivory market when it initially launched control measures over ivory businesses. Thus, these dealers serve as the "main players" of Japan's domestic ivory market.

The kingpins of the market's main players compose the "Tokyo Ivory Arts and Crafts Cooperative Association" (including 28 members as of the time of October 2021) and "Osaka Ivory Arts and Crafts Cooperative Association" (including 10 members or so as of the time of October 2021), which together compose "Japan Federation of Ivory Arts and Crafts Associations (JIA)" (these associations are hereinafter referred to "ivory associations")²⁴. These ivory associations have strong connections to GoJ²⁵; they have lobbied for lifting the international ivory ban, and requested what they want regarding the regulation of the domestic ivory market²⁶. Their influence on Japan's domestic ivory market is demonstrated in the following examples:

- The ivory associations would hold a members-only auction for their members to exchange their ivory stockpiles. The price reached at the auction would determine the standard price of raw ivory in the domestic ivory market²⁷.
- More than a few members of the ivory associations used to engage in import of ivory until the import ban. Over two-thirds of some 300 metric tons of raw ivory annually imported between 1975 and 1979 were imported by five of the largest member companies of the associations²⁸.

- 66% of cut pieces (by weight) notified to the government by all ivory dealers at the time of 1995 were owned by the ivory association members²⁹.
- All of the participants from Japan in the auctions held in 1999 by three southern African countries for the first CITES one-off sale of ivory were members of the ivory associations, totaling 14 companies (15 individuals)³⁰.
- All of the participants from Japan in the auctions held in 2008 by four southern African countries for the second CITES one-off sale of ivory were members of the ivory associations, totaling 20 companies (23 individuals)³¹.

1.4 Token examination of applications for renewing business registration

1.4.1 The kingpins among the main players in the ivory market were recently involved in illegal ivory trade

The kingpins among the longstanding main players in the ivory market, including Takaichi, Nippon Ivory, and All Japan Ivory Wholesale Center, who were all approved to renew their businesses, were recently cracked down on for illegal trade in ivory.

Takaichi

Takaichi is the largest ivory *hanko* manufacturer and a member of the ivory association in Osaka (at the time of the crime). In May 2011, the former chairman of the company, who also had served as the chairman of JIA, was arrested with his son, the CEO of the company, on suspicion of buying unregistered ivory whole tusks³². It was revealed that Takaichi bought a total of 58 unregistered ivory tusks (509.45kg) for 245,000 US\$ (the exchange rate at the time was 0.0125 yen to US\$) from four antiquaries and an ivory manufacturer from March to June 2010³³. The former chairman was sentenced to 1 year in prison, suspended for 3 years, and also forfeited the seized 58 tusks. His son, the CEO, was sentenced to 10 months in prison, suspended 2 years, and the company was fined up to 12,500 US\$³⁴. It was estimated that between 572 -1,622 unregistered whole tusks weighing 5,580 -15,770kg in total had been purchased between 2005 and 2010 from the 5 suppliers, and consumed for *hanko* production. The number of the tusks corresponds to 31-87% of the registered whole tusks, which are estimated to have been legally consumed in the same period for the same purposes³⁵.

Nippon Ivory

Nippon Ivory was a member of the ivory association in Tokyo (at the time of the crime). The executive member who has overseen all operations of the company (CEO at present) was prosecuted in December 2016 for buying 5 unregistered whole tusks for about 12,610 US\$ (the exchange rate in June 2016 was 0.0097 yen to US\$) between February 2015 and June 2016, and later fined³⁶. Besides this criminal penalty, the company was inspected by MoE and the Ministry of Economy, Trade and Industry (METI), which had received some information from the Environmental Investigation Agency (EIA) and JTEF³⁷, and subsequently imposed an administrative disposition by the authorities³⁸. Nippon Ivory, during the investigation by EIA/JTEF, identified many different modus operandi for the illegal buying of unregistered whole tusks; using the registration card issued for the other whole tusks, which had been already consumed; disguising the unregistered whole tusks to be purchased as the existing (unregistered) legal stockpiles exclusively for self-consuming purpose; and cutting the unregistered tusks to be purchased swiftly for disguising them as the purchased in the form of cut pieces, which are not legally required to be registered³⁹. The dealer also intended to sell ivory to an undercover Chinese customer/investigator, despite knowing that they planned to export the ivory to China, and referred to the existence of Chinese groups which provide services for transporting ivory from Japan to China⁴⁰.

All Japan Ivory Wholesale Center

All Japan Ivory Wholesale Center was a member of the ivory association in Tokyo (at the time of the crime). In November 2017, a Chinese sailor was arrested when he attempted to board a container vessel anchored at Tokyo Port. The seizure included 605 ivory pieces cut in 1cm square and 10cm long on the way to be processed into *hanko*, weighing about 7 kg in total, and valued at 2,790 US\$ (the exchange rate in November 2017 was 0.009 yen to US\$), all packed in a paper bag and a backpack he carried⁴¹. The source of the ivory was the All Japan Ivory Wholesale Center⁴². The board member of the company who has overseen all operations of the company was arrested in January 2018⁴³; however, the prosecution against him was dismissed⁴⁴.

1.4.2 Application examination is left to the authorized private organization, even for traders with track records of illegal trade engagement

In examining the application documents submitted for business registration renewal by dealers such as Takaichi, Nippon Ivory, and All Japan Ivory Wholesale Center, which all have a recent track-record of illegal ivory trade, the competent authority should verify those documents carefully and give the registration organization, which is under control of it, some necessary instructions. Thus, JTEF requested the competent authorities, MoE and METI, to disclose all information and communications related to the application for renewal of the business registration made by some dealers, including the aforementioned. However, the response was that such information “doesn’t exist”⁴⁵. According to MoE, “we have never been questioned from the registration organization about something like dubious stockpiles owned by some dealers”, and “have not advised/instructed a stricter examination or some responses to a specific dealer.”⁴⁶

Based on this response, it is apparent that MoE has left the assessment of business registration renewal applications to the private institution under its control, and has not taken any initiative to examine or advise the process.

1.5 Discussion

The reality of the examination of applications for business registration is that the competent authority has left it solely to the authorized private organization, even for the applications by kingpin dealers with track records of illegal trade engagement. Thus, it is obvious that the examination of business registration and renewal is in name only, and it has not exerted any effect on excluding problematic dealers. GoJ must not insist that “the registration of business operators involves rigorous examination of each application, which put them under more thorough control”⁴⁷.

Chapter 2 100% registration mandate on whole tusks

2.1 Outline of this chapter

According to the GoJ (as per b) in its report prepared for the review by SC74), ivory dealers must register all (whole) tusks in their possession when they renew or initially receive their business registrations. Did the 100%-registration-mandate on whole tusks achieve any tangible impact? The analysis indicates that registered dealers successfully evaded this requirement by cutting their whole tusks into pieces and then processing them into *hanko*.

2.2 Registration mandate for 100% of whole tusks for business registration renewal

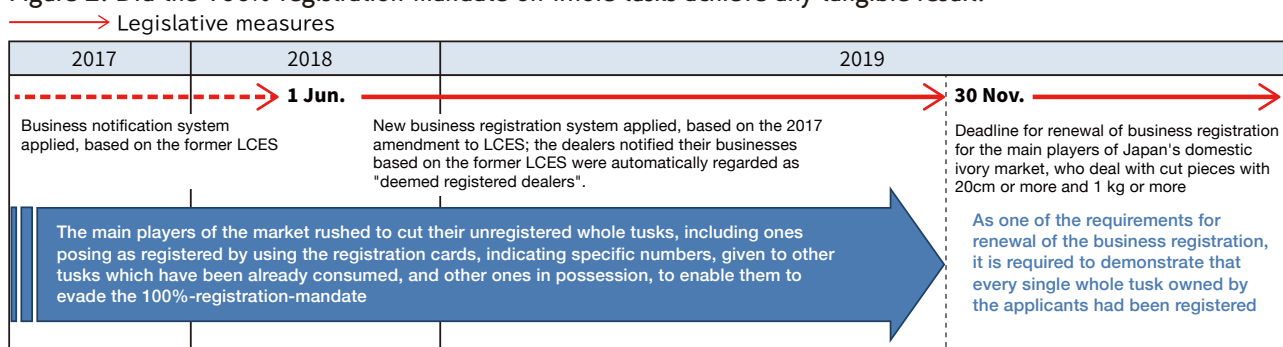
According to the LCES, ivory tusks, maintaining the whole shape, are required to be individually registered prior to transactions⁴⁸. In other words, tusk registration is not applied to the other ivory than whole tusks, nor is necessary for even whole tusks as far as the owner does not intend to transfer them (even the case of tusks stocked by dealers for being consumed as raw material). These points have been criticized as the biggest loophole of the law on Japan's domestic ivory control⁴⁹. The 2017 amendment to the LCES implemented in June 2018 tried to solve the latter problem and obliged ivory dealers to prove that every single whole tusk owned by them has been registered before they renew/newly receive their business registrations⁵⁰. The LCES amendment also gave authority to the officials from the responsible Ministries to order a report and conduct an inspection of the registered dealers with regard to their whole tusk stockpile⁵¹.

