



JAPAN'S ILLEGAL IVORY TRADE

Briefing Document for Delegates to CITES Standing Committee 69

The Environmental Investigation Agency (EIA) remains seriously concerned about Japan's continued failure to address fundamental problems in its domestic ivory control scheme. In August the Government of Japan (GoJ) submitted SC69 Doc. 29.3 A2¹ defending its domestic ivory controls. The document is a misleading depiction of the current situation in Japan and omits crucial information regarding its failure to require proof of legality of acquisition and origin of tusks for which registration is being sought. The GoJ also failed to advise the Standing Committee that it has launched a two-year campaign to promote tusk registration while failing to address the problem of its substantial illegal exports of ivory to China.

The reality is that the GoJ continues to allow the registration of whole ivory tusks without requiring proof of legal acquisition and origin. Recent changes to Japan's Law for the Conservation of Endangered Species of Wild Fauna and Flora do nothing to remedy this serious failure. EIA is particularly alarmed at the GoJ's launch of a public campaign to promote the registration of tusks, which will only serve to legalize undocumented illegal ivory and continue to promote ivory trade and consumption. Japan's policies undercut CITES Resolution Conf. 10.10 (Rev. CoP17), agreed unanimously at CoP17, to urgently close domestic ivory markets that "contribute to poaching or illegal trade."² It also poses a direct threat to China's efforts to close down its domestic ivory market due to large-scale illegal exports of ivory from Japan to China.

Changes to Japanese Ivory Control Law are Wholly Inadequate to Prevent Illegal Trade

- The Japanese Diet agreed on amendments to the Law for the Conservation of Endangered Species of Wild Fauna and Flora (LCES), which were promulgated on June 2, 2017.
- The amendments: (1) change the "notification scheme" for businesses engaged in ivory trade, manufacture or retail into a "registration scheme" which allows the government to shut down a business that is in violation of the LCES; (2) require that all whole tusks possessed by registered business operators be registered versus only requiring registration for tusks to be sold; (3) mandate a manifest system for tracking cut pieces of ivory; and, (4) strengthen the penalty for unregistered business activities.
- The amendments fail to remedy any of the serious fundamental flaws in Japan's ivory control scheme and focus instead on minor measures in the downstream trade while continuing to ignore major flaws in the upstream trade that begin with registration of ivory tusks without proof of legality of origin or acquisition. From 2009 to 2016, more than 13,600 tusks weighing more than 141 tonnes were registered in Japan.

Fundamental Problems in Japan's Domestic Ivory Control Scheme Remain

- When Japan was permitted to import ivory in the two CITES-authorized sales, it agreed to a series of domestic ivory controls which are enumerated in CITES Res. Conf. 10.10.
- These obligations include: a requirement to put in place comprehensive measures to regulate the domestic trade in raw and worked ivory, compulsory trade controls over raw ivory, and marking cut pieces of ivory over 20cm or more in length and one kilogram or more in weight, and marking of whole tusks.
- In the 2006 CITES Secretariat report to Standing Committee, the Panel of Experts also reported that Japan's then newly-minted ivory control scheme required "proof of legal acquisition and origin for tusks presented for registration."³

¹ "Subject: Report on Further Actions Taken by Japan to Combat Illegal Trade in Ivory," CITES SC69 Doc. 29.3 Annex 2; available at: <https://cites.org/sites/default/files/eng/com/sc/69/E-SC69-29-03-A-02.pdf>.

² CITES Resolution Conf. 10.10 (Rev. CoP17)

³ CITES (2006). "Fifty-fourth meeting of the Standing Committee Geneva (Switzerland)." SC54 Doc. 26.1 (Rev. 1).

- Japan's LCES has never required marking of whole tusks nor marking and registration of cut pieces of ivory. The LCES has never required proof of legal acquisition and origin of whole tusks submitted for registration, contrary to an earlier document presented by Japan⁴ which claimed that such proof of legality must be presented at the time of registration of a tusk.
- Third party statements are still accepted as adequate documentation for tusk registration purposes despite extensive evidence of widespread fraudulent statements.

GoJ's Proposed Ivory Registration Campaign is a Large-Scale Amnesty

- Instead of addressing the fundamental problems in the Japanese ivory control scheme, the Government of Japan has announced a two-year nationwide public campaign to encourage the registration of ivory tusks *before* considering possible reform of the tusk registration scheme.⁵
- As part of its program to "strengthen" ivory trade controls, Japan's Ministry of Environment (MoE) is planning to conduct a study to assess the feasibility of scientific methods to prove ivory tusk legality and evaluate the impact of a stricter registration process.
- This means that scientific proof will not be introduced if the feasibility study concludes it is not practically feasible, and that a stricter registration process itself might not be introduced at all in two years time depending on the result of the study.
- EIA is concerned that the tusk registration campaign will result in the registration of large amounts of illegal tusks while stimulating demand for ivory in the run up to the Tokyo Olympics in 2020.
- The proposed tusk registration campaign demonstrates the Government of Japan's overriding commitment to its ivory traders over its CITES international legal obligations.
- Given the extensive evidence of illegal exports of ivory from Japan to China, EIA is deeply troubled that Japan is seeking to increase its market at a time when China is about to close its ivory carving factories and retail outlets.

