

Business as Usual

A review of
the regulatory systems in Japan
to control
domestic trade in elephant ivory



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INTRODUCTION

The objective of this review is to re-examine the regulatory framework of Japan's domestic trade control over elephant ivory tusks and their products, as well as to deliver recent findings and new perspectives to the discussions at SC54, where Japan is proposing itself to be a designated a "trading partner" for the one-off ivory stockpile sales conditionally agreed in Santiago in 2002.

A fact-finding trip in August/September 2006 was made by the author to collate the latest available information from relevant government agencies, NGOs that have engaged in this issue and other stakeholders in Japan.

This report presents the results of the fact-finding trip (interviewing key informants and stakeholders including authors of important reports concerning ivory trade in Japan) and an analysis of illegal trade. Nonetheless, the depth of this study, especially the trade analysis, was compromised by the lack of availability of the key officials from the two government agencies during the author's visit to Japan, the lack of latest relevant official information from a number of CITES Management Authorities or equivalent in other countries and by the inaccessibility to the ETIS (Elephant Trade Information System) country reports, which are made available only to CITES Parties.

REGULATORY FRAMEWORK OF ELEPHANT IVORY TRADE IN JAPAN

This section illustrates the regulatory framework of the trade in elephant ivory in Japan.

Basic Summary of the Japanese Ivory Trade Control System

- The Ministry of Economy, Trade and Industry¹ (METI) and Ministry of the Environment² (MOE) are the two principal agencies responsible for elephant ivory trade controls in Japan.
- METI regulates the import and export controls by issuing permits, as well as controls over cut pieces of ivory. It is also responsible for regulating all traders, including manufacturers (some of which are also importers), wholesalers and retailers, by means of registration. MOE regulates the control over whole tusks, also by means of registration.
- The current regulatory framework on raw ivory and its products is a mixture of both legislative and administrative controls. These controls apply both to most ivory items (whole tusks, cut pieces and finished products) and dealers at all levels.

Deficiencies that Undermine the System

- Some controls are compulsory requirements enforced by the legislative authorities, with provisions for penalties (registration of businesses and whole ivory tusks), while others are completely voluntary (management cards for cut pieces, certificate stickers for finished products). Such “split-control” seriously undermines the effectiveness and efficiency of ivory trade controls in Japan, and makes it impossible to trace each ivory piece back to its original tusk, creating loopholes that can be exploited by the illegal market. Thus Japan’s control system remains compromised.

Japanese CITES Implementation and Border Controls

CITES is implemented in Japan through its *Foreign Exchange and Foreign Trade Law* (FEFTL) by the Ministry for Economy, Trade and Industry (METI) and *Customs Law* by the Japanese Customs. CITES permits are issued by METI, while border controls are carried out by the Customs authorities. METI is the CITES Management Authority of Japan.

The commercial import and export of elephants and their parts and derivatives have been regulated under the FEFTL since 1980, when Japan ratified CITES and became the 57th Party to the Convention. It was not until a decade later, in 1990, that all imports and exports of elephants and their parts and derivatives were prohibited following the 1989 international ban on ivory trade. Personal effects, including souvenir items brought back from overseas visits by Japanese nationals, were also prohibited from trade.

Following the down-listing of elephant populations in Botswana, Namibia, and Zimbabwe in 1997, which enabled the one-off sale of ivory in 1999, the import procedures for elephants and ivory from the above three countries were revised by METI in September 1997³. The import of live specimens, products and derivatives of African elephant from Botswana, Namibia, and

¹ Formerly Ministry of International Trade and Industry (MITI). This report uses the current name.

² Formerly Environmental Agency (EA). This report uses the current name.

³ The Ministry of Foreign Affairs, *Notice No.449*, 18 September 1997, as cited in Kiyono 2003.

Zimbabwe became subject to prior confirmation by METI⁴, like all other Appendix I specimens, in addition to the existing requirement of export permits acquired from the exporting countries.

The Evolution of Domestic Controls of Ivory

Domestic trade in CITES Appendix I-listed specimens is regulated by *The Law for the Conservation of Endangered Species of Wild Fauna and Flora* (LCES), which was adopted on 5 June 1992. MOE is responsible for the implementation of LCES

Under LCES, the sale, transfer and display for sale of species that are listed on Appendix I of CITES is prohibited (LCES Article 12 & Article 20). However, there are a number of species exempted from such regulation. Similarly, personal possession of Appendix I listed specimens, regardless of quantity, is also exempted from LCES.

