

Black and Grey

**-Illegal Ivory in Japanese Markets-
2nd edition**

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Japan Wildlife Conservation Society
(JWCS)



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About the second edition

The second edition of 'Black and Grey' -Illegal Ivory in Japanese Markets, brings to the readers the fundamental failures in policies regarding ivory trade in Japan. This is an improvised version of the first edition and carries the same contents as the former. The objective of printing the second edition is to protect the endangered wild elephant species of the world by letting the policy makers and dignitaries of the 50th CITES standing committee know the exact situation in the Japanese ivory market. This report also analysis the domestic trade control of ivory in Japan with some interesting facts including smuggling of illegal ivory.

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Japan Wildlife Conservation Society (JWCS)

The policy of JWCS is to conserve wildlife by establishing coexisting relationships between human beings and wildlife. In this way we create a new living environment by living with nature and understanding the principles of the natural world. We look forward to these renewed cultures by being aware of the natural environment and at the same time conserving the nature.

However, the changing economic and political situation coupled with globalisation, has increased mans interest to conquer the nature and this in turn, is threatening wildlife and the movement to conserve them. Advancement in scientific technology has made things easy for locating the beautiful fauna, and in most cases, falling prey to the burgeoning economic urge of the rich.

Before we loose the greatest gifts of nature, it is important for us to act quickly and with this aim, JWCS has set up the following objectives to protect the wild life;

To understand the philosophy and strategy on which all the following activities are based.

To investigate and understand the current situation of wildlife, especially the commercial utilization of it, focusing mainly on international trade;

To collaborate with inter-governmental, governmental and non-governmental organisations to improve international conservation policies and actions;

To promote the conservation of flagship species such as elephants and tigers in the ecosystems, to support local NGO's operating to conserve such species in the field, and to raise public awareness of conservation of wildlife in Japan.

To enrich man's natural environment by conserving wild species and their diverse ecosystems – considering a universal value irrespective of any differences among individuals, gender, ethnic groups, nations, corporations and religions. Our society aims to meet this challenge.

President :Hideo Obara

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Contents

Abbreviation <V>

Executive Summary < vi >

Introduction

Chapter

Legal marketing of Ivory in the Japanese “Grey” Market

-The potential risk of mixing smuggled ivory in legal trade-

- 1 Raw ivory in the market
- 2 Marketing of ivory hankos
- 3 Marketing of ivory accessories
- 4 Marketing of other ivory items
- 5 Conclusion

Chapter

Smuggled ivory in Japan’s black market

- 1 Past official seizure
- 2 Investigation in Singapore and Taiwan
- 3 Investigation into illegal ivory trade in Japan
- 4 Conclusion

Chapter

Loopholes in the Domestic Trade Control of Ivory in Japan

- 1 Current domestic trade control in Japan
- 2 Loopholes of the current domestic trade control
- 3 The implementation and enforcement reality of the ivory business registration system
 - the ability and willingness of the Japanese government and the ivory industry to implementation and enforce the domestic trade control of ivory-
- 4 Conclusion

Chapter

Conclusion and Recommendation

References

Abbreviation

CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
JWCS	Japan Wildlife Conservation Society
JWRC	Japan Wildlife Research Centre
LCES	The Law for Conservation of Endangered Species of Wild Fauna and Flora
ME	Ministry of Environment
METI	Ministry of Economy, Trade and Industry

Executive Summary

The objective of this report is to give the most updated picture of the domestic ivory trade and markets in Japan, and the various drawbacks the system is facing under the present circumstances of smuggling illegal ivory. It also aims at providing a thorough, objective analysis and evaluation of the current domestic control system of ivory trade, especially in terms of its practicality and effectiveness in preventing smuggling of ivory. Based on these, suggestions and recommendations are made as to whether more ivory should be imported to Japan, and what measures the government of Japan should take today in relation to management of ivory trade within the country.