Recent Illegal Ivory Trade Police Investigation in Japan: the Raftel Case⁶

- The Tokyo Police announced on June 20th that it had charged the president of antique company, Raftel, and 27 customers with violating the LCES for illegal trade in unregistered ivory. Media reports indicate that the Tokyo Police believe illegal trade in ivory is "rampant" in Japan.
- According to press reports, Raftel's president told police that he was following instructions from the Japan Wildlife Research Centre (JWRC) to register the tusks on behalf of customers. The JWRC is the government-contracted organization that administers the tusk registration process.
- It appears that the JWRC knew fraudulent documents were being presented by Raftel to gain legal status for illegal ivory but allowed Raftel to carry out registration anyway.
- EIA investigations in 2015 exposed Japan's tusk registration scheme as rife with fraud and subsequent investigations demonstrated that JWRC staff were willing to coach ivory registration applicants on how to falsify registration documents.⁷
- According to news reports, Raftel registered 400-500 tusks over the past four to five years.

Ivory Smuggling from Japan to China is Persistent

- Smugglers have taken advantage of Japan's lax trade controls to re-export ivory from Japan to China. Since 2009 at least 5.8 tonnes⁸ of ivory have been seized, in many cases alongside other illegal wildlife products including rhino horn, bear paws, red coral, tiger skins, pangolin scales, and in one case narwhal tusks.

⁴ "Japan's Report on Control of trade in Elephant Ivory and Ivory Markets;" CITES SC66 Doc. 29, Annex 20 – p. 4; available at: <https://cites.org/sites/default/files/eng/com/sc/66/E-SC66-29-Annex20.pdf>.

⁵ Ministry of Environment, 2017, Reference material No.7 in the chapter of summary of the Bill, "Strengthening program on ivory trade control", Information packet for "Bill for partially amendments to LCES" (Cabinet Bill No. 33), the office for research, Secretariat of the House of Councilors.

⁶ <http://www.asahi.com/articles/ASK6N3C6NK6NUTIL00L.html>; <http://www.sankei.com/affairs/news/170620/afr1706200026-n1.html>

⁷ EIA (2016). *The Dirty Secrets of Japan's Illegal Ivory Trade*. available at: https://eia-global.org/reports/dirty_secrets_of_japans_illegal_ivory_trade-report.

⁸ EIA calculation; available upon request.

- A common tactic exploits a persistent enforcement gap in Japan's mail system,⁹ posting multiple packages of ivory with false labels like "chocolate," "pencil jars," or "sewer pipe joints" to associates in China. From 2010-2012 one group smuggled 3.2 tonnes of ivory purchased on Yahoo! Japan into China without detection by Japanese authorities.¹⁰
- While the GoJ has denied any signs of continued smuggling, recent evidence indicates the problem persists. In August 2016, 15 shipments labelled as "handicrafts" were seized in Langfang, China. The boxes contained an estimated 101.4kg of ivory pieces, alongside 700g of red coral products and another 3,090 pieces of faux ivory carved from bone and resin.¹¹

Japanese Private Sector Action to Cease Elephant Ivory Sales

- While the GoJ lags on taking action to close the trade and eliminate loopholes that permit illegal tusks to enter the domestic market, major private sector retailers are ending trade in ivory.
- Rakuten Ichiba, Japan's leading e-commerce retailer and a member of Japan's "Public-Private Council for the Promotion of Appropriate Ivory Trade Measures," announced a ban on elephant ivory product sales on July 1, 2017, which went into effect on August 1st.
- In September 2017, AEON, Japan's largest retailing company, which also owns and operates more than 50 malls across Japan, announced that 180 of its mall tenants must phase out all sales of elephant ivory by March 2020. AEON previously prohibited ivory sales in its directly managed stores in June 2015.
- Just after CoP17, three Japanese *hanko* name seal companies announced they would end the sale of ivory, two of which stated their decision was in direct response to the CITES resolution urging the closure of domestic ivory markets.

Applicability of the Domestic Ivory Ban Resolution to Japan

- EIA believes that due to extensive evidence of illegal trade, Japan is obliged to close its domestic ivory market pursuant to CITES Res. Conf. 10.10 (Rev. CoP17) paragraphs 3-5.
- The Government of Japan is claiming that it is exempt from the resolution because it does not have illegal ivory trade or imports and therefore its market does not contribute to poaching.
- This is an erroneous interpretation of the language of the resolution, which plainly states that Parties with domestic ivory markets that contribute to poaching or illegal trade should be urgently closed.
- It is also a misleading representation of the situation in Japan, where in fact there is little to no border enforcement effort and many examples of illegal ivory imports and exports.

Recommendations

EIA urges the Standing Committee to:

- Request Japan to prepare a National Ivory Action Plan and recommend that Japan be categorized as a country of primary concern.
- Direct the Secretariat to implement paragraph 9 of Resolution Conf. 10.10 (Rev.CoP17) on an urgent basis and to include Japan in its list of Parties with an unregulated internal ivory market and significant levels of illegal ivory trade pursuant to subparagraph (a).
- Support the recommendations made in SC69 Doc. 51.2, "Implementing Aspects of Resolution Conf. 10.10 (Rev.CoP17)," submitted by Burkina Faso, Congo, Kenya and Niger.

⁹ JTEF. (2016). The Last Ivory Ban Haven: The Drivers of Japan's illegal ivory trade and failures of Japan's domestic ivory legislation.

¹⁰ CITES. (2017). Report of the Elephant Trade Information System (ETIS). CoP 17 Doc.57.6 (Rev.1) Available at: <https://cites.org/sites/default/files/eng/cop/17/WorkingDocs/E-CoP17-57-06-R1.pdf>

¹¹ ECNS. (2016). Customs seize 101.4kg of ivory from Japan. Available at: <http://www.ecns.cn/visual/hd/2016/08-15/102308.shtml>