

## Last But Not Least: Japan's Domestic Ivory Market

### Briefing Document for Delegates to CITES Standing Committee 74

#### Overview

Japan's domestic ivory market continues to enable illegal ivory trade within Japan and sustain illegal exports out of the country. Japan reported under CITES Decision 18.117 to share measures the government is taking to ensure its domestic ivory market is not contributing to poaching or illegal trade; however, the reported measures remain ineffective at preventing illegal trade. To truly eliminate its role in the global ivory trade and protect elephants, Japan must join other nations in closing its domestic ivory market once and for all.

#### Significance of Japan's Domestic Ivory Market

With thousands of registered ivory traders and a massive stockpile (244+ tonnes),<sup>1</sup> Japan is the world's most significant remaining legal ivory market. Japan's stockpile of ivory has been continuously supplied by an influx of whole tusks registered for decades with little oversight and with no comprehensive tracking system for cut ivory pieces and worked products.

#### Flawed and Failing: Analyses of Japan's Claims Regarding Ivory Trade Controls

Japan has been consistently non-compliant with key components of CITES Resolution Conf. 10.10 (Rev. CoP18), *Trade in elephant specimens*, since its adoption. Despite many rounds of regulation revisions,<sup>2</sup> including the most recent provisions, the system remains ineffective at preventing illegal activity.<sup>3</sup> The following is a brief assessment of the main arguments Japan presents (found in Annex 5 of SC74 Doc. 39)<sup>4</sup> to justify maintaining its open market:

##### Legislative Measures

1. Regarding the registration of ivory business operators, Japan reports that ivory businesses must fulfill all registration requirements and registration must be renewed every five years. This amendment was included in revisions to the Law for Conservation of Endangered Species of Wild Fauna and Flora (LCES),<sup>5</sup> which came into effect June 2018.

However, a recent analysis by the Japan Tiger and Elephant Fund calls into question the effectiveness of this provision and indicates that the assessment of business applications and renewal, outsourced to a private organization, is perfunctory.<sup>6</sup> Businesses are registered with little oversight and traders are not excluded from being registered even if there is a history of illegal trade.<sup>7</sup>

<sup>1</sup> <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-39.pdf>

<sup>2</sup> Sand, Peter. (February 2019) Japan's Ivory Trade in the Face of the Endangered Species Convention. *Journal of International Wildlife Law & Policy*, Volume 21, 2018 – Issue 4. Available at: <https://www.tandfonline.com/doi/full/10.1080/13880292.2018.1554872>

<sup>3</sup> EIA/JTEF (2018) Superficial Reforms: An Analysis of Recent Amendments to Japan's Ivory Control Laws. Available at: [https://content.eia-global.org/posts/documents/000/000/784/original/Superficial\\_Reforms\\_EIA\\_JTEF\\_FINAL\\_091018.pdf?1538158564](https://content.eia-global.org/posts/documents/000/000/784/original/Superficial_Reforms_EIA_JTEF_FINAL_091018.pdf?1538158564)

<sup>4</sup> <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-39.pdf>

<sup>5</sup> Note in Japan's reports pursuant to Decision 18.117 this is referred to as the Act on the Conservation of Endangered Species of Wild Fauna and Flora (ACES).

<sup>6</sup> JTEF. (2022) Japan's Tireless Ivory Market: A Trader's Haven Free of Strict Controls. Available at: [https://www.jtef.jp/en/wp-content/uploads/2022/02/IvoryReport2022\\_E\\_m.pdf](https://www.jtef.jp/en/wp-content/uploads/2022/02/IvoryReport2022_E_m.pdf)

<sup>7</sup> Ibid.

2. Japan reports that business operators must register all tusks in their possession, essentially implementing a mandate for all whole tusks intended for sale.

However, data indicate that traders evade this requirement by cutting tusks into pieces and processing them into worked products (e.g., *hanko* / name seals), which are not required to be registered.<sup>8</sup> As such, the mandate pushed more ivory of unknown origin and legality onto the market. A major problem with Japan's ivory controls is the exclusion of cut pieces from the tusk registration requirement. Only whole tusks are required to be registered in Japan; cut pieces are exempt from the registration requirement. Simply put, to avoid registration and associated requirements, all a trader needs to do is cut a tusk into a few pieces.