The trade reality of ivory and ivory products in Japan's markets and the potential risks of mixing smuggled ivory into its legal distribution

In Japan, a large amount of raw materials and various products of ivory are legally marketed in a significant scale, even as much as it can be grasped from the available data. On the other hand, non-dealing private owners possess a certain amount of the stock of 'whole tusks' existing in Japan. Today's ivory markets in Japan are easily accessed by smuggled stuff and can be mixed into the legal distribution route .

The reality of ivory smuggling into Japan – The potential risk of allowing the illicit ivory supply into Japan

The entry ports and trade routes like Singapore and Taiwan, from where illegal ivory is destined to reach Japan are still active and there still exists stockpiles of ivory available for export. There are brokers specialised in ivory smuggling both inside and outside the country, and the Japanese ivory industry, in collaboration with such brokers, get supplies of smuggled ivory from international black market.

The southern African ivory for which the limited trade resumption is being discussed does not satisfy the demand of Japanese ivory industry in terms of quality and prices. Therefore, it is highly improbable that the reliance of the industry upon smuggled ivory would be terminated even with the limited trade resumption.

With the high pressure for smuggling into Japan, the risk of allowing illicit ivory to enter the country is quite high.

The effectiveness of the domestic trade control system in eliminating smuggled ivory from the legal market

The domestic control system of ivory trade in Japan consists of the following three separate sub-systems which functions according to the relevant domestic law. However, all of these sub-systems have serious fundamental deficiencies in their legal prescriptions.

● Whole tusk registration system

It is not mandatory to register whole tusks currently in possession of private owners, who may not have the intention to trade them. There may be a certain amount of unregistered whole tusks in stock within the country, their chances to get into the ivory market doubts the effectiveness and practicality of the system.

Moreover, the registration process does not require submission of any proof documents with enough legitimacy to be able to leave out smuggled ivory.

● Ivory business registration system

Despite the fact that a variety of ivory products such as accessories and parts of musical instruments are marketed in Japan, wholesalers and retailers of any ivory products other than hankos are not targeted by this system.

This system is only to track down transactions of ivory cut pieces between registered dealers, and it does not

cover the movement of ivory from the processing stage onwards – i.e. from cut pieces to finished products, and then to retail markets.

It also doesn't prohibit registered dealers to obtain cut pieces or ivory products for which the legitimacy of import is not established. With such loopholes, it is meaningless to manage the movements of initially reported stock of cut pieces owned by registered dealers alone.

Ivory product certification system

- The ivory product certification system does not have any legal right to expel smuggled ivory products due to the very reason that the product without certification is not outlawed. Moreover, due to the same loophole as in the whole tusk registration system (lack of need to submit strong proof documents), it can easily legalise non-legal products processed from smuggled raw ivory.

With a number of loopholes and deficiencies like these, the domestic control system of ivory trade in Japan cannot be expected to serve as a preventive measure against the potential ivory smuggling

Enforcement and implementation of the current domestic trade control system

The obligations laid out in the ivory business registration system are far from being fulfilled by ivory dealers. However, the relevant authorities have never bothered to exercise its authority to take punitive measures such as ordering business suspension or raising criminal charges against negligent dealers. One of the reasons for this passive attitude of the management authorities is because potentially meaningful enforcement of the domestic trade control system is heavily dependent on the leadership and honesty of the ivory associations.

Conclusion and recommendations

Resumption of international commercial ivory trade to Japan cannot be considered appropriate as it is highly probable that it encourages elephant poaching and illegal trade in ivory, thus harming the effectiveness of CITES. Also it is strongly recommended that, irrespective of whether the limited trade would be resumed or not, the government of Japan should take immediate actions to amend the relevant law and its detailed rules. The enforcement measures should also be improved and reinforced based on the amended law system, in order to fill in the loopholes clearly pointed out in this report

Introduction

At the 7th Conference of the Parties (COP) of the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES, a.k.a. Washington Treaty in Japan) held in 1989 in Lausanne, Switzerland, the decision was made to uplist the African elephant *Loxodonta africana* from the CITES Appendix II to Appendix I. This led to the ban on international commercial trade in ivory from the African elephant starting from the following year (1990). Japan, then the largest importer of ivory, also accepted this uplisting decision and did not resort to the reservation measure.