On 29 June 1994, LCES was amended to cover ivory items of the following descriptions: elephant tusks and cut pieces of 1 kg in weight or over and 20cm in length or over, and not in the form of finished products.

Box 1 – Concluding Remarks by the CITES Panel of Experts on Japan’s Domestic Control System

In February 1997, the CITES Panel of Experts made the following remarks in its report with respect to the ivory trade control in Japan:

The control of ivory stocks in Japan is good for whole tusks but needs improvements for parts of tusks. Rules must be defined for the control of small cut pieces and that of scraps. The software of the JWRC database must be improved to allow adequate monitoring of stocks. The control of the external trade is good, both for commercial freight as well as for passengers. Customs could easily extend the targeting of problem shipments to ivory. The control of retail trade is not adequate to differentiate the products of legally acquired ivory from those of illegal sources. With the systems as currently implemented, it is unlikely that the import of partially worked ivory (e.g. inzaïs) could be reliably detected. More inspections are needed, including physical checking of the stockpiles. A method needs to be devised to allow the verification of scraps and wastes produced. (Emphasis added)

Source: Anon. (1997a)

In 1997, in response to the CITES Panel of Expert’s report⁵, the Japanese government made a number of revisions to its domestic control system. Under the old system, the records kept by dealers were not detailed enough to identify the amount of scraps and waste which were considered unusable to produce finished products. This presented a problem, since if the amount of scraps and waste was allowed to be included in total stock figures, dealers could falsely claim that they made products from scraps and waste, creating room for illegal ivory. The government revised the relevant ministerial ordinance in May 1997, requiring the records to include cut pieces⁶. The revision entered into effect on 3 June 1997⁷.

Under the revised regulatory system, it became compulsory for registered ivory dealers to maintain ledgers recording each transaction and including the following data; the tusk registration numbers, or management card numbers, company name and address, whether management cards are in use or not, the quantity of ivory bought or sold (unit: weight), the characteristics of cut pieces, and the remaining quantity in stock (unit: weight)⁸.

⁴ MITI *Import Annotation No.9-17*, 12 November 1997, cited in Kiyono 2003.

⁵ Anon 1997a, p.47

⁶ Anon 1997b

⁷ METI *Ordinance No.2*

⁸ Anon, 1998a

On 28 April 1998, a *Cabinet Order for the Implementation of the LCES* was amended to extend the scope of the law to regulate wholesalers and retailers dealing in *banko* (ivory seals) and *inzai* (materials for ivory seals). The amended Cabinet Order came into effect on 18 March 1999⁹. The Order requires retailers who deal in ivory *banko* and *inzai* to register with MOE and METI, whilst still maintaining business ledgers as before. Trade without such registration may be subject to a maximum fine of JPY 200,000 (approx US\$ 1,740¹⁰). Registration with falsified claims or through other fraudulent measures may be subject to a maximum fine of JPY 500,000 (approx US\$ 4,350) or six months imprisonment¹¹.

Wholesalers and retailers dealing in *banko* and *inzai* are required to record each transaction including data, company name and address, whether certificate stickers are in use or not, the quantity of ivory bought or sold (unit: pieces), the characteristics of *banko* (diameter and length), and the remaining quantity in stock (unit: pieces). Failure to fulfill the said requirement may be subject to a maximum of three months suspension of business. Non-compliance with the suspension order may further lead to a fine of JPY 500,000 (approx US\$ 4,350) or six months imprisonment¹².

Since the Cabinet Order was amended in 1998, businesses engaged in the domestic ivory trade *at all levels* (manufacturing, wholesale and retail) including mail-order businesses, are required to register themselves with METI and MOE. Now all dealers are required to maintain *all transactions* of ivory in their business ledgers. Such business ledgers must be made available when requested by staff of METI and MOE during on-site inspections. Refusal to allow an inspection may lead to a maximum fine of JPY 200,000 (approx US\$ 1,740). However, although it is a mandatory requirement for traders to report their records kept in the ledgers to METI, requests for such records are not made on a regular basis, as seen, for example, in 2000 and 2001.

Current Control – Whole Tusk

Currently, businesses engaged in domestic ivory trade at the levels of manufacturers and wholesalers are required to notify MOE and METI (LCES Article 33-2). Registered traders are then required to keep records of the ivory they purchase and sell (Article 33-3).