The main players of Japan's domestic ivory market (see 1.3), who filed the notification to the competent authorities by March 1999 on their business dealing with raw ivory pieces that are both 20 cm or more in length and one kilogram or more in weight⁵², were deemed as registered dealers together with other notified dealers at the time of implementation of the 2017 amendment to the LCES. The first deadline for business registration renewal was set to 30 November 2019, so those dealers had to demonstrate that every single whole tusk they owned had been registered by that date: 30 November 2019.

2.3 Response of ivory dealers who predicted a stricter regulation

Ivory dealers, including the main players/leading manufacturing companies, predicted a tightening of the regulation on the whole tusk trade in the near future at the beginning of 2016⁵³. Thus, they embarked to intensify an attempt to evade any stricter regulations over the whole tusk trade by using the loophole of the law mandating registration of each piece of ivory only when it is a whole tusk. The analysis finds that traders evaded the loophole by rushing to cut their whole tusks, including unregistered ones posing as registered by using registration cards, indicating specific numbers, given to other tusks which have been already consumed, and other unregistered ones in possession, and stocked produced cut pieces and *inzai* or blank *hanko* (80% of raw ivory is estimated to be consumed for *hanko* production in Japan's domestic ivory market⁵⁴). The changes in the ivory stockpiles described in this report strongly support this assessment.

Figure 2: Did the 100%-registration-mandate on whole tusks achieve any tangible result?



2.4 Change in the annual number of registered whole tusks cut

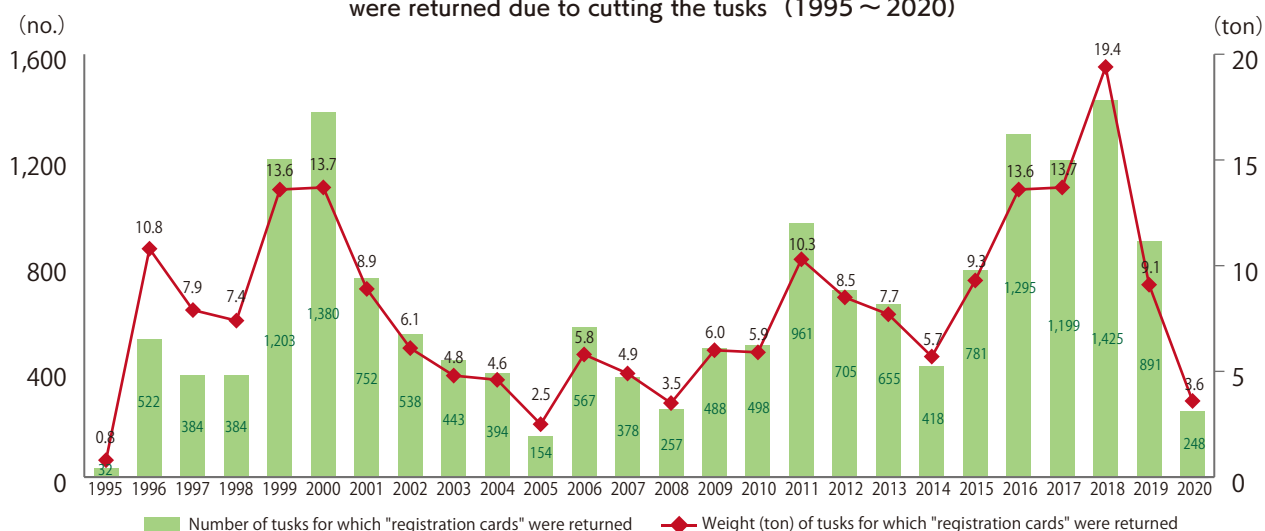
2.4.1 Surge in cutting registered whole tusks in 2016

When a whole tusk is cut, the registration card issued for it should be returned⁵⁵. Thus, the amount of cut whole tusks can be identified from the amount of ones for which the registration cards were returned. The change in the annual number/weight of cut registered whole tusks is shown in Figure 3 (for each year (Jan.-Dec.) from 1995, when the registration system was introduced, through 2020).

The number of cut registered whole tusks surged in 2016, maintained the same level in 2017, and then hit a record high of 19.4 metric tons in 2018, surpassing the peaks in 1999, when the one-off sold tusks from the southern African countries were imported, and the following year of 2020. The weight decreased to 9.1 tons in 2019, though still high,⁵⁶ but it plunged to 3.6 tons in 2020.

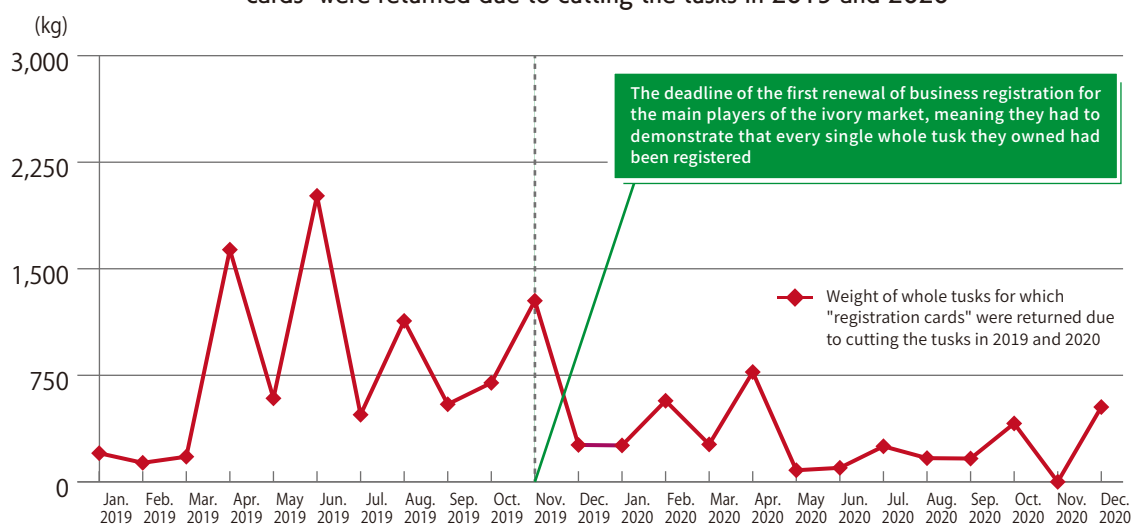
The change in the weight of cut whole tusks per month for 2019 and 2020 is shown in Figure 4.

Figure3: Number / weight of registered whole tusks for which "registration cards" were returned due to cutting the tusks (1995 ~ 2020)



Source : Written response from Wildlife Division, Nature Conservation Bureau, Ministry of Environment to Sakamoto M./JTEF, dated on 21 February 2022 (in Japanese)

Figure 4: Monthly change in the weight of registered whole tusks for which "registration cards" were returned due to cutting the tusks in 2019 and 2020



Written responses from Wildlife Division, Nature Conservation Bureau, Ministry of Environment to Sakamoto M./JTEF, dated on 21 February 2022 (in Japanese)

As shown in Figure 4, there is a dip from November to December 2019, and the number of cut tusks has obviously declined since then. As mentioned, the first deadline for business registration renewal for the longstanding main players of the ivory market was at the end of November 2019, so traders were forced to register every single whole tusk they owned by that time.