At the COP10 meeting held in Harare, Zimbabwe, during 1997, the African elephant populations of Botswana, Namibia and Zimbabwe were transferred from the Appendix I back to Appendix II and in 1999, the standing committee agreed a 'one-off' experimental export of around 50 tons of ivory from the stockpiles of these three countries to Japan.

At COP11 held in Gigiri, Kenya, in 2000, a decision was taken to list the African elephant population of South Africa also back in the Appendix II. However, at this time, any international trade in ivory, even of the downlisted populations of southern African countries, stayed banned.

At COP12 held in Santiago, Chile, four African nations (Botswana, Namibia, South Africa and Zimbabwe) submitted proposals to resume trade in ivory originated from their Appendix-II elephant populations. Their request to the CITES community was to allow them to export all of their ivory stocks in the first year, and then to continue exporting every year based on certain annual quotas. In addition, Zambia also submitted a proposal to downlist its African elephant population from the Appendix I to II, then to export the ivory in their government stock accordingly.

The most serious concern regarding the so-called 'limited' resumption of ivory trade is that, irrespective of the proposed scales of trade and various conditions attached to it, will stimulate the international ivory market and activate poaching and smuggling in other parts of Africa and Asia, and consequently, Asian elephant *Elephas maximus* would also be targeted for their ivory.

In these recent proposals on trade resumption, no specific countries are named as designated importers of the ivory. However, considering the fact that Japan has a highly active ivory market and processing industry, and also, that it was the sole importer at the time of experimental trade in 1999, it is generally believed that Japan would be one of the major leading importers if the proposals for further trade resumption were to be accepted.

In this context, this report, titled as "Black and Grey – Illegal Ivory in Japanese Markets", tries to answer this question: "If the 'limited ivory trade' is resumed, can domestic trade control system in Japan serve as an effective measure against illegal trade occurring in the Black market?"

The major objective of this report is to study the effectiveness of the domestic trade control in eliminating

smuggled ivory from the legal market. Following are the various aspects of the research discussed in each chapter;

- Investigation into the current legalised distribution of ivory within Japan and the potential risk of mixing up smuggled ivory into the Japanese ivory market (Chapter I);
- Investigation into the past smuggling cases in Japan, potential entry port overseas, and the trade networks linking Japanese ivory manufacturers with the international black market (Chapter II); and
- In depth study of the Japanese law system regarding domestic control of ivory trade, the current situation of its implementation and enforcement, and the existing problems in law and enforcement measures. (Chapter III).

We consider that the question we raise here is one of the most important issues to be looked into and as to whether the 'limited' international commercial trade in ivory should be resumed or not. We hope this report has a lot to add to a meaningful and fruitful discussions by the CITES Parties.

Chapter I

Legal Marketing of Ivory in the Japanese “Grey” Market

- The potential risk of mixing smuggled ivory in legal trade -

I-1 Raw ivory in the market

I-1-1 Raw ivory marketing system

The Law for Conservation of Endangered Species of Wild Fauna and Flora (LCES) obliges all traders involved in any transaction of ivory (including cut pieces and wasted chips (“cut pieces” hereinafter) to register their businesses with the Ministry of Environment (ME) and the Ministry of Economy, Trade and Industry (METI) (see III-1-2). According to the record at METI, the number of registered businesses was 230 as of May 2002.

In Japan there are two industry associations of ivory manufacturers: ‘The Tokyo Ivory Arts and Crafts Association’ and ‘The Osaka Ivory Arts and Crafts Association’. These two associations together form ‘The Japan Federation of Ivory Arts and Crafts Associations’. As of May 2002, there were 50 members in the association, 37 in Tokyo and 13 in Osaka (METI) and the interesting fact is they form only 21% of the 230 total registered dealers. However, as discussed below, the scale of actual ivory marketing businesses conducted by the association members is disproportionately large.