3. Japan reports that businesses operators must prepare and keep inventory data, including transaction records and traceability information records, for cut pieces of ivory. After decades of implementation, Japan revised its recording system for data tracking and traceability for cut pieces during the last LCES revision process. In the current system, which relies on traceability information forms, businesses must record transactions for cut pieces and worked ivory over 1kg and 20cm in length, and keep copies of paper forms transferred with the ivory items for five years. Authorities can request operators submit copies intermittently, but compliance with the traceability scheme for cut pieces relies ultimately on the traders themselves. This system is separate from the whole tusk registration system, the only point at which legal origin and acquisition are confirmed. Additionally, most ivory items in Japan, notably *hanko*, are small and do not meet the requirements for a transaction form. Such a disjointed and outdated tracking system cannot secure traceability of ivory from whole tusk to worked product and through transactions in a functioning manner; securing traceability is impossible.<sup>9</sup>
4. Business operators must make their business registration number and name available for display or advertisement. This provides an opportunity for ivory consumers or other interested parties to confirm that a business is legally registered, but does nothing to confirm the legality of the ivory possessed by the business operators.<sup>10</sup>
5. Japan publishes a list of registered business operators; however, again, this provides only an opportunity to verify that a business is registered with the government, and does not confirm anything further.<sup>11</sup>
6. Regarding the claim of heavier penalties including imprisonment and increased fines for business operators engaging in illegal operations, a recent study concluded that regardless of the provision, penalties for offenders were low and there is a persistent avoidance of strict punishment and prosecution for illegal wildlife trade cases.<sup>12</sup>

#### Radiocarbon dating and the Whole Tusk Registration System: Too Little, Too Late

Japan's whole tusk registration system is the heart of its ivory trade controls, and the *only* point at which origin and acquisition of ivory is assessed. For decades, an affidavit from a third-party, including a family member, was accepted to confirm legal origin and acquisition of a whole tusk in order to sell it. Over the years, tens of thousands of tusks were registered under these requirements, seriously undermining confidence in the legality of the majority of the ivory on the market in Japan.

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> JTEF (2019) Compelled to Close: Top 5 Reasons for Closing Japan's Domestic Ivory Market. Available at: [https://www.jtef.jp/en/wp-content/uploads/2019/06/IvoryReport2019\\_en.pdf](https://www.jtef.jp/en/wp-content/uploads/2019/06/IvoryReport2019_en.pdf)

While Japan's radiocarbon dating requirement for the registration of whole tusks went into effect July 2019, for nearly two years prior the government promoted registering whole tusks in private possession before the stricter requirements went into effect. During this campaign, 3,968 whole tusks were registered. The requirement is further flawed because it is the responsibility of the tusk owner to complete the radiocarbon dating and registration of a tusk, which is all done remotely. There is no in-person examination of tusks for registration by government officials. The ivory samples are mailed to the testing company by the owner of the tusk and there is no way to guarantee that the ivory sample came from the tusk that is supposed to be tested for registration.

In summary, imposed legislative measures remain inadequate at controlling the trade and closing loopholes to prevent illegal trade. Japan's whole tusk registration system has been flawed for decades, and efforts to remedy the shortcomings continue to fail.

### **The World's Largest Ivory Stockpile**

Considering the past and continuing problems associated with Japan's domestic ivory market controls, concern is especially warranted due to the size of Japan's stockpile. With 244 tonnes of ivory, including 178 tons of registered whole tusks and 66 tons of cut pieces reported by registered dealers<sup>13</sup>, Japan's stockpile accounts for 89% of the whole ivory stockpile in Asia (275.3 tons<sup>14</sup>) and 31% of the world's stockpile (796 tons<sup>15</sup>), as declared by 28 February 2021. The majority of Japan's stockpile is likely composed of ivory of unknown or questionable legality of origin and acquisition.