2.4.2 Why registered whole tusks were cut into pieces

The change in the number of registered whole tusks cut into pieces suggests that the main players of the ivory market abruptly quickened their pace in cutting tusks before the deadline of the 100%-registration-mandate, and slowed down just after the deadline passed. Why did they cut the already registered whole tusks in haste? That could be because they feared that the newly prescribed inspections of their whole tusk stockpiles in 2017 amendment to LCES would be carried out just after the deadline of the 100%-registration-mandate. The traders could have been worried that a verification inspection could reveal that some of their actual unregistered stockpiles, posing them as being registered by using specific registration cards given to other tusks which had been already consumed, are not identical with the ones described in the registration cards / registry through differences in the physical attributes (e.g. equal weight). There is evidence that the kingpins of the major manufacturers would often retain the registration cards of tusks which had already been cut / consumed and abuse the system to disguise other tusks illegally obtained as ones legally registered,⁵⁷ while they sometimes transfer those registration cards to other dealers⁵⁸. Thus, those tusks which they disguised as registered ones may have been cut in haste before the facts were revealed by the inspections.

2.5 Change in the stockpile of cut pieces and blank *hanko*

2.5.1 Mechanism of change for stockpile amounts

Ivory whole tusks are cut up to be cut pieces, then 80% of which are processed into blank *hanko* while the remaining 20% are carved into other ivory items such as accessories, carvings, etc. In general, the amount of stockpiled cut pieces will change depending on the difference between production,⁵⁹ of cutting whole tusks (including registered ones and unregistered ones), and consumption by producing blank *hanko* and other items. Similarly, the amount of stockpiled blank *hanko* will change depending on the difference between production by consuming cut pieces and sale to end-consumers.

The change in stockpile amounts of cut pieces and blank *hanko* for ten years before 2016, based on the data provided by GoJ, are shown in Table 1.

The stockpile of cut pieces increased from 2009, when the second one-off sold ivory was imported, to 2010, largely decreased from 2012 to 2013, and further declined after 2014. The stockpile of *hanko* increased from 2010 to 2011, recovered to the 2010 levels in 2012, and then mostly stabilized.

2.5.2 Change in stockpile amounts between 2016 and 2020

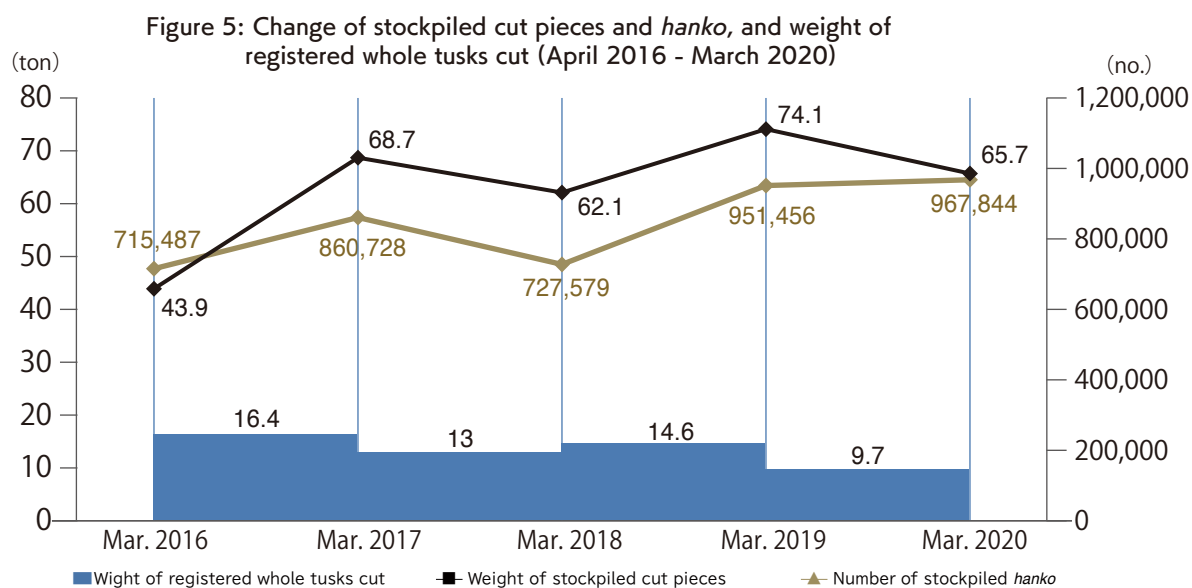
The changes in the amounts of stockpiled cut pieces (by weight) and stockpiled blank *hanko* (by number) at the end of each year (from April to March⁶⁰) between 2016 and 2020 are shown in Figure 5, along with the weight of registered whole tusks, which have been cut up during the period of each year.

See below for an analysis, also based on the data provided by GoJ, on what the change between each year (2016-2020) means, and what conditions can affect the change.

Table 1: Change in stockpile amounts of cut pieces and *hanko* (2007-2016)

	Mar.2007	Mar.2008	Mar.2009	Mar.2010	Mar.2011	Mar.2012	Mar.2013	Mar.2014	Mar.2015	Mar.2016
Cut pieces (unit: tons)	54.3	54.1	53.8	60.8	61	61.2	54	55.4	43.3	43.9
<i>Hanko</i> (unit: no.)	774,523	751,417	752,014	747,485	864,349	724,408	728,565	742,430	699,481	715,487

Written response from Lifestyle Industries Division, Manufacturing Industries Bureau, Ministry of Economy, Trade and Industry (METI) to Sakamoto M./JTEF, dated on 21 February 2012, 7 July 2016, and 29 November 2018 (in Japanese)



Written responses from Wildlife Division, Nature Conservation Bureau, Ministry of Environment to Sakamoto, M./JTEF, dated on 21 February 2022 (in Japanese)
 Written response from Lifestyle Industries Division, Manufacturing Industries Bureau METI to Sakamoto M./JTEF, dated on 29 November 2018, 27 November 2019, 6 November 2020 and 26 October 2021 (in Japanese)

2.5.3 Assessment of 2016-2017

Between April 2016 and March 2017, 30.8 tons in total of whole tusks were cut. Among them, 16.4 tons of tusks were registered (as aforementioned in 2.4.2, a large part of them is considered to be actually unregistered ones, posing as being registered) and 14.4 tons of tusks were unregistered (47% of the total).

The stockpile of cut pieces, unlike the declining trend of the previous years, jumped from 43.9 tons to 68.7 tons (highest in the past decade) with 24.8 tons of abrupt increase.

At the same time, the number of stockpiled blank *hanko* also increased by more than 145,000, from 715,487 to 860,728. This means that a consumption of cut pieces corresponding to at least that number of blank *hanko* existed, though the exact amount of the cut pieces cannot be identified from the data above. The weight of whole tusks which were required for producing those cut pieces can be estimated as 6 tons in total, by assuming that the average weight of a blank *hanko* is 20g (0.02kg)⁶¹, the average yield ratio is 60%⁶², and that the consumption rate of cut pieces for blank *hanko* is 80%.

$$145,000 \times 0.02 \div 0.6 \div 0.8 = 6,041 \text{ (kg)}$$

Therefore, the weight of whole tusks which were cut within the one year period is supposed to be 30.8

tons or more by adding this 6 tons to the 24.8 tons for the increase of cut pieces stockpile. The weight of the registered whole tusks cut within the same period is 16.4 tons. So, the difference between the two figures, or 14.4 tons (corresponding to 47% of the total: 30.8 tons), is likely derived from the cutting of unregistered whole tusks.

Why didn't they try to apply for registration of those unregistered whole tusks but instead cut up them? It may be because the longstanding main players of the market feared that the requested carbon-dating, which was considered by GoJ at that time (starting from 1 July 2019 (see 4.2)), will lead to some inconvenient results, i.e. these tusks being dated after the CITES international ban took effect. Regardless of that assessment, the members of the ivory associations, the kingpins of the main players in the market, especially had reason to do so. When the registration of whole tusks started in 1995, the government took measures to encourage the members of the ivory associations to register all whole tusks owned by them⁶³ in exchange for virtual exemption from proving source and pre-Convention acquisition of the tusks⁶⁴. Accordingly, if the association members tried to apply for registration at this stage of unregistered whole tusks secretly owned for so long, it would be uncovered that they deceived the government in 1995⁶⁵.

2.5.4 Assessment of 2017-2018

Between April 2017 and March 2018, more than 603,000 *hanko* were sold to end-consumers, as detailed below.