- Annually the ivory associations hold an auction of raw ivory materials to trade the stockpile among the association members (Martin, 1985). The price reached at the auction determines the regular price of raw ivory in the ivory industry (Gendai Insho Journal, Aug. 1997; Martin 1985).
- Most of the members of the associations are major ivory manufacturers in Japan Some of them used to be importers until the international trade in ivory was banned by CITES. Between 1975 and 1979 an average of some 300tonnes of ivory was imported every year to Japan, and two thirds of the import was through five of the largest dealers of the ivory associations (Martin, 1985).
- 66% of the total ivory stockpile registered with the government was in possession of the association members (ME, METI, 1996).
- The 14 companies comprising of 15 dealers participated in the ivory auction for the one-off experimental export from the three southern African countries, were all members of the ivory associations (Gendai Insho Journal, June 1999).

I-1-2 Whole tusks

Transaction of whole tusks is prohibited unless the tusk is registered with the Japan Wildlife Research Centre (JWRC). JWRC is an agency appointed by ME (LCES 12-1-5) to check the authenticity of the ivory registration process (“whole tusk registration system” hereafter) (see III-1-1). “Whole tusks” include raw, polished and carved tusks, and which retain the original tusk shape.

Table 1-1 shows the number of registered whole tusks of the two major elephant species, categorized according to the prescription of LCES (see Note 1-A). *Under the current registration system, anyone possessing the tusk, with no intention for trade or transaction, need not get themselves registered.* Therefore, Table 1-1 does not reflect the actual number of whole tusks existing in Japan.

Note 1-A

LCES permits registration of ivory that may fit into any one of the following five conditions (LCES Article 20.1, LCES Enforcement Ordinance Article 4):

- (a) Bred in captivity inside Japan
- (b) Obtained or imported to Japan before the CITES application into effect
- (c) Imported to Japan after the CITES application, but bred in captivity for commercial purposes
- (d) Imported to Japan after the CITES application, but obtained within or imported to the exporting country before the CITES application was in effect
- (e) Imported to Japan after the CITES application, but derived from the populations listed in the CITES Appendix II

To register under conditions (c), (d), or (e), the ivory needs to be imported with the permission as prescribed by Article 67 of the Customs Law.

Apart from the case where the above condition (e) was applied to the ivory imported from the three southern African countries in 1999, only the condition (b) has ever been applied to registration of whole tusks. METI (the national management authority of CITES in Japan) does not allow any tusks or processed ivory from the African elephant and the Asian elephant to be considered as “pre-convention”, unless it is made absolutely clear that the item was obtained before the day when CITES came into effect, on 1st July 1975 (METI). Due to this reason, no import of whole tusks has ever been conducted under the condition (d).

The following observations can be made from Table I-1

- Significant number of registrations were made when the whole tusk registration system was started in 1995 (January 1995– June 1996).
- During the first six years (July 1996 – June 2002), 929 African elephant tusks were newly registered as “Obtained within Japan before the CITES application”.
- In 1998, two Asian elephant tusks were also newly registered.

The Environment Agency (currently ME) gave some privileges for registration of applications submitted during the first six months of the ‘whole tusk registration system’ (from 28th June 1995) (see III-6-1) and this facilitated a large number of tusks, mainly comprising of whole tusks in the possession of manufacturers, to be registered during this period.

On the other hand, most of the whole tusks registered after 1996 were apparently ‘rediscovered’ within the country, as a pretext of the late registration. During the early 1970s, it was quite popular to have polished whole tusks for room decoration (Martin, 1985). Tusks used for individual or home purposes need not be registered and thus many tusks owned by individuals were not involved in ivory business. Today, there are some manufacturers who are trying to buy up these tusks that are under individual possession through Internet homepages or media advertisements and in certain cases the dealers offer to buy “ivory (raw materials) and polished tusks at quite high price. In certain cases, the advertiser even explains the procedure on how to get the tusk under domestic possession registered. Thus, it is important to understand that, these types of informal transactions may affect the fair trade of Ivory in Japan.