When dealers or individuals want to trade in raw tusks, or carved and polished tusks that retain their characteristic whole shape, they are required to register those tusks with MOE (Article 20). Proof of legal acquisition of tusks is lax since an application accompanied by supporting documentation and photos is generally considered sufficient. Physical inspections by METI staff to verify the specific points in the application are hardly ever carried out¹³. Successful applications must fulfill at least one of the five conditions specified in the LCES¹⁴. Individuals possessing ivory tusks as personal or household items are not required to register them, nor are the individuals themselves required to register with MOE. Registration cards are to be kept by traders possessing registered tusks, and one card is assigned to each tusk (Article 21).

⁹ METI and MOE, September 1998

¹⁰ Exchange rate used JPY115:US\$1

¹¹ Anon. (1998a)

¹² Anon. (1998a)

¹³ Sakamoto (2004)

¹⁴ Conditions specified by LCES are: a) from animals that are bred in captivity inside Japan; b) obtained or imported to Japan before the CITES come into effect; c) imported to Japan after CITES application but from animals that are from commercial captive breeding operations; d) imported to Japan after the CITES application, but obtained within or imported to the exporting country before CITES application was in effect; e) imported to Japan after the CITES application, but derived from the populations listed on the Appendix II of CITES (Sakamoto, 2004).

The sale, transfer or cutting of registered tusks must be reported to MOE. Trade in non-registered tusk may be subject to a maximum fine of JPY 1,000,000 (approx US\$ 8,700). Once the registered tusks are sold or transferred to other dealers, or cut into smaller pieces, registration cards must be returned to MOE (Article 22). Similarly, when the dealers who have bought the tusks newly register them with MOE, new cards will be issued. Information from the registration cards is kept in a database maintained by the Japan Wildlife Research Center (JWRC), a foundation which falls under the jurisdiction of MOE.

Current Control – From Whole Tusk to Cut Pieces

Once a tusk is cut, dealers may prepare management cards for pieces of cut tusks (Article 33-6) in a specific format. These management cards are intended to be part of a system of product certificate stickers for ivory products derived from legally obtained materials¹⁵. However, the use of management cards with cut pieces is not a compulsory requirement under LCES. Furthermore, it is not illegal for registered traders to sell or transfer cut ivory pieces, even in commercial size quantities, to individuals that are not registered with METI, though it is illegal for non-registered dealers to buy cut pieces.

Current Control – From cut pieces to finished products

Finished ivory products can be sold with adhesive stickers issued jointly by MOE and METI. However, like the management cards system above, the use of these stickers is not a compulsory requirement under LCES. As a result, ivory products can be legally sold without the above stickers in Japan (Article 33-7).

The Japan Federation of Ivory Art and Craft Association (JFIAC) later created its own certificate sticker for use by its members, which resembles closely the government-issued certificate sticker.

Finished products other than *hanke*, such as ornaments, accessories or musical instruments, are not regulated under LCES¹⁶, even though non-*hanke* trade constitutes more than 90% of the entire ivory trade by weight.

Enforcement of the Regulatory Systems

At the tusk level, it is reported that no physical inspection was made to verify the information shown on the application and on the photographs of raw tusks¹⁷. Owing to the lack of official information, it is unclear whether this practice has been changed since it was first reported in 2002.

At the cut-piece level, the systems largely rely on information (business ledgers) submitted by ivory dealers to the government. There appears to have been minimal effort made by the government to verify the accuracy of information submitted by the ivory dealers¹⁸. Though the JWRC database is designed to flag any inconsistency in weights of tusks and of cut pieces, there is no information publicly available regarding how the accuracy of information provided by

¹⁵ Kiyono (2003)

¹⁶ Sakamoto (2004)

¹⁷ Sakamoto (2004)

¹⁸ Sakamoto (2004)

registered dealers is verified.

Table 1 – Availability of ivory *hanko* in unregistered retail outlets in Tokyo and Osaka

	Survey in Tokyo ²⁰⁰²	Survey in Tokyo ²⁰⁰⁵	Survey in Osaka ²⁰⁰³	Survey in Osaka ²⁰⁰⁵
Total number of retailers as listed on commercial telephone directory	1 072	987	466	428
	In 23 wards		In 16 wards	
Number of registered retailers	650	576	257	233
%	60.6%	58.4%	55.2%	54.4%
Number of non-registered retailers	422	411	209	195
%	39.4%	41.6%	44.8%	45.6%
Number of non-registered retailers investigated in those years	218	211	105	95
%	51.7%	51.3%	50.2%	48.7%
Number of non-registered retailers selling ivory <i>hanko</i>	189	195	96	84
%	86.7%	92.4%	91.4%	88.4%