The stockpile of cut pieces reduced by 6.6 tons (from 68.7 tons to 62.1 tons), though 13 tons of registered whole tusks were newly cut. It means that they consumed (i.e. produced blank *hanko* or other items) more cut pieces than they produced within the one year period. The weight of the consumed cut pieces can be estimated as 19.6 tons or more by combining the above numbers: 6.6 tons and 13 tons. The number of blank *hanko* produced from those cut pieces can be estimated at 470,000.

$$19,600 \times 0.8 \times 0.6 \div 0.02 = 470,400$$

At the same time, the blank *hanko* stockpiles also reduced by more than 133,000 from 860,728 to 727,579. It means that they consumed (i.e. sold to end-consumers) more blank *hanko* than they produced. The number of ivory *hanko*, which were sold to the end-consumers, can be estimated to be more than 603,000 by combining the above number of production: 470,000 and number of stockpile decrease: 133,000.

2.5.5 Assessment of 2018-2019

Between April 2018 and March 2019, at least 21.3 tons in total of whole tusks were cut. Among them, 14.6 tons of tusks were registered (as aforementioned in 2.4.2, a large part of them is considered to be actually unregistered ones, posing as being registered) and 6.7 tons of tusks were unregistered whole tusks.

The stockpiles of cut pieces increased again by 12 tons (from 62.1 tons to 74.1 tons).

At the same time, the stockpiles of blank *hanko* also increased by more than 223,000 (from 727,579 to 951,456). The weight of whole tusks required for producing those cut pieces corresponding to production of that number of blank *hanko* can be estimated as 9.3 tons.

$$223,000 \times 0.02 \div 0.6 \div 0.8 = 9,291 \text{ (kg)}$$

As the result, the total weight of the whole tusks cut

within this one-year period is supposed to be 21.3 tons or more by combining the aforementioned numbers: 12 tons and 9.3 tons. On the other hand, 14.6 tons of registered whole tusks were cut. Therefore, the difference between those numbers, or 6.7 tons (31% of the total), can be regarded as being originated in unregistered whole tusks.

2.5.6 Assessment of 2019-2020

Between April 2019 and March 2020, more than 418,000 *hanko* were sold to end-consumers, as detailed here.

The stockpile of cut pieces decreased by 8.4 tons (from 74.1 tons to 65.7 tons) even though 9.7 tons of registered whole tusks were cut. It means that they consumed cut pieces for producing blank *hanko* and other items for at least the total amount of the above numbers: 18.1 tons. The number of blank *hanko* which was to be produced from the cut pieces of that amount above can be estimated as 434,000.

$$18,100 \times 0.8 \times 0.6 \div 0.02 = 434,400$$

On the other hand, the stockpiles of blank *hanko* increased by more than 16,000 from 951,456 to 967,844. It indicates that sales of *hanko* within this one-year period did not exceed the production. Accordingly, the total number of *hanko* sold to the end-consumers is supposed to be more than 418,000 by deducting the number of stockpile increase: 16,000 from the number of production: 434,000.

2.6 Discussion

Cutting of registered whole tusks surged in 2016, and maintained that scale until November 2019. In 2018 (calendar year), it hit a record high of more than 19.4 tons for the calendar year, surpassing the highest weights from 1999 and 2000, just after importing the CITES one-off sold tusks from the southern African countries. It should be noted that a large part of these “registered” tusks is considered to be actually unregistered tusks posing as registered. Cutting of the other unregistered whole tusks was also huge within that period (after 2016). Our analysis estimates that 14.4 tons of those tusks in total were cut between April 2016 and March 2017,

which account for 47% of the all whole tusks cut in the same period (30.8 tons).

Subsequently, cutting of registered whole tusks plummeted when the deadline for business registration renewal for the longstanding main players (November 2019) passed and they had to demonstrate that every single whole tusk owned had been registered.

This series of phenomena suggest that since 2016, when the main players of the ivory market predicted a tightening of the regulation on whole tusk trade in the near future, the main players of the market took countermeasures to evade any future regulation by using the legal loophole which mandates only whole tusks to be registered. In other words, they cut the unregistered whole tusks in their possession

beforehand, including ones posing as registered by using the registration cards, indicating specific numbers, given to other tusks which have been already consumed, and other unregistered ones in possession, so that these whole tusks were changed into cut pieces and then blank *hanko*. In conclusion, the 100%-registration-mandate for whole tusks not only did not achieve a positive outcome, but also put enormous amount of ivory pieces and products with unknown origin and acquisition on the market.

Incidentally, the number of ivory *hanko*, which were sold to the end-consumers between April 2017 and March 2018 was more than 603,000. The influence of Japan's still tireless domestic ivory market on the international community's goal of preventing illegal international ivory trade should not be downplayed.

Chapter 3 Traceability of ivory cut pieces and products

3.1 Outline of this chapter

According to the GoJ (as per c) in its report prepared for the review by SC74), ivory dealers must prepare and keep inventory data including transaction records and traceability information records for cut pieces. However, is the traceability of ivory cut pieces and products really secure and effective? The analysis indicates that given there is no verification on the legality of the source and acquisition at the point of production for cut pieces and products, tracing the trade in them is meaningless.

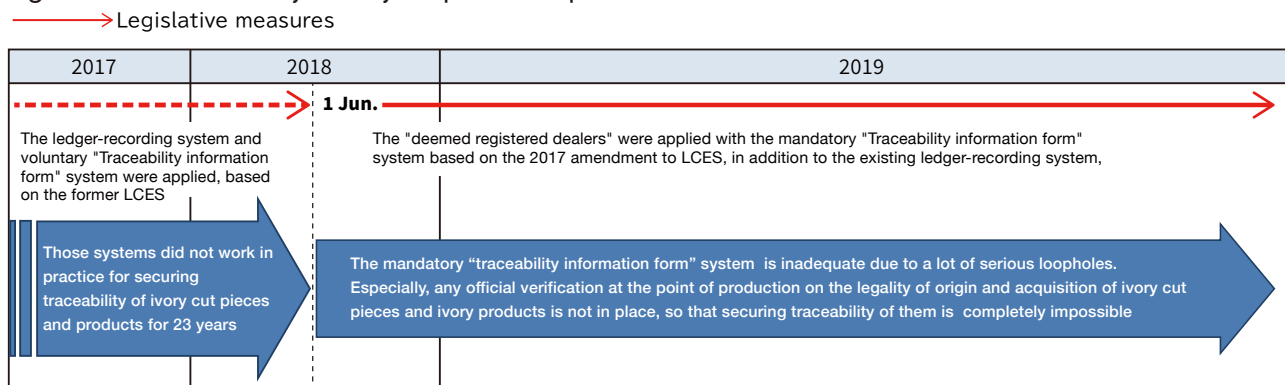
3.2 Data management has been abandoned in a broken system

GoJ insists "Business operators must prepare and keep inventory data including transaction records and traceability information records for cut pieces"⁶⁶. Specifically, "a record must be prepared for every transaction of cut pieces and worked products of ivory, indicating its origin, buyer, weight, characteristics, and other specifics, and must be kept

for five years"⁶⁷. The ledger-recording system initially developed required the notified dealers to keep a record of each ivory transaction in a ledger and was established in the 1994 amendment to LCES and implemented in 1995.⁶⁸

The main criticism of the malfunctioning ledger-recording system, which has not been used for tracing ivory sales transactions during 23 years since the implementation until 2018, when 2017 amendment to LCES was implemented, is as follows: when the competent authorities try to understand the movement of a material/product under this system, they have to compare and trace the enormous transaction data included in so many ledgers recorded by various different dealers related to the supply chain concerned; that kind of system not only requires significant time and effort, but also is inherently fragile. The tracing process can be easily interrupted, by even one dealer failing to make the correct record in the middle of the supply chain from the production to the transaction to the end-consumer. Thus, authorities have been unable to utilize the transaction

Figure 6: Is the traceability of ivory cut pieces and products secured?



records in the ledgers for securing traceability since the very start of the system⁶⁹.

The GoJ was finally compelled to admit that the ledger-recording system was ineffective in terms of ensuring the traceability, in response to the longstanding criticism of that system, and established the mandatory "traceability information form" system in the 2017 amendment to LCES⁷⁰ and implemented it in 2018.

3.3 "Traceability information form" system is full of loopholes

Specifically, in the mandatory "traceability information form" system, "A traceability information form must be prepared for every cut piece and every worked product of ivory that weighs over 1 kg and exceeds 20cm (correctly, 1kg or more and 20cm or more). The form must be attached on every cut piece and every worked product of ivory that is put up for sale. Business operators must keep a copy of the form for 5 years after the transaction"⁷¹. However, there are major problems in this system as follows.