The fact that as many as 100 whole tusks are still allowed to be registered and added to the Japanese ivory market

every year even after a decade since the trade ban, implies that there is a risk of smuggled ivory sneaking into the legal ivory market. (For the specific loopholes of the registration system, see III-2-1-4 & 5.)

It is noteworthy that two tusks of the Asian elephant were registered in 1998. Import of Asian elephant ivory to Japan has been prohibited since 1980. The registration of the two tusks in 1998 shows that, Asian elephant tusks may still be in possession of some individuals and may have added to the legal ivory market in Japan. The Asian elephant ivory (I-2-3-1) is considered to be distinctive and superior in value compared to that of the African elephant and this is an important factor behind this particular case of registration.

Table I-1

Table - 1 The registered organ of elephant (whole tusks).

Conditions for Registration		1995	1996	1997	1998	1999	2000	2001	2002	Total
African Elephant	The stocks acquired inside Japan before the application of CITES regulation.	5,740	359	280	47	49	106	88	89****	6,758
	The population listed in CITES Appendix II	0	0	0	0	5,449	0	0	0	5,449
Asian Elephant	The stocks acquired inside Japan before the application of CITES regulation.	0	0	0	2	0	0	0	0	2
Total weight of the registered whole tusks in the year (ton) (number X 15.3kg*)		87.8	5.5	4.3	0.7**	50.4****	1.6	1.3	1.36	152.97

A term starts from July 1st of the year till June 30 in the next year.

*15.3kg is the average weight of the registered whole tusks (as of Dec. 1996, ME&METI, 1997)

**Asian elephant Tusks aren't involved.

***The import weight is used for the tusks from population listed in Appendix II in 1999

Source: Japan Wildlife Research Center

I-1-3 Ivory cut pieces

Under LCES, dealers (manufacturers) involved in transaction of cut pieces are obliged to report and register their businesses with METI and ME. Among the items to be reported are the total weight of ivory stockpile including cut pieces in their possession at the time of registration (see III-1-2).

Registered dealers are obliged to record details of their ivory transactions in a ledger, including the quantity of remaining stockpile after each transaction. METI and ME are authorized to verify the ledgers of the registered dealers and may request to submit them at any time when needed for verification (see III-1-2).

Table I-2 was made based on official documents from METI and it shows the change over time in the amount of ivory cut pieces in stock held by registered dealers. Data on the amount of annual increase and decrease were not available, and thus the amount of annual consumption is still unknown.

Table I-2 Change in the amount of ivory cut piece stockpile held by registered manufacturers

Table - 2 change in the amount of ivory cut piece stockpile held by registered manufacturers

Unit : ton

	July-95	July-96	July-97	July-98	July-99	July-00	March-01
Stock volume of cut pieces	98.3	-	82.1	75.2	63.8	-	73.7
Change of the stock volume	-	-	-16.2	-6.9	-11.4	-	9.9

submission of transaction ledgers were not requested in 1996 and 2000.

Source : METI

Table I2 shows that the registered stockpile was approximately 100tonnes as of July 1995 and it gradually decreased by 16.2 tonnes in two years (by July 1997 – on an average of 8.1tonnes per year). During July 1998, the stockpile reduced by 6.9tonnes and further by 11.4tonnes in July 1999 before it increased by 9.9tonnes in March 2001.

The reason for the increase after July 1999 is probably because, the ivory imported from the three southern African countries in July 1999 was cut to produce a large quantity of cut pieces in Japan.

