



environmental
investigation
agency



Briefing Document for Delegates to CITES CoP19

RIPE FOR ABUSE:

Japan's Ivory Market

November 2022

OVERVIEW

Thousands of elephants are killed every year to supply the trade in their ivory tusks.

While international commercial trade in ivory has been banned and many Parties have taken steps to close their markets, Japan's domestic ivory market remains open, supported by the world's largest ivory stockpile.

Japan's ivory market controls are porous and ultimately ineffective, enabling the trade in illegal ivory within Japan and sustaining illegal exports out of the country. An analysis of seizure data linked to Japan recorded in the Elephant Trade Information System (ETIS) would be valuable in assessing the role of Japan's legal market in the illegal international ivory trade, though other information is currently available that can aid in the decision-making process and discussions at the upcoming 19th Conference of the Parties (CoP19) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Evidence indicates that criminals and international travelers are targeting Japan's legal market as a source for elephant ivory. A new analysis of court cases in

China related to the illegal export of ivory from Japan to China found that many cases involved organized criminal groups, and that ivory smuggling was executed via planned operations to move ivory products to China for resale. After the pandemic, Japan's borders are again open to travelers and the market is open for ivory consumers. As long as Japan is viewed as an ivory purchasing destination – by organized criminal groups as well as tourists – Japan's market will continue to source illegally exported ivory and undermine other Parties' enforcement and demand reduction efforts.

The combination of Japan's lax ivory trade controls, porous border, and lack of political will to prevent illegal trade makes Japan's ivory market ripe for abuse by traffickers eager to supply international ivory buyers. To truly eliminate its role in the global ivory trade and protect elephants from poaching now and in the future, Japan must join other Parties in closing its domestic ivory market once and for all.

CLOSURE OF DOMESTIC IVORY MARKETS AND CITES

Africa's elephants continue to be poached for their ivory. Legal domestic ivory markets threaten the effectiveness of the international ban on commercial ivory trade and undermine the efforts of Parties that have closed their ivory markets.

At CoP17 in 2016, Parties agreed by consensus to revise Resolution Conf. 10.10, *Trade in Elephant specimens*, to address the issue of domestic ivory markets by recommending Parties "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 the matter of urgency."

At CoP18, Parties with existing domestic ivory markets were directed to report to the Standing Committee on measures taken to ensure their markets did not contribute to poaching or illegal trade.

The CoP19 Doc. 66.3 *Implementing Aspects Of Resolution Conf. 10.10 (Rev. Cop18) On The Closure Of Domestic Ivory Markets*, submitted by Benin, Burkina Faso, Equatorial Guinea, Ethiopia, Gabon, Liberia, Niger, Senegal, and Togo, supports the implementation of Resolution Conf.10.10 (Rev.CoP18) on the closure of domestic ivory markets by evaluating open domestic ivory markets to ensure they are not contributing to poaching or illegal ivory trade and makes recommendations to enhance compliance with the Resolution. These recommendations include directing the

Secretariat to prepare an analysis of ETIS seizures of ivory exported from Parties with open ivory markets, and directing the Standing Committee to evaluate any relevant information as it pertains to open markets.

A market's significance as a potential source of ivory for illegal export should be an important element in considering market closure, regardless of whether ivory from recently poached elephants comprises a significant portion of the ivory being traded. For example, after CoP18 the European Union (EU) made the decision to close its legal ivory market with narrow exemptions¹ even after determining, based on seizure and investigation data, that its market was not attracting ivory from recently poached elephants. The EU determined that it is important to ensure that its enforcement efforts and rules prevent legal ivory from contributing to poaching or the illegal trade in order to "reduce the risk that ivory items acquired in the EU and then exported to third countries could fuel the demand for illegal ivory items, and thus undermine enforcement and demand reduction activities."²

JAPAN'S DOMESTIC IVORY MARKET AND FAILING IVORY TRADE CONTROLS

Japan is the world's most significant remaining legal ivory market. Considering the previous and ongoing 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 tonnes of registered whole tusks and 66 tonnes of cut pieces reported by registered dealers,³ Japan's stockpile accounts for 84% of Asia's ivory stockpile (289.82 tonnes⁴) and 31% of the world's stockpile (796 tonnes⁵). For decades Japan's stockpile of ivory

was continuously supplied by whole tusks via a Government-approved registration program with little oversight and with no comprehensive tracking system for cut ivory pieces and worked products. It is notable that despite these flaws, Japan is the only country to have received an influx of ivory in two CITES-approved international sales (50 tonnes in the 1999 sale and 39 tonnes 2008 sale) after the implementation of the 1989 ban on international commercial ivory trade.