First, there is no mechanism for identifying every targeted item in this "traceability information form" system though it is essential for ensuring the traceability. While weight and the main identifying characteristics, etc. of the ivory are to be filled in for the "traceability information form", they are totally insufficient for differentiating the ivory in question from the others. Thus, the real stockpile and the one on paper are almost impossible to compare based on the "traceability information forms"⁷².

Second, ivory cut pieces or any products, which were produced and not equipped with a "traceability information form" before the time of implementation of the new law in June 2018, are allowed to be traded indefinitely⁷³. This exemption was designated to keep the trade in these ivory cut pieces and ivory products because GoJ considered that it is difficult to prohibit the items from being transferred since they are already abundant in the market due to the former law; preparation of the "traceability information form" was voluntary for ivory cut pieces, and was not allowed for ivory products under the former law. This exemption without expiration provides a serious loophole for inviting smuggled ivory cut pieces/products to enter in the legal market⁷⁴.

Third, the whole operation of the "traceability information form" system, including the paperwork aspect, transferring the item to the other party together with the form, and keeping a copy of the form in the case of transfer, is in the hands of each registered dealer. The competent authorities can only make occasional requests for a copy of the form or an on-site inspection retroactively. In this way, compliance with this system relies heavily on an honest voluntary operation by every registered dealer, so high effectiveness cannot be expected⁷⁵.

Fourth, the items subject to the "traceability information form" system are limited to those that are 1 kg or more in weight and 20cm or more in length⁷⁶. Most of the ivory products dominant in Japan's market, including *hanko*, which make up an estimated 80% of raw ivory production, are exempted from the mandatory application of the system.

3.4 Discussion

“The inventory data including transaction records and traceability information records for cut pieces” recorded in each ledger have never been used for tracing ivory sales transactions during these 27 years as of the time of 2022. It is unlikely that such ledger-recording system will be contributing to securing the traceability after all this time. However, the mandatory “traceability information form” system, which was introduced to solve the problem, remains inadequate due to serious loopholes.

Furthermore, there is a fundamental problem in terms of securing traceability of ivory cut pieces and products. Ensuring traceability means that each identified item, the legality of which has been

verified, can be traced in order to prevent illegal items from entering into the legal trade. In fact, all ivory items except for whole tusks, or any type of ivory cut pieces and products (without remaining whole shape) are exempted from the mandate on registration, where legal origin and acquisition is to be identified. Thus, no official verification at the point of production on the legal origin and acquisition of cut pieces and products is in place. Though no one can run a business to transfer any ivory other than whole tusks unless they are registered in advance⁷⁷, once registered, they are allowed to trade any cut pieces or products without any official verification on the legal origin and acquisition.

Securing the traceability of ivory cut pieces and ivory products is, in both institution and practice, completely impossible at present.

Chapter 4 Requiring the result of carbon-dating for whole tusk registration application

4.1 Outline of this chapter

The GoJ claims in its report prepared for the review by SC74 that tightening the examination of the whole tusk registration applications by requiring the results of carbon-dating will enable GoJ to scrutinize more closely whether or not a tusk was imported to/obtained in Japan before the CITES trade ban. However, did this new requirement achieve any tangible result? The analysis indicates that a huge number of whole tusks with unknown origin and acquisition have already been put on the legal market without engagement in the carbon-dating due to the intentional delay of tightening the examination.

4.2 Using carbon-dating the wrong way

According to the new procedure for whole tusk registration launched on 1 July 2019, a “third party” statement written by a family member or an acquaintance of the applicant, which is prepared as the proof of pre-Convention acquisition (see 4.3

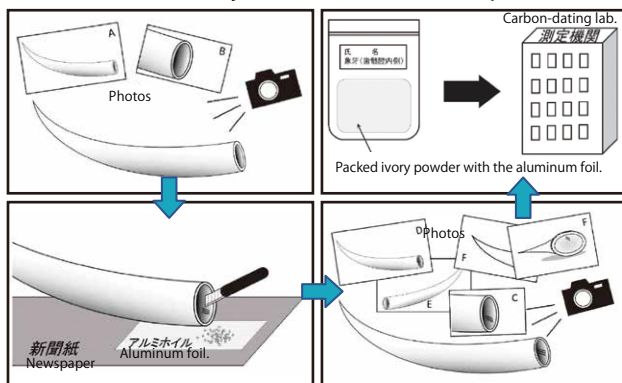
about problems with such procedure, which relied solely on such “proof”), has to be accompanied by a radioactive-carbon-dating report as evidence corroborating the statement⁷⁸. Even this measure, however, cannot ensure confirming the legality of origin and acquisition.

First, carbon-dating, by its nature, can judge scientifically when the elephant possessing the tusk concerned died, but cannot judge when the tusk was acquired by the applicant for registration of it. It is prohibited to register a tusk imported illegally in recent days even if it was derived from an elephant that died before the international ban. In fact, it is impossible for carbon-dating to identify such ivory. Consequently, the acquisition date to be confirmed will be referred to the one described in the third-party statement, as has been the case for decades. Thus, carbon-dating is not particularly meaningful as corroborating proof with regard to the date of acquisition.

Second, the new process adopted by GoJ cannot ensure that a tusk sampled for the testing and the one

applying for registration are the same because the process is in the hands of the applicant. According to the protocol, the applicants for registration are supposed to sample a piece from the whole tusk on their own, send it to a private laboratory they chose, receive a report on the testing results from it, and submit it to the registration organization with some photos taken before and after the sampling on their own⁷⁹ (see the Figure 7 below). Because the registration organization is just authorized to complete a paperwork approval, it cannot confirm that the tested tusk is the same as the one in the photos, or even that the tusk in the photos is the same as the one applying for registration at the time. Such implementation by GoJ could raise the risk of laundering.

Figure 7: Protocol for the whole tusks registration applicants on carbon-dating, endorsed by the Government of Japan



The graphic explanation by the tusk registration organization showing each process of sampling a whole tusk, taking photos before and after, and sending the sample to a carbon-dating lab. <http://www.jwrc.or.jp/service/cites/pdfs/c14kibosha.pdf>

4.3 Intentional delay in tightening the examination of registration requirements

While the problems in the carbon-dating process are egregious in themselves, the consequences that resulted from the delay in implementing the tighter restrictions and examination are even more serious.

When an application for tusk registration is submitted, the registration organization authorized by MoE must examine the legality of the origin and acquisition of the tusk⁸⁰. It had been common practice for the period of 24 years between June 1995 and June 2019 that the application for whole tusk registration would be approved by accepting not only a document issued by a public agency, a document/statement prepared by the

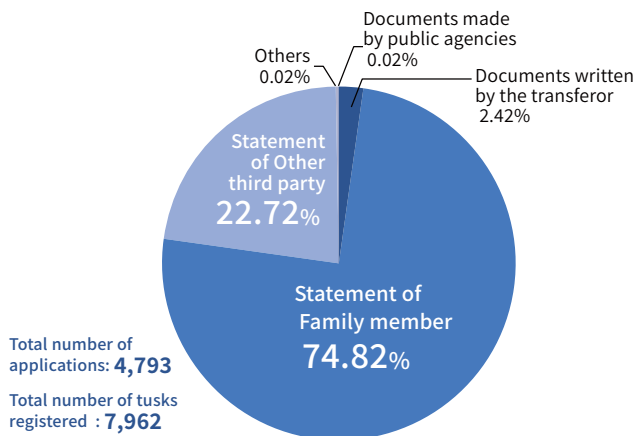
person who transferred the tusk to the applicant, but also a statement by a third party, including family members of the applicant, supposedly validating the date of origin and acquisition (hereinafter referred to as “former procedure”)⁸¹. However, such a statement can be easily made up by filling in false information, initiated by the applicants. Moreover, once those fraudulent statements are prepared, it is difficult for the registration organization to prove otherwise because such statements comprise personal experiences of the applicants⁸². Therefore, the contents of those statements cannot be ensured to be true.

However, GoJ not only continued this slapdash former procedure for 24 years, but also carried out a nationwide “campaign” for promoting whole tusk registration for a period of 1 year and 9 months between 31 August 2017 and 31 May 2019⁸³. During this campaign period, MoE broadly announced, “Following completion of this campaign, the examination of application for registration of international endangered species including ivory will be tightened”, so that it tried to instigate last-minute applications for registration⁸⁴. Consequently, 3,968 whole tusks were registered only within the period of the campaign⁸⁵.