I-1-4 Price of raw ivory (whole tusks and cut pieces)

As discussed above, the standard price of raw ivory in Japan is determined through an auction held by the ivory associations. The price at the 1997 auction was JPY 70,000-100,000 (USD 583-833)/kg and has increased since 1994 when it was JPY 50,000 (USD 416)/kg. The reason for this increase is said to be due to the shortage of raw ivory. In fact the quantity of ivory auctioned in 1997 was less than that in the previous year (Gendai Insho Journal, August 1997).

In certain cases, dealers trade their raw ivory between themselves outside the auction. Such transactions fetch lower prices than that at the auction. For instance, it was understood that a manufacturer who was not a member of the association, was offered raw materials from another manufacturer at the price of JPY 60,000 (USD 500)/kg, and another ivory dealer admitted that he was trading raw ivory at JPY 55,000 (USD458)/kg (JWCS, 1999).

I-2 Marketing of ivory hankos

I-2-1 Ivory hanko marketing system

Japanese signatures are most commonly done using hankos, a practice that was started since ancient times. Hankos are name stamps that are cylindrical in shape and made of either ivory, cow horn, wood, plastic, titanium or some other material. Before a name is carved on the Japanese seal, it is known as ‘inzaï`.

Ivory hankos are traded from manufacturers to hanko wholesalers and then to retailers. Some manufacturers also act as wholesalers, run retail shops, or sell their product directly by mail order. Ivory hankos are available for ordinary customers at specialized hanko shops, stationery stores, department stores or through mail order (JWCS, 1999).

LCES obliges dealers involved in any transaction of ivory hankos, namely manufacturers, wholesalers and retailers, to register their businesses with ME and METI (see III-1-2). In 2001, 50 manufacturers, 362 wholesalers and 10,263 retailers had registered (METI).

The industry association of wholesalers of hanko or hanko-related products (not necessarily of ivory) is known as “Zen-nihon inpan-yohin shoko-kumiai” (all Japan name seals & related products trader association) and has 151 members as of 1998 (JWCS, 1999).

The industry association of hanko retailers (not necessarily of ivory) is “Zen-nihon insho-gyo-dantai rengoukai” (all Japan name seals trader association), with 2,830 members as of June 2001 (Gendai Insho Journal, November 2001).

Although it has become mandatory under LCES for traders dealing in ivory products to register their businesses, the actual number of retailers who are not necessarily specialized in ivory hankos may be selling them in huge. With mail order companies and accessory shops, the number is said to be as many as 50,000 (Gendai Insho Journal, December 1998).

I-2-2 Scale of ivory hanko marketing

The registered ivory hanko dealers are required to inform the quantity of their ivory hanko stock at the time of registration and keep track of their relevant transactions in a ledger. The balance of the stock should always be recorded in the ledger. METI and ME may request the registered dealers to submit their ledger during anytime for verification (see III-1-2).

Table I-3: Change in the amount of ivory hanko stock held by registered dealers

Table - 3 Change in the amount of ivory hanko stock held by registered dealer.

Unit : number

	July-99	March-01
Total	2,195,453	1,652,092
Manufacturer	442,955	391,425
Wholesaler of hankos	848,838	548,753
Retailer of hankos	906,660	711,914

Source : METI

Table I-3 was made based on the official documents from METI, to show the change over time in the amount of ivory hanko stock held by registered dealers. Data on the amount of increase and decrease were not available, and thus the official amount of annual consumption is unknown.

Table I-3 shows that the ivory hanko stocks held by manufacturers, wholesalers and retailers as of March 2001 were approximately 70% of those recorded in July 1999.

Under certain conditions, registered manufacturers can receive official 'certificate' to indicate that their ivory products were made from raw materials fitting the conditions required for whole tusk registration and in no violation of the CITES regulations. The decision to receive such 'certificate' is up to the manufacturers themselves (III-1-3). Therefore, the number of issued certificates does not reflect the actual amount of ivory products in stock or the scale of production by any means.

Table - 4 Number of issued certificates for hankos of African elephant ivory.