Source: Sakamoto (2004) & Sakamoto (*in prep.*)

At the retail level, the degree of compliance by ivory retailers has been separately examined by TRAFFIC and Japan Wildlife Conservation Society (JWCS). Surveys carried out by JWCS in Tokyo (2002¹⁹ & 2005²⁰) and Osaka (2003²¹ & 2005²²) repeatedly found that among a significant number of those retailers not registered with the government (40-46% of ivory retailers found in the yellow pages), whose operation violated the LCES, a majority of them (varying from 87 to 92%, see Table 1 for detail) openly displayed ivory *hanko* for sale, while TRAFFIC found that no certificate sticker was attached to the *hanko* displayed in all 50 shops visited²³. These findings indicate that enforcement by the authorities remains unsatisfactory.

¹⁹ Sakamoto (2004)

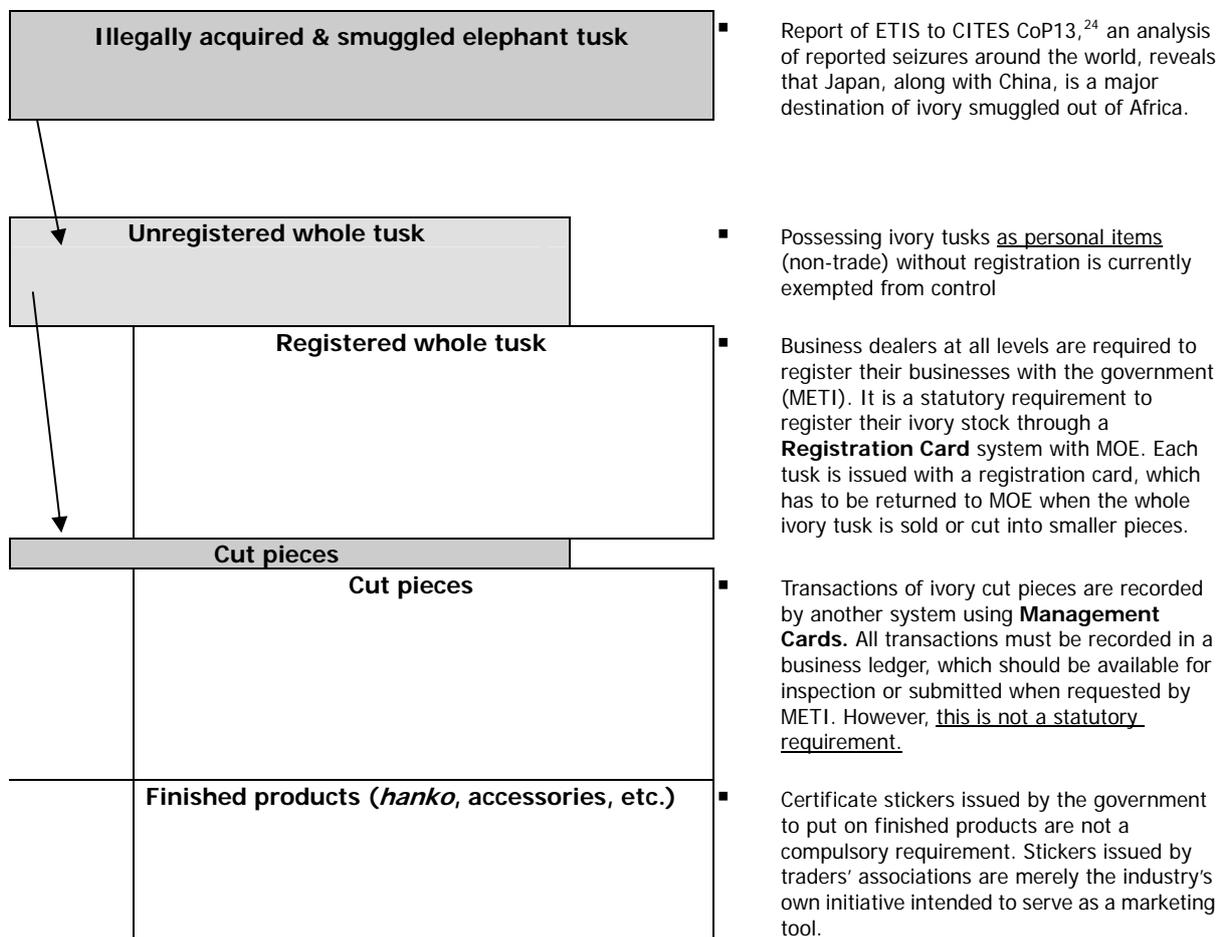
²⁰ Sakamoto (2006)