The breakdown of the verification documents, which are accepted for the registration made through the former procedure at its final stage (January 2016 - September 2019), is shown in Figure 8. The start of the timeframe is set at the beginning of January 2016 because the ivory dealers rushed to obtain already-registered whole tusks from anybody because they predicted a tightening of the regulation on whole tusk trade in the near future at the time (see Note 53). The end of the timeframe is set at the end of September 2019 because all registration applications made by then were based on the former procedure, while in October 2019, some of the applications were based on the new procedure⁸⁶.

As seen in Figure 8, 75% of the applications, resulted in registration of 7,962 whole tusks in this period, were based on statements by an applicant’s family member and 23% of them were based on statements of other third party (namely, an acquaintance of the applicants). In all, 98% of whole tusks registered within this period of 3 years and 9 months were

Figure 8: Breakdown of documents accepted for confirming pre-Convention acquisition of applied whole tusks for registration (January 2016 - September 2019: the carbon-dating mandate is not applied)



Source: Written responses from Wildlife Division, Nature Conservation Bureau, Ministry of Environment to Sakamoto.M/JTEF, dated on May 9 2016, June 10 2016, November 16 2017, October 29 2018 and August 11 2020 (in Japanese)

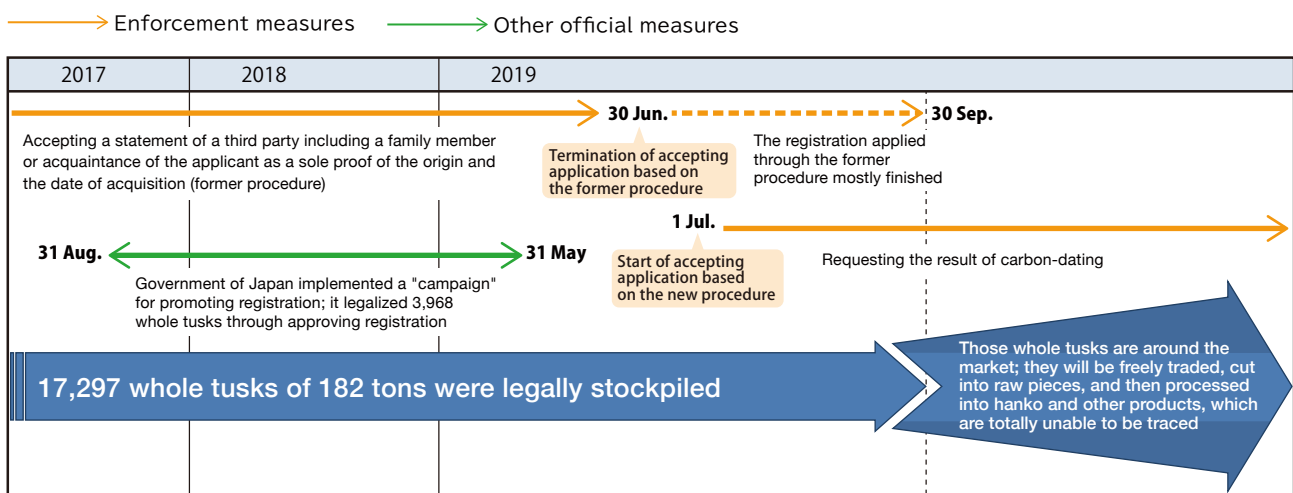
assessed solely based on those statements, which cannot provide a credible date of acquisition. This result truly reflects GoJ's superficial practice of examining the applications, accepting the "third party" statement as an evidence for whole tusk registration, which had been the norm for decade since 1995 until September 2019.

The stockpile of registered whole tusks accumulated since 1995 reached 17,297 in number and about 182 tons in weight when the registration process based on the former procedure was near close as of the end of September 2019⁸⁷. Those huge "legal" ivory stockpiles will be cut into pieces, and then processed into *hanko* and other products, which are totally unable to be traced, and be around the market.

4.4 Discussion

In general, carbon-dating is not a meaningful tool for proving the date of acquisition. Moreover, the implementation by GoJ leaves sampling for testing to the registration applicants, which could raise the risk of laundering. However, the most serious problem is that the tightening of the examination on whole tusk registration by using carbon-dating was intentionally delayed and tusk registration promoted, so that a vast amount of tusks with unknown origin and acquisition were salvaged, legalized and then released into the market before the measure was put in place. As the result, up to 182 tons of whole tusks registered for legal trade were stockpiled without engagement in the carbon-dating as of the time of the end of September 2019⁸⁸. GoJ reported in its report to SC74 that the recent ivory stockpile, as of the time of the end of 2020, includes about 66 tons of cut pieces, 968,000 pieces of *hanko*, 3.18 million accessories and their parts, etc. besides slightly less than 17,000 whole tusks with about 178 tons in weight⁸⁹. Japan's stockpile of 244 tons, including 178 tons of the registered whole tusks and 66 tons of the cut pieces reported by the registered dealers, account for 89% of the whole ivory stockpile in Asia (275.3 tons⁹⁰) and 31% of the world's stockpile (796 tons⁹¹), at least as declared by 28 February 2021. The large part of them is considered to be derived from the tusks with unknown origin and acquisition.

Figure 9: Did the stricter examination on application for whole tusk registration by requesting the result of carbon-dating achieve any tangible result?



Conclusion and Recommendation

In summary, GoJ insists that “Japan has been implementing stringent measures to ensure that its domestic ivory market is not contributing to poaching or illegal trade”; however, such stringent measures have never really been implemented.

- The GoJ insists that ivory dealers must be registered and the eligibility of the business registration/its renewal is rigorously examined. However, true examination of the business registration applications is actually nonexistent, so there has been no effect of excluding problematic dealers. Therefore, the examination of the business registration and renewal applications is very poor.
- The GoJ insists that the registered dealers must register every single tusk they own. However, registered dealers successfully evaded the 100%-registration-mandate by cutting tusks into pieces and then processing them into *hanko*. Thus, the mandate did not work.
- The GoJ insists that traceability of ivory cut pieces and products is secured. However, because there is no official verification on the legality of origin and acquisition at the point of production for ivory cut pieces and products, securing legal traceability of them is completely impossible.
- The GoJ insists that intense scrutiny for whole tusk registration is secured by requiring the result of carbon-dating. However the tightening of the examination of the whole tusk registration process by using carbon-dating was too late, and is also ineffective in process. A vast amount of tusks with unknown origin and acquisition have been legalized and are around the market.

In conclusion, GoJ has consistently failed to regulate its domestic ivory market effectively, so that a legal market open to any ivory derived from tusks with unknown origin and acquisition has been established. Japan’s stockpile is vast and the market remains tireless. Japan’s legal market is perfect as a cover for illegally imported ivory and a supply source for illegal export. The only path Japan can take to truly eliminate the abundant loopholes is to close its legal domestic market urgently.