### **Illegal Exports from a Legal Source: Undermining Other Nations' Ivory Market Closures**

There has been a steady flow of ivory purchased legally in Japan and illegally exported, mainly to China after the implementation of China's market closure in 2018. Between 2018-2020, at least 76 seizures of ivory from Japan were made by in other jurisdictions, including 72 seized by China Customs.<sup>16</sup> Relevant data from 2021 is not publicly available but would be useful in assessing the continuing role of Japan's domestic market on the illegal international trade in ivory. An assessment of all seizure data related to Japan by the MIKE and ETIS Technical Advisory Group would assist the Parties in examining Japan's role in the international illegal trade in ivory.

An additional concern is that Japan's legal ivory market is appealing to international travelers. A study of Chinese travelers to Japan found that 19 percent planned to purchase ivory and an estimated 12 percent actually did make an ivory purchase.<sup>17</sup> A majority of those who purchased ivory products exported the ivory to China either by plane or through the mail. Investigations by the Environmental Investigation Agency and Japan Tiger and Elephant Fund in 2020 of Japanese *hanko* retailers found that many retailers are willing to sell an ivory product knowing that it will be exported internationally despite most being aware that ivory export is illegal.<sup>18</sup>

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<sup>13</sup> <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-39.pdf>

<sup>14</sup> CITES website [https://cites.org/eng/prog/terrestrial\\_fauna/elephants](https://cites.org/eng/prog/terrestrial_fauna/elephants)

<sup>15</sup> Ibid.

<sup>16</sup> EIA. (December 2020) Japan's Illegal Ivory Exports. <https://eia-global.org/japansillegalivoryexports>

<sup>17</sup> GlobeScan Incorporated / WWF. (October 2020) Beyond the Ivory Ban: Research on Chinese Travelers While Abroad. <https://wwf.panda.org/?968516/Ivory-Consumption-Chinese-Travelers>

<sup>18</sup> EIA and JTEF. (2020) Willing to Sell: Snapshot Investigations of Ivory Hanko Retailers in Japan. <https://eia-global.org/reports/20201217-willing-to-sell-report>

## Conclusions

Japan is the last major open ivory market, and with its massive stockpile and thriving ivory industry, it is certainly not the least. Japan's domestic ivory market is ripe for abuse, and the government's limited efforts to control the market and prevent illegal trade and export are too little, too late. There is no way to recover decades of mismanagement and unmonitored/uncontrolled trade, in part because there is no way to have a perfectly controlled domestic ivory market. Japan's market does not act in isolation from the international community – ivory for sale is sourced from other countries, and as long as ivory sales are legal, international consumers will target Japan as a source of legal ivory.

Action from the private sector to implement voluntary bans<sup>19</sup> and movement by the Tokyo Metropolitan Government to address ivory trade regulations,<sup>20</sup> are welcome developments, though ultimately action needs to come from the national government to bring about the policy and enforcement changes necessary to address illegal domestic and international trade. Japan must recognize that any open ivory market contributes to illegal trade and poaching, by providing opportunities for laundering ivory and stimulating demand, and do its part to protect elephants by closing its domestic ivory market.

## Recommendations to the 74<sup>th</sup> Standing Committee

- **Oppose the Secretariat's recommendation to agree that Decisions 18.117-18.119 have been fully implemented and recommend updating these Decisions while domestic ivory markets persist**
- **Encourage Japan to indicate a political commitment at CoP19 for taking a major step towards closing their domestic market for commercial trade in raw and worked ivory in accordance with paragraph 3 of Resolution Conf. 10.10 (Rev. CoP18)**
- **Request the CoP19 to adopt a decision urging Japan, with its legal domestic ivory market that contributes to illegal trade or poaching, to close its market urgently**

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<sup>19</sup> EIA/JTEF. (August 2019). Decision by Yahoo! Japan to End Ivory Sales Celebrated by Elephant Advocates. Available at: <https://eia-global.org/press-releases/20200828-decision-by-yahoo-japan-to-end-ivory-sales-celebrated-by-elephant-advocates>

<sup>20</sup> NGO Letter to TMG. (October 2021) Available at: <https://eia-global.org/reports/20211012-letter-tokyo-ivory-market-closure-recommendation>