²¹ Sakamoto (2004)

²² Sakamoto (2006)

²³ Kiyono (2003)

Figure 1: How illegally acquired ivory can be laundered into the legal market under the current regulatory system in Japan



²⁴ T. Milliken, R.W. Burn, F.M. Underwood and L. Sangalakula, *The Elephant Trade Information System (ETIS) and the Illicit Trade in Ivory: A report to the 13th meeting of the Conference of the Parties to CITES*, CoP13 Doc. 29.2 Annex, 20 Aug 2004.

TRADE IN IVORY IN JAPAN

As of July 2006, it is reported that there were 280 manufacturers, 579 wholesalers and 10,202 retailers registered with the authorities²⁵. It should be noted that only a small number of manufacturers (approximately 20) import ivory tusks and monopolize the trade by determining the quantity of tusks available for auction each year and the bidding prices²⁶.

Registered Stock

Table 2 – Registered elephant ivory (whole) tusks in Japan

	Registered tusks (a)		Traded or cut tusks (b)		Stock (a-b)	
	Weight (kg)	Number of tusk	Weight (kg)	Number of tusk	Weight (kg)	Number of tusk
1995	40 348	2 252	18 110	929	22 238	1 323
1996	51 463	3 475	10 285	503	63 416	4 295
1997	5 902	344	2 276	117	67 042	4 522
1998	1 012	63	130	8	67 924	4 577
1999	50 397	5 501 ²⁷	13 547	1 203	108 683	9 387
2000	1 377	75	13 664	1 382	96 396	8 080
2001	2 070	119	8 954	762	89 512	7 437
2002 – 2006	n/a	400	n/a	1 656	n/a	6 181

Source: For the years of 1995 & 2001, MOE 1999, MOE 2002 as cited in Kiyono (2003). For the years of 2002 to 2006, Anon. (2006)

In Japan, the registration of elephant ivory tusks began in 1995. It is generally understood that it may take a couple of years for traders to get used to the system. Accordingly, the number of whole tusks increased in the first two years, with 2,252 and 3,475 tusks registered with MOE in 1995 and 1996 respectively. However, as a result of the current legal provision in Japan, from 1997 to 2001, an average of 131 *new* tusks p.a. continued to be registered with MOE, with 344 tusks in 1997, 63 in 1998, 55 in 1999, 75 in 2000 and 119 in 2001. Information from 2002 onwards is not available to this study. The CITES verification team was recently informed that there were 22 and 378 tusks registered with MOE between January 2002 and June 2006 as a result of a publicity effort by the government. As of July 2006, there were 6,181 tusks registered with MOE²⁸.

Table 3 – Stocks (whole tusk, cut pieces & scrap) kept by all registered dealers in Japan

Year	Stock (kg)	Difference from the previous year (kg)
End of July 1997	82 103	-
End of July 1998	75 174	6 929
End of July 1999	63 799	11 375

Source: MOE 1998, METI 2000 as cited in Kiyono (2003); MOE 2004 as cited in Anon. (2003)

Another set of information on the stock (whole tusk, cut pieces and scrap) kept by registered ivory dealers is available from MOE and METI. This information is presumably generated from the request by MOE and METI to the registered dealers to submit their transaction records from business ledgers. Nonetheless, those figures are organized by fiscal year (July of the current year to June of the following year), while the figures generated from the system of Registration Card (Table 2) is organized by calendar year. Caution should, therefore, be exercised when merging the two sets of data for analysis.

A total of 53,006 products made from African elephant were certified by METI, of which 84.5%

²⁵ Anon. (2006)

²⁶ Sakamoto (2004)

²⁷ Among the 5,501 tusks registered to MOE, 5,446 tusks were imported from the three African countries as per the CITES decisions, leaving 55 *new* tusks (~10%) available from within Japan for registration.

²⁸ Anon. (2006)

(44,791) were name seals²⁹.