References

- Anon. 1997. Mysterious reason for increasing price of blank *hanko* even though ivory import/export ban was lifted. Monthly Magazine *Gendai Inso* (Modern *Hanko*), August 1997 edition, *Gendai Publishing* (in Japanese)
- 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 Inso* (Modern *Hanko*), June 1999 edition, *Gendai Publishing* (in Japanese)
- Anon. 2008. Breaking news: Japan won a bid of 39 tons of ivory! One-off import of ivory finished, achieving “Quality over Quantity”, will arrive as early as next January. Monthly Magazine *Gendai Inso* (Modern *Hanko*), December 2008 edition, *Gendai Publishing* (in Japanese)
- CITES Panel of the Experts, 1997, Review of the proposals submitted by Botswana, Namibia and Zimbabwe to transfer their national populations of *Loxodonta africana* from CITES Appendix I
- 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)
- Government of Japan. 1996. Ivory Control System in Japan. Proceedings of the African Range States Meeting Dakar, Senegal, Environment Agency and Ministry of International Trade and Industry
- Government of Japan. 1999. CITES Inf. SC41.4 “Measures Taken by the Government of Japan in Response to the Report of the Panel of Experts” Annex 5
- 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 (No. JWRC 77-1), dated on 27 December 2001 (in Japanese)
- Martin E.B. 1985. The Japanese Ivory Industry. WWF Japan (in Japanese)
- Milliken. 1989. The Japanese trade in ivory: tradition, CITES and the elusive search for sustainable utilization, The ivory trade and Future of the African Elephant. Ivory Trade Review Group
- Ministry of Economy, Trade and Industry. 2016. Press release dated on 2 September 2016, “An ivory manufacturer received a administrative disposition” (in Japanese)
- Environmental Agency Wildlife Protection Studying Group, 1995, Internal trade controls on endangered species of wild fauna and flora: Commentary of the Law for Conservation of Endangered Species of Wild Fauna and Flora, Chuohoki Publishing (in Japanese)
- Ministry of Environment, 2002. Response: 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 (No. 549), dated on 18 January 2002. Wildlife Division, Nature Conservation Bureau, Ministry of Environment (in Japanese)
- Ministry of Environment. 2016. Re. Registration service regarding LCES Article 23 Paragraph 1 (Filed to the Chairman of JWRC; Document No. 1601181 dated January 18th 2016). Wildlife Division, Nature Conservation Bureau, Ministry of Environment (in Japanese)
- Ministry of Environment. 2018. Press release dated on 1 June 2018, “Re. implementation of the amendment to LCES” (in Japanese)
- Ministry of Environment. 2019. Press release dated on 7 June 2019, “Re. enforcement of the stricter examination of whole tusk registration application” (in Japanese)
- Public-Private Council for the Promotion of Appropriate Ivory Trade Measures. 2019. “Working Document No.1: Events after the 5th meeting of the Council on 25 January 2018” distributed at the 6th meeting of the Council held on 7 October 2019 (in Japanese)
- Sakamoto M. 2013. “What Lies Beneath” - Exposing the loopholes within Japan’s control of internal ivory trade. Japan Tiger and Elephant Fund
https://www.jtef.jp/en/what-lies-beneath_e/
- Sakamoto M. 2017. Why Should the Japanese Domestic Ivory Market Be Closed? - How ivory traders are capitalizing on the failures in policy and governance, and corruption within institutions. Japan Tiger and Elephant Fund
https://www.jtef.jp/en/wp-content/uploads/2020/07/Ivory_E.pdf
- Sakamoto M. 2019. Compelled to Close: Top 5 Reasons for Closing Japan’s Domestic Ivory Market. Japan Tiger and Elephant Fund
https://www.jtef.jp/en/wp-content/uploads/2019/06/IvoryReport2019_en.pdf
- Kageo Takaichi. 1992. Future of ivory import. Monthly Magazine *Hanko Field* February 1992 issue. Sankei-sya Publishing (in Japanese)
- Tokyo Ivory Arts and Crafts Cooperative Association. 1995. “Explanatory material on LCES” and the Annex 1 and 2 of it (distributed at the briefing about the amendment to LCES, made by the Ministry of International Trade and Industry (the current METI) on 26 June 1995)
- Vigne & Martin. 2010. Consumer demand for ivory in Japan declines. *Pachyderm* No. 47 January–June 2010. IUCN/SSC

Notes

- ¹CoP17 Com.II Rec.11 https://cites.org/sites/default/files/eng/cop/17/Com_II/SR/E-CoP17-Com-II-Rec-11.pdf
CoP17 Com.II.6
https://cites.org/sites/default/files/eng/cop/17/Com_II/E-CoP17-Com-II-06.pdf
The Resolution Conf.10.10 was further amended at CoP18, but the paragraph concerned has not been changed.
<https://cites.org/sites/default/files/document/E-Res-10-10-R18.pdf>
- ²Decision 18.117 Closure of domestic ivory markets
<https://cites.org/eng/dec/valid17/82164>
- ³The briefing material from the Tokyo Governor dated on 10 January 2020
https://www.metro.tokyo.lg.jp/tosei/governor/governor/kishakaiken/2020/01/documents/20200110_03.pdf
- ⁴EIA. Japan's Illegal Ivory Exports.
<https://eia-global.org/japansillegalivoryexports>
- ⁵WildAid & JTEF. 2021
<https://wildaid.org/wp-content/uploads/2021/03/Tokyo-Ivory-Report-March-2021.pdf>
- ⁶SC74 Doc.39 Appendix 5
- ⁷The CITES Secretariat also suggests the same (SC74 Doc.39 Paragraph 23).
<https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-39.pdf>
- ⁸SC74 Doc.39 Appendix 5
- ⁹Sakamoto. 2019
https://www.jtef.jp/wp/wp-content/uploads/2019/06/IvoryReport2019_jp.pdf
- ¹⁰Law No.75, 5 June 1992
- ¹¹Cabinet order for implementation of LCES (Cabinet order No.19, 31 January 2018) Supplementary provision
- ¹²"Registration of the special international species businesses" based on LCES Article 33-6
- ¹³SC70 Doc.49.1 Annex 2 "Implementation of provisions relating to domestic ivory markets contained in resolution Conf. 10.10 (rev. Cop17). Responses Provided By Parties To Notification 2017/077"
<https://cites.org/sites/default/files/eng/com/sc/70/E-SC70-49-01-A2.pdf>
This document is referred to in SC74 Doc.39 Annex 5
- ¹⁴SC70 Doc.49.1 Annex 2, LCES Article 12 Paragraph 1 Section 7, Article 33-6 Paragraph 1, Article 33-10 Paragraph 1
- ¹⁵SC70 Doc.49.1 Annex 2
- ¹⁶Supplementary provision of the Law for Amendment to LCES (Law No.51, 2 June 2017) Article 6 Paragraph 1.
- ¹⁷LCES 33-6 Paragraph 2, 3, 6 as applied mutatis mutandis pursuant to Article 33-10 Paragraph 2
- ¹⁸The first renewal of the ivory business registration for the deemed registered dealers, based on the transitional measure shall be made within one and half years after implementation of the new law when they had filed their businesses notification based on Article 33-2 of the previous law on or before 17 March 1999, while it shall be within 3 years when they had filed it on or after 18 March 1999 (Supplementary provision Article 6 Paragraph 2 of the aforementioned Law for Amendment to LCES). Since the new law was implemented on 1 June 2018, the deadlines of the first renewal of the business registration were due to be 30 November 2019 and 31 May 2021, respectively.
- ¹⁹LCES Article 33-6 Paragraph 6
- ²⁰The Japan Wildlife Research Center is designated as the "business registration organization (LCES33-15)". <http://www.jwrc.or.jp/service/jigyousha/index.htm>
- ²¹LCES Article 33-15 Article 1
- ²²Martin. 1985, Milliken.1989, Sakamoto. 2013
- ²³GoJ had exclusively required the business dealing with raw ivory except for whole tusks, that are both 20 cm or more in length and one kilogram or more in weight (Cabinet order for implementation of LCES (14 June 1995, No.240) Article 5-3 Section1) to be notified to it when it initially implemented the business notification system based on amendment to LCES on 28 June 1995. In other words, the type of business required to be notified was actually limited to major manufacturing at that time.
- ²⁴Martin. 1985, Milliken. 1989, Sakamoto. 2013
- ²⁵JIA has served as the joint secretariat of the "Public-Private Council for the Promotion of Appropriate Ivory Trade Measures" together with the Ministry of Environment (MoE) and the Ministry of Economy, Trade and Industry (METI), which was actually established by GoJ. The Council aims to serve "as a focal point of expertise from a wide variety of stakeholders, are, amongst others, to further ensure thorough implementation of legal and administrative measures; and to raise public awareness both within Japan and abroad of the various issues pertaining to the trade in ivory and ivory products" (CITES CoP17 Inf. 57).
<https://cites.org/sites/default/files/eng/cop/17/Inf-Docs/E-CoP17-Inf-57.pdf>
- ²⁶Sakamoto. 2013
- ²⁷Anon. 1997
- ²⁸Martin. 1985
- ²⁹Government of Japan. 1996
- ³⁰Anon. 1999.
- ³¹Anon. 2008.
- ³²Sankei Shimbun news article dated on 5/11/2011: "Buying unregistered ivory tusks, executive members of the leading company arrested, Tokyo Metropolitan Police" (in Japanese)
- ³³Sakamoto. 2013
- ³⁴Ibid.
- ³⁵Ibid.
- ³⁶Chunichi Shimbun news article dated on 28/12/2016: "The executive member of a company, etc. involved with illegal ivory trade, fined through summary order, Hamamatsu Sub-district Prosecutor's Office" (in Japanese)
- ³⁷Sakamoto. 2017
- ³⁸METI. 2016 https://www.meti.go.jp/committee/kenkyukai/seizou/zouge_torihiki/pdf/003_02_00.pdf
- ³⁹Sakamoto. 2017
- ⁴⁰Ibid.
- ⁴¹Asahi Shimbun news article dated on 1/2/2018: "Suspect for attempted export of ivory, an executive member of wholesaling company arrested, the Metropolitan Police Department" (in Japanese)
<https://www.asahi.com/articles/photo/AS20180201000061.html>
- ⁴²Ibid.
- ⁴³Ibid.
- ⁴⁴Jiji news article dated on 27/3/2018: "Dismissed prosecution of the executive member of wholesaling company, arrested on suspicion of illegal export of ivory, the Tokyo District Prosecutors Office" (in Japanese)
- ⁴⁵Decision by METI to the freedom-of-information requests (Notification on refusal of disclosure dated on 20 January 2020, Koukai-Kei No.3, 4, 5, 6, 7, 8, 9, 10, 11 & 12)
Decision by MoE on the freedom-of-information requests (Notification on refusal of disclosure dated on 20 January 2020, Kan-Ji-Ya No.2001202)
- ⁴⁶Written response from MoE to Sakamoto M./JTEF dated on 12 May 2020
- ⁴⁷SC70 Doc.49.1 Annex 2
- ⁴⁸LCES, Article 12 Paragraph 1, Article 20 Paragraph 1, Cabinet order for implementation of LCES Article 6
- ⁴⁹Sakamoto. 2013. These points were criticized in the series of responses taken by EIA (see Note.52). TRAFFIC also recommended