Over the years, Japan has been consistently non-compliant with key components of CITES Resolution Conf. 10.10 (Rev. CoP18).⁶ Despite many rounds of regulatory revisions,⁷ Japan's ivory market control system remains ineffective at preventing illegal activity.⁸ For the 74th meeting of the CITES Standing Committee (SC74), Japan reported under CITES Decision 18.117 the 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.

In a briefing document for SC74,⁹ the Environmental Investigation Agency (EIA) and the Japan Tiger and Elephant Fund (JTEF) provided an assessment of Japan's main arguments presented in Japan's report under Decision 18.117 (found in Annex 5 of SC74 Doc. 39).¹⁰ 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. The process has been flawed and poorly regulated for decades, and continues to be so. Moreover, the whole tusk registration requirement can be easily evaded by cutting a tusk into pieces since cut pieces are not required to be registered. The business registration requirement is perfunctory; rigorous oversight on the transfer records of illegal trade engagement has never been in place; the disjointed and outdated tracking system cannot ensure traceability of ivory from whole tusk to worked product and through transactions in a functioning manner so securing traceability is impossible.

In summary, Japan's ivory control measures continue to fall short. Because of these failures, Japan's market holds unknown quantities ivory of unknown origin, and Japan faces a potential influx of illegal ivory being laundered into its market and an efflux of ivory stockpiles abroad.

SMUGGLERS' LEGAL SOURCE FOR ILLEGAL EXPORTS

As the world's largest legal ivory market with a reputation for weak enforcement, Japan's ivory market is perceived as an easy source of ivory for international buyers. According to open-source information collated by EIA, between 2018 and 2020 at least 76 seizures of ivory from Japan were made in other jurisdictions.¹¹ This steady flow of ivory was likely purchased legally in Japan and then illegally exported, mainly to China after the implementation of China's market closure in 2018. Of the 76 seizures, 72 were made by China Customs.

In 2022 JTEF analyzed court decisions from smuggling cases of ivory from Japan to China.¹² Incidents from 45 identified cases spanned from 2010-2019, including 15 cases from 2018 and 2019, after China's ivory market closure was implemented.

Analysis of the court decisions revealed that ivory dealers registered with the Government of Japan were involved in at least four cases (8%). In one case, 3.26 tonnes of smuggled ivory, exported over one year and five months, was supplied by a Japanese registered ivory dealer. This trader is still selling ivory, mostly cut pieces, on his own website. Another registered ivory dealer was involved in two different cases. The trader agreed that he would sell cut ivory pieces at a fixed price per month, regardless of the weight, to a Chinese buyer. Over the next three months, he sold more than 120kg of ivory cut pieces, all of which were mailed to China. This trader is also actively operating in Japan's ivory industry. Indeed, previous investigations by EIA and JTEF in 2020 found that many Japanese *hanko* (name seal) retailers were willing to sell an ivory product knowing that it will be exported, despite most being aware that ivory export is illegal.¹³ Retailers are not culpable for actions after their legal ivory sales, even if they are aware that the purchaser intends to illegally export it.

Smuggling was commonly carried out in a way to efficiently hide the ivory. Nearly 70% of the ivory was smuggled through international mail while 30% of the cases were smuggled via air travel as personal effects. As such, most of the ivory seizures were of small amounts of ivory that were probably parceled out beforehand, and all identified by China's enforcement officials after they arrived in China. Illegal exports from Japan are undermining China's ivory market closure and enforcement efforts, posing an additional challenge to enforcement officials. Additionally, in at least one case, it was determined that if seized ivory was procured legally in Japan, the court could consider a reduced penalty for the offenders. While this additional leniency could be beneficial in some cases or for some crimes, in this case it further undermines the strict enforcement of China's market closure.

Illegal ivory export from Japan to China is categorized as a "serious crime" in both Japan and China, as defined in the United Nations Convention against Transnational Organized Crime (UNTOC).¹⁴ To qualify as an "organized criminal group," certain qualifications have to be met. Among the assessed cases, nearly half (47%) were executed by three or more people, one of the main qualifications to be defined as an organized criminal group. Additionally, the criminal group structure was often organized into defined roles; the *modus operandi* was well-organized, often utilizing intermediate purchasing agencies/actors; half the cases involved individuals currently working in the ivory or shipping industries or those with a background in wildlife crime; and 65% of the cases were motivated by financial/commercial benefits. The details of these cases indicate a significant level of organized crime in the majority of illegal exports from Japan to customers in China. It is clear that organized criminals see Japan's market as a source of ivory.