	1995	1996	1997	1998	1999	2000	2001	Total
Number of the certification of ivory hankos	883,845	99,426	90,276	97,195	102,893	57,295	89,837	1,420,767

A term in each year is from July 1 in this year to June 30 in next year.

:1995 means from October 1 in 1995 to June 30 in 1996)

Source: Japan Wildlife Research Center

Table - 5 weight of certified hankos of African elephant ivory.

	1995	1996	1997	1998	1999	2000	2001	Total
Total weight of the certified ivory hankos	-	899.9895	1594.3575	1633.2445	1843.8272	1013.6127	1537.3508	8522.3822

A term in each year is from July 1 in this year to June 30 in next year.

:1996 means from January 1 in 1997 to June 30 in 1997

Source: Japan Wildlife Research Center

Table I-4 and Table I-5 are made based on official documents from ME. The former shows the number of issued certificates for hanko products made from African elephant ivory, while the latter shows the total weight of the

certified products. There has been no case of certification for hankos made from Asian elephant ivory.

Table I-4 and I-5 indicate the following points:

- The total number of certificates issued between January 1996 and June 2002 is 1,420,767 (i.e. 1,420,767 pieces), and the total weight of the hankos certified between January 1997 and June 2002 is 8,522.3822kg.
- The number of certificates issued during the first six months, i.e. between January and June 1996, was 883,845. Later it became 90,000-100,000 per year except in 2000 (from July 2000 to June 2001) when the number sharply came down to 57,297.
- The average weight per unit (i.e. one piece) of ivory hankos certified between July 1997 and June 2002 is 17.4g.

I-2-3 Types and prices of ivory hanko

I-2-3-1 Size, quality and price

There are two basic shapes of hankos commonly used in Japan: cylinder shape and square shape. Irrespective of the materials, in general individuals use cylinder-shaped hankos while square-shaped ones are used as organization seals (companies etc.).

The sizes of cylinder-shaped ivory hankos commonly found are 10mm, 12mm, 13.5mm, 15mm, 16.5mm and 18mm in sectional diameter, and having body length of 45mm and 60mm. The most popular size is 15x60mm, followed by 12x60mm (JWCS, 1999).

The quality of an ivory hanko is determined by factors such as the part of the tusk it is derived, and where the tusk originates (i.e. which species of elephants the ivory comes from).

It is said that superior quality hanko is derived from the region closer to the centre of the tusk and, as it goes further from the centre (i.e. closer to the surface of the tusk), the quality is said to be inferior. Based on this criterion, the quality of ivory hankos is classified as 'fair', 'good', 'best', etc. Moreover, hankos carved out from some very special parts of a tusk, such as ones having the core of the tusk in the middle of the hanko body, are thought to be of the highest quality and considered auspicious. It is often sold at a very high price.

As for the different origins of ivory (different species of elephants), there are three different categories. They are, in descending order of quality: 'Togata' ivory, made from tusks of the Asian elephant *Elephas maximus*, 'Hard ivory' deriving from the African forest elephant *Loxodonta africana cyclotis*, and 'Soft ivory' taken from tusks of the African savanna elephant *Loxodonta africana africana* (JWCS, 1999)(see Note I-B).

Note I-B

Before the large scale ivory import from Africa started in the 1920s, the Japanese ivory industry used ivory from the Asian elephants (Martin, 1985). This is because 'Togata' ivory from the Asian elephant is considered to be more suitable for carving, having good characteristics of both 'hard' ivory (from African forest elephants) and 'soft' ivory (from African savanna elephants) (JWCS, 1999).

Ivory hankos are normally more expensive than hankos made from any other materials (JWCS, 1999) and their price range depend on whether the name on a hanko is carved manually or mechanically.

I-2-3-2 Types and prices of ivory hankos at wholesale

The largest hanko / seals trade exhibition was held in Japan in October 2000 and September 2002. JWCS conducted research on the types and prices of ivory hankos at this exhibition.