Notes

- GoJ that cut pieces should be included in the compulsory registration scheme, etc. (Kitade and Toko. 2016).
- ⁵⁰LCES, Article 33-6 Paragraph 3
- ⁵¹LCES Article 33-14 Paragraph 1
- ⁵²See Note 18 & 23.
- ⁵³In December 2015, the Environmental Investigation Agency (EIA) published the results of the investigation of Japanese ivory buyers in the afterglow of the joint statement between the US and China about the closure of their domestic ivory markets.
https://content.eia-global.org/posts/documents/000/000/010/-original/EIA_Japans_Illegal_Ivory_Trade.pdf?1485972867
 EIA also revealed the telephone conversation with the officer of Japan Wildlife Research Center (JWRC), which is entrusted with the registration operation under the control of the Ministry of Environment (MoE), at the venue of the 66th meeting of the CITES Standing Committee in January 2016.
<https://eia-global.org/press-releases/japanese-wildlife-official-promoted-illegal-ivory-trade>
 These findings revealed serious loopholes of the tusk registration process, abuse of them by ivory dealers, advising to the applicants for registration by JWRC about the loopholes and furthermore MoE's negligence in response to that situation. The press covered this story and criticized the response by the government (e.g. Tokyo Shimbun newspaper's article dated on 12 January 2016: "Organization responsible for registration advised about loopholes for illegal ivory"). Thus, MoE was forced to give a documented warning to JWRC within a week (Moe. 2016). Subsequently, it established a committee on the amendment to the LCES in June 2016.
<http://www.env.go.jp/nature/kisho/hozen/arikata/index.html>
- ⁵⁴Takaichi. 1992, Vigne & Martin. 2010
- ⁵⁵LCES Article 22 Paragraph 1
- ⁵⁶This year hit the 4th largest weight since 26 years ago, except for the recent 3 years (2016, 2017 and 2018) and the 2 years (1999 and 2000) of and after the import of the first one-off sold ivory.
- ⁵⁷Takaichi, the member of the ivory association at the time of the crime (see 1.4.1), had reused old registration cards for the unregistered ivory tusks which were newly purchased by the company (The Sankei Shimbun Newspaper dated 9 June, 2011). During the trial, it became evident that, in fact, Takaichi wrote specific registration ID numbers on masking tape pieces and pasted them on to unregistered ivory tusks. It seemed that they failed to return the registration cards even after the registered ivory tusks were cut into pieces, and kept the cards to use for disguising unregistered tusks as being registered (Sakamoto. 2013).
- ⁵⁸This is the *modus operandi* used by the "Nippon Ivory". See 1.4.1.
- ⁵⁹In theory, the cut pieces transferred from a non-business person to a registered dealer are due to constitute a part of the production of them. However, it would be rare that non-business persons own ivory in the form of cut pieces suitable for carving blank *hanko*. The reality is that ivory dealers actually buy unregistered whole tusks, cut them immediately and disguise such business as "purchase of cut pieces". Refer to the case of Nippon Ivory shown in 1.4.1 of this report, and "4.4.3 2)" and "Annex 1" (the dealer No.27) of Sakamoto (2017) with regard to an example of such attempt. Such "purchase of cut pieces" should actually be regarded as purchase in unregistered whole tusks.
- ⁶⁰It is because the source of data shown in Figure 5 (and Table 1), which were compiled by METI per fiscal year from April 1 of one year to March 31 of the next year.
- ⁶¹Sakamoto. 2013
- ⁶²Government of Japan. 1999
- ⁶³Specifically, the *quid pro quo* for that privilege was to apply all whole tusks for registration, which were owned by each member of the ivory associations, within 6 months from the implementation of the 1994 amendment to LCES (by 27 December 1995) (Tokyo Ivory Arts and Crafts Association. 1995).
- ⁶⁴Specifically, the Agency endorsed the application for registration without any proof for source and pre-Convention acquisition of the tusks concerned, like official documents or even delivery slips if the application is submitted, attaching the statement from the president of the ivory association concerned on confirming the description in the application form is true (Sakamoto. 2017 Chapter 4 Note 47). As the result of this practice, three-quarters of the registered whole tusks in 1995 were registered by using that privilege (CITES Panel of the Experts. 1997).
- ⁶⁵As the result of implementation of the privilege to the members of the ivory associations, it should be the "assumption" of the competent authority or the Environmental Agency (MoE at present) at the time that there is no unregistered whole tusk in the stockpiles owned by them.
- ⁶⁶SC70 Doc.49.1 Annex 2
- ⁶⁷SC 70 Doc.49.1 Annex 2, LCES Article 33-11 Paragraph 1, Ministry Order on business notification and registration Article 18
- ⁶⁸Environmental Agency, 1995
- ⁶⁹Sakamoto. 2017.
- ⁷⁰Ibid.
- ⁷¹SC 70 Doc.49.1 Annex 2, LCES Article 33-23 Paragraph 1, Cabinet Order for implementation of LCES Article 17, Ministry Order on business notification and registration Article 31, 32 and 33
- ⁷²House of Councilors. 2017, Sakamoto. 2017
- ⁷³LCES Article 33-23 Paragraph 1
- ⁷⁴House of Councilors. 2017, Sakamoto. 2017
- ⁷⁵Ibid.
- ⁷⁶Cabinet Order for implementation of LCES Article 17
- ⁷⁷LCES Article 12 Paragraph 1 Section 7, Article 17 Section 2, Cabinet Order for implementation of LCES Article 6
- ⁷⁸MoE. 2019 <https://www.env.go.jp/press/106849.html>
- ⁷⁹Japan Wildlife Research Center website <http://www.jwrc.or.jp/service/cites/pdfs/c14kibosha.pdf> (in Japanese)
- ⁸⁰LCES Article 20 Paragraph 1 and 23 Paragraph 1, LCES Cabinet Order Article 8
- ⁸¹JWRC. 2001, MoE. 2002
- ⁸²JWRC. 2001
- ⁸³Written response from Wildlife Division, Nature Conservation Bureau, Ministry of Environment to Sakamoto M./JTEF dated on 6 April 2020
- ⁸⁴MoE. 2018 <https://www.env.go.jp/press/105546.html>
- ⁸⁵Public-Private Council. 2019 https://www.meti.go.jp/shingikai/mono_info_service/zoge_torihiki/pdf/006_01_00.pdf
- ⁸⁶There were 16 registration between October and December 2019, based on the former procedure (Written response from Wildlife Division, Nature Conservation Bureau, Ministry of Environment to Sakamoto M./JTEF dated on 2 April 2020).
- ⁸⁷Aggregated based on the data included in the written responses from Wildlife Division, Nature Conservation Bureau, Ministry of Environment to Sakamoto M./JTEF dated on 21 February 2022.
- ⁸⁸Considering that more than 10 years have passed since the import in 2009 of the ivory from the second one-off sale, the tusks imported at the time must run low at the time of 2019.
- ⁸⁹SC74 Doc.39 Annex 5
- ⁹⁰CITES website https://cites.org/eng/prog/terrestrial_fauna/elephants
- ⁹¹Ibid.

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