In view of the decrease in domestic sales of ivory *banko* in Japan³⁰ (an average of 368 tusk p. a. were consumed or cut into smaller pieces between January 2002 and June 2006) and assuming less *privately-owned* tusks would be available for registration and there is no new legal shipment of ivory tusks to Japan, the current stock of 6,181 tusks could supply the domestic market for about another 17-18 years, until around 2023.

Price and market of elephant ivory and its products

The ivory tusks from Botswana, Namibia, and Zimbabwe, combined in a single shipment, were imported to Japan on 16 July 1999. The total weight was 49,573.56 kg (5,446 tusks)³¹. The average weight per tusk from Zimbabwe was 15.17 kg, from Botswana was 9.36 kg and from Namibia was 6.29 kg. The combined average weight per tusk is 9.1 kg. These average weights were much less than the average weight of tusk imported to Japan in the 1980s, ranging from 16.82 kg in 1980 to 9.70 kg in 1979³².

Based on Japanese Customs statistics, the combined purchase price of ivory from the three African countries was Japanese Yen (JPY) 538,481,000³³ (Approx US\$4,682,443³⁴). The combined average price for ivory was JPY10,862 (US\$ 94) per kilogram. The average price for bidding ivory from each country was: Botswana - JPY12,113 (US\$ 105) per kilogram; Namibia - JPY6,748 (US\$ 59) per kilogram; and Zimbabwe - JPY12,411 (US\$ 108) per kilogram.

Table 4 – Change in values along the trade chain

	Bidding price per kg		Cost per kg after adding 10% admin & shipping cost		Average weight (kg)	Average weight useable for producing <i>banko</i> – 33.3% ratio ³⁵	Average weight usable for producing <i>banko</i> – 50% useable ratio ³⁶
	JPY	US\$	JPY	US\$			
Botswana	12 113	105	13 324	116	9.36	3.12	4.68
Namibia	6 748	59	7 423	65	6.29	2.10	3.15
Zimbabwe	12 411	108	13 652	119	15.17	5.05	7.59

Source: This study, except those marked with information sources

Assuming one-third of the tusks (i.e. the interior portion of a tusk) can be used for producing *banko* and each *banko* is of the popular dimension (15mm x 60mm) and weight (200 gram), taking a tusk from Zimbabwe as an example, each tusk can then produce 25 *banko* which can be sold to a wholesaler for a total of JPY 212,500³⁷ (US\$ 1,848) (2002), which can then be sold at retail

²⁹ Anon. (2005)

³⁰ Anon. (2006)

³¹ Kiyono (2003) p.42

³² Milliken (1989) Table 4

³³ Kiyono (2003), p.42

³⁴ Exchange rate = US\$1:JPY115

³⁵ Kiyono (1997) reports that, from results of interviewing respondents from the *banko* industry, only one-third of the original weight of a tusk can be made into finished *banko* directly, while one-third becomes useable scrap, and the remaining one-third is lost as powder (p.15). Milliken (1989) reports a higher useable rate as 70% (Table 8).

³⁶ Milliken (1989) reports a 70% of useable ratio (Table 8). This study takes a more conservative ratio of 50% as comparison.

³⁷ Calculation based on an average price of JPY 8,500 (range: JPY 3,000 – 14,000) for each *banko* at wholesale level in

market for a total of JPY 1,162,500³⁸ (US\$ 10,109). This represents a profit margin of 311% (overhead cost not factored) from import to wholesale, and another 547% (overhead cost not factored) from wholesale to retail. If manufacturers import raw tusks by themselves and produce *banko* directly to their own retail outlets, the profit margin could reach as high as 1,700% (overhead cost not factored). If a higher usable rate of 50% from a tusk is used, the profit margin could be even higher.

Recognizing the profit that can be generated from importing and producing *banko*, the reason behind the strict monopoly of the ivory trade by a group of twenty or so importers and manufacturers in the entire country becomes clear.