Other studies have highlighted that Japan's legal ivory market is appealing to international travelers on the hunt for ivory trinkets. A 2020 study of Chinese travelers to Japan found that 19% planned to purchase ivory products and an estimated 12% actually did make an ivory purchase.¹⁵ The surveyed travelers who made purchases illegally exported the ivory to China either by plane or through the mail – results which align with the analysis of the Chinese court cases. In the wake of the pandemic's peak, and with Japan's border open again to international visitors, the possibility of an increase of international ivory buyers is highly likely.

CONCLUSION

Japan's domestic ivory market is already being abused, and will continue to be unless real action is taken. The government's limited efforts to control the market and weak attempts to prevent illegal trade and export are too little, too late. Japan's market does not act in isolation from the international community – as long as ivory sales are legal, international consumers and organized criminals supplying international consumers will target Japan as a source of "legal" ivory. Loopholes in Japan's ivory controls can easily enable fresh ivory to be laundered onto the market – the door is open for further criminal activity.

While action from leading private sector retailers in Japan to implement voluntary bans on the sale of ivory,¹⁶ such as those by Rakuten, Aeon, Yahoo! Japan, and movement by the Tokyo Metropolitan Government to address ivory trade,¹⁷ are very welcome, ultimately the national government must take strong and clear action to

bring about the policy and enforcement changes necessary to address illegal domestic and international trade.

There is no way to have a well-controlled domestic ivory market that acts in isolation from the rest of the world, particularly when the ivory is sourced from abroad. An assessment of ETIS seizure data connected to Parties with legal ivory markets would assist the Parties in examining their roles in the international illegal trade in ivory.

Even without these data, it is clear that Japan's market plays a significant role in the international market, and that its very existence poses a threat to efforts to reduce demand for ivory and enforce ivory market closures to protect elephants. Japan must recognize that any open ivory market contributes to illegal trade and poaching and must do its part to protect elephants by closing its domestic ivory market. CITES Parties must take the decisive action at CoP19 to urge Japan to close its market.

RECOMMENDATIONS

TO THE 19TH CONFERENCE OF THE PARTIES:

- Support the draft decisions in Doc 66.3
- Request that Japan close its legal domestic ivory market urgently in accordance with paragraph 3 of Resolution Conf. 10.10 (Rev. CoP18)
- Encourage Japan to make a political commitment at CoP19 to close its domestic ivory market

REFERENCES

1. CITES SC74 Inf.10 <https://cites.org/sites/default/files/eng/com/sc/74/Inf/E-SC74-Inf-10.pdf>
2. CITES SC74 Doc.39 Annex 2 <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-39.pdf>
3. CITES SC74 Doc. 39. Closure Of Domestic Ivory Markets: Report of The Secretariat <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-39.pdf>
4. CITES. https://cites.org/eng/prog/terrestrial_fauna/elephants (as declared by 28 February 2021)
5. Ibid
6. 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>
7. Ibid.
8. 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
9. EIA/JTEF. (2022) Last But Not Least: Japan's Domestic Ivory Market. Available at: <https://us.eia.org/report/0220303-last-but-not-least-japans-domestic-ivory-market/>
10. <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-39.pdf>
11. EIA. (December 2020) Japan's Illegal Ivory Exports. <https://us.eia.org/campaigns/wildlife/elephants/japan-ivory/>
12. JTEF (2022) Smugglers' Source: Japan's Legal Ivory Market; An Analysis of Chinese Court Decisions of Ivory Illegally Exported from Japan.
13. 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>
14. UNTOC Article 2 Use of Terms
15. GlobeScan Incorporated / WWF. (October 2020) Beyond the Ivory Ban: Research on Chinese Travelers While Abroad. <https://wwf.panda.org/?968516/Ivory-Consumption-Chinese-Travelers>
16. 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>
17. NGO Letter to TMG. (October 2021) Available at: <https://eia-global.org/reports/20211012-letter-tokyo-ivory-market-closure-recommendation>

EIA US

PO Box 53343
Washington DC 20009 USA
T: +1 202 483-6621
E: info@eia-global.org

eia-global.org

EIA UK

62-63 Upper Street,
London N1 0NY UK
T: +44 (0) 20 7354 7960
E: ukinfo@eia-international.org

eia-international.org

JAPAN TIGER AND ELEPHANT FUND

2-5-4 Toranomon,
Suehiro Building 3F Minato-ku
Tokyo 105-0001, Japan
T: +81 3-3595-8088
E: hogokikin@jtcf.jp
jtcf.jp

Front cover: ©EIAimage