Table 5 – Comparison of prices (sale tax included) of square-shaped *banko* made from different materials (Unit: JPY & US\$)

Material	10.5 mm		12.0 mm		13.5 mm		15.0 mm	
	JPY	US\$	JPY	US\$	JPY	US\$	JPY	US\$
Wood	2 887	25.10	3 780	32.87	4 515	39.26	5 512	47.93
Black buffalo horn	5 250	45.65	6 090	52.96	7 035	61.17	7 980	69.39
White buffalo horn	6 510	56.61	8 190	71.22	10 500	91.30	13 230	115.04
Ivory	8 800	76.52	13 500	117.39	15 800	137.39	18 800	163.48
Superior ivory	17 400	151.30	22 000	191.30	27 000	234.78	31 000	269.57

Source: Adapted from an advertising pamphlet obtained from a discounted *banko* shop in Asakusa area of Tokyo, 6 September 2006

Table 6 – Comparison of prices (sale tax included) of cylindrical-shaped *banko* made from different materials (Unit: JPY & US\$)

Material	13.5 mm		15.0 mm		16.5 mm		18.0 mm	
	JPY	US\$	JPY	US\$	JPY	US\$	JPY	US\$
Wood	5 040	43.38	6 090	52.96	7 350	63.96	8 190	71.22
Black buffalo horn	9 240	80.35	11 025	95.87	12 810	111.39	15 750	136.96
White buffalo horn	12 810	111.39	15 750	136.96	18 480	160.70	22 050	191.74
Ivory	19 800	172.17	22 500	195.65	25 500	221.74	30 500	265.22
Superior ivory	36 500	317.39	41 500	360.87	46 800	406.96	60 800	528.70

Source: Adapted from an advertising pamphlet obtained from a discounted *banko* shop in Asakusa area of Tokyo, 6 September 2006

Based on surveys conducted in 1998, 2000 and 2002 and a compilation of price information from an industry journal, it was found that the retail prices of ivory *banko* increased throughout those years, while wholesale prices decreased during the same period³⁹.

There is no market survey on prices conducted in recent years. A snapshot of the prices of *banko* made from different materials can be seen in Tables 5 and 6.

2002, as reported by Sakamoto (2004) Table I-6.

³⁸ Calculation based on an average price of JPY 46,500 (range: JPY 13,000 – 80,000) for each *banko* at retail level in specialized *banko* shops in 2002, as reported by Sakamoto (2004) Table I-6.

³⁹ Sakamoto (2004) p.12

Seizures

Japanese Customs reported 112 cases involving seizures of ivory products between January 1996 and December 2001⁴⁰ and another 36 cases from January 2002 to July 2006⁴¹ (Table 7). Some of these products were abandoned voluntarily at the border, in which case there was no penalty applied, and some were seized by Customs officers and resulted in penalties for offenders. Among the 112 cases during 1996 and 2001, 10 cases⁴² (9%) were classified as cases that violated one of the two laws controlling import of elephant ivory to Japan – either *FEFTL* or *Customs Law*.

In addition, information presented to the CITES verification team in August 2006 states that since 2000, there has been a total of 57 cases where attempts to illegally import ivory into Japan were intercepted⁴³. The majority of cases related to worked ivory that individuals had attempted to bring into Japan as tourist souvenirs⁴⁴. Nonetheless, no further details were available for these cases involving souvenirs, nor any other cases involving whole tusks and cut pieces that may be related to organized smugglers.

Table 7 – Seizures involving elephant ivory in Japan 1994-2006⁴⁵

Last port of export	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006*	Total
China			7	12	3	6	1	1	2	1	2	1	1	37
Thailand			7		2	1		2		2		2	1	17
USA			4	1			2		2				4	13
Hong Kong	1		4		1	2		1		2	1			12
South Korea					4				4		1	1		10
Vietnam			2	5		1	1							9
Taiwan	3	1		1		1				1		2		9
Malaysia			2											2
Singapore	2		1				1			1				5
UK			2		2									4
Germany								2				1	1	4
South Africa						2				1	1			4
Zimbabwe					1	2								3
Unknown				1	1		1							3
Namibia			2											2
Senegal						2								2
Kenya			1											1
Mozambique			1											1
Turkey			1											1
Italy			1											1
Cote d'Ivoire			1											1
Canada				1										1
Spain				1										1
Ghana					1									1
Philippines						1								1
Nigeria							1							1
Bangladesh								1						1
India									1					1
Total	6	1	36	22	15	18	7	7	9	8	6	7	6	148

Source: Ministry of Finance *in litt* to TRAFFIC East Asia – Japan 25 June 2002 as cited in Kiyono (2003); Ministry of Finance *in litt* to Japan Wildlife Conservation Society undated as cited in Sakamoto (2004) and in Sakamoto (2006).

Remark: 2006* - January to July only

⁴⁰ Table 9 (p.50) of Kiyono 2003

⁴¹ Sakamoto (2006)

⁴² Table II-3 (p.20) of Sakamoto 2004

⁴³ Anon. (2006)

⁴⁴ Anon. (2006)

⁴⁵ For the years 1994 and 1995, only cases that is classified as violating the *Customs Law* were available

Combining information available from several reports⁴⁶ enabled portrayal of an “illegal trade map” of a longer time period, with Japan as the focus, in Table 7. Between 1994 and 2006, among the 148 seizures involving elephant ivory, China (25.0%) was the leading source of smuggled elephant ivory to Japan, followed by Thailand (11.5%), the USA (8.8%), Hong Kong (8.1%), South Korea (6.8%), Vietnam (6.1%) and Taiwan (6.1%). The above-mentioned seven countries/territories constituted nearly three quarters of the seizure cases in Japan for that period.

A few prominent cases are summarized as follows:

On 26 April 2000, Tokyo Customs seized 132 cut pieces of ivory weighing approximately 500 kg⁴⁷. According to the police and Customs, the pieces were hidden among 300 boxes of chopsticks shipped from Singapore to Kobe, Japan. Two men were arrested on suspicion of smuggling ivory. A Hong Kong resident imported the shipment to Japan. A Japanese manufacturer of ivory products went to receive the shipment in Saitama prefecture. The manufacturer was also a board member of the Japan Ivory Association. The Hong Kong resident was sentenced in the district court to an 18-month suspended sentence with an additional four years probationary period. The Japanese national was fined JPY300,000 (approx US\$2,679⁴⁸) for violating the *Customs Law*. However, this manufacturer could continue to operate as a registered ivory dealer under the LCES, as there is no automatic link between the *Customs Law* and LCES.

On 14 January 2005, a Taiwanese national attempted to smuggle some 1,738 pieces of semi-worked ivory to Japan and was intercepted at the Naha airport of Okinawa⁴⁹.

Furthermore, it should be noted that a significant quantity - six tonnes of ivory - was seized on 22 June 2002 in Singapore⁵⁰, of which Japan was reported to be the next destination.

⁴⁶ Kiyono (2003), Sakamoto (2004) & Sakamoto (2006)

⁴⁷ As described in Kiyono (2003).

⁴⁸ Exchange rate = US\$1:JPY112 in 2000

⁴⁹ Anon. (2006)

⁵⁰ Sakamoto (2004), Anon. (2006)

CONCLUDING REMARKS ON THE REGULATORY FRAMEWORK AND THE ROLE OF JAPAN IN ILLEGAL IVORY TRADE

The *Law for the Conservation of Endangered Species of Wild Fauna and Flora* (LCES) intends to regulate the domestic ivory trade in Japan but this law alone, by design, is inadequate to fulfill this role, as it cannot distinguish legally acquired stock from illegally imported stock. In addition, though it appears to be comprehensive, the amended *Cabinet Order* focuses only on the registration of traders and not on establishing a built-in mechanism to track the flow of ivory from whole tusk to cut pieces to finished products. In addition, the entire system, by design, depends to a large extent on voluntary compliance by ivory dealers rather than on any statutory control exercised by the government.

Therefore, the current regulatory framework for elephant ivory trade in Japan appears to work more effectively on paper than in reality. Further, the study is unable to conclude that the current level of law enforcement is strong and proactive, even though the commercial telephone directory and internet have been monitored by the authorities⁵¹. As such, the regulatory control over ivory at all levels – from whole tusk, cut pieces and finished products – constitutes deficiencies, allowing illegally smuggled ivory to enter the existing legal market.

With this in view, the compliance of Japan with *CITES Resolution Conf. 10.10 (Rev. CoP12)* is in question, due to the fact that: although there exist “compulsory trade controls over raw ivory” that is intended for trade in Japan, allowing personal possession of elephant ivory without registration is a major deficiency of the entire control mechanism. Similarly, although there exists a “reporting and enforcement system for worked ivory” in Japan this system is by no means “comprehensive” or “demonstrably effective”, as per the requirement of *CITES Resolution Conf. 10.10 (Rev. CoP12)*, since this system depends heavily on voluntary compliance and paper work, not on statutory control and pro-active enforcement with regular inspections and imposition of penalties.

Though the role of Japan in illegal trade may be considered relatively less significant than it used to be due to the increasing amount of illegal ivory smuggled to China, Japan is still at present one of the major destinations of illegally traded ivory. The high profit margin of elephant ivory products, notably *hanako*, will continue to provide a strong incentive for smugglers, which will continue to attract illegal ivory to Japan.

⁵¹ Anon. (2006)

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