As for the size, most commonly exhibited ones were 10mm, 12mm, 13.5mm, 15mm, 16.5mm and 18mm in diameter and 60mm in length, while some dealers had hankos of 75mm in length, too. The latter size is quite rare for hankos made in Japan.

As for the classification (grade), some booths had hankos of ‘best’ and ‘good’ grade, but mostly those of ‘fair’ quality were on display. There were also ranks below ‘fair’. In terms of the ivory origin, many products were made from soft ivory. ‘Togata’ ivory hanko was nowhere to be seen, while there were a small number of hard ivory hankos exhibited. According to some dealers, ‘soft’ ivory is most popular for ‘fair’ quality hankos, and customers who are not familiar with different qualities of ivory often buy cheaper ones of ‘less than fair’ qualities, which may even be bleached. On the other hand, there are also customers who pay high prices for hard ivory hankos of very good quality. Some dealers were selling their ivory hankos with some added values, such as modern designs for the younger generation with special carving and gold works on the surface of the hanko.

Table I - 6: Prices of ivory hankos (12x60mm and 15x60mm) in 1998, 2000 and 2002

Size		Ivory hankos seller	1999		2000		2002	
Diameter	Length		Price	No. of samples	Price	No. of samples	Price	No. of samples
12.0mm	60mm	Wholesaler	4,000yen ~ 7,500yen (US\$33 ~ 63)	4	1,950yen ~ 5,270yen (US\$16 ~ 44)	8	1,900yen ~ 5,800yen (US\$16 ~ 48)	7
		Retailer	Department stores	-	-	-	25,200yen ~ 62,500yen (US\$210 ~ 521)	14
			Hankos stores	13,000yen ~ 35,000yen (US\$108 ~ 292)	4	-	-	11,700yen ~ 60,000yen (US\$98 ~ 500)
15.0mm	60mm	Wholesaler	5,000yen ~ 18,000yen (US\$42 ~ 150)	4	2,500yen ~ 7,170yen (US\$21 ~ 60)	8	2,950yen ~ 14,000yen (US\$25 ~ 117)	8
		Retailer	Department stores	-	-	-	45,300yen ~ 74,200yen (US\$378 ~ 618)	17
			Hankos stores	11,000yen ~ 80,000yen (US\$92 ~ 667)	6	-	-	13,000yen ~ 80,000yen (US\$108 ~ 667)

120JPY=1US\$

Research prices in 1999 are compiled by JWCS 1999

Table I-6 shows the prices of hankos of the most popular sizes, i.e. 12x60mm and 15x60mm. The prices in 1998 were obtained from questionnaire survey conducted by JWCS (JWCS, 1999), and those in 2000 and 2002 were from the exhibitions mentioned above.

It is clear from Table I-6 that, among these three years, the wholesale prices of ivory hankos were highest in 1998, and the prices dropped significantly in 2000. The price fluctuation of 15x60mm hankos is especially remarkable.

I-2-3-2 Types and prices of ivory hankos at retail

JWCS conducted a market research on retailed hankos in August – September 2002, by telephoning and visiting 32 department stores in Tokyo and 12 specialised hanko shops in Chiyoda Ward, Tokyo.

Out of the 32 department stores visited, 25 had ivory hankos on sale, while all the hanko shops contacted dealt in them. The sizes of ivory hankos found at department stores were 10mm, 12mm, 13.5mm, 15mm, 16.5mm and 18mm in diameter and with length of 45mm and 60mm. The specialized hanko shops had hankos of the same diameter, but they were mostly 60mm in length.

None of the surveyed department stores and hanko shops employed the classification scheme according to the quality of hankos, nor to the origin of the ivory.

As for the prices, both at the department stores and hanko shops, ivory hankos were priced higher than hankos of other materials. As these shops did not differentiate ivory hankos, depending on the quality, the price differences were only to reflect the size and number of letters to be carved on the hanko.

Table I-7 shows the retail prices of ivory hankos of 12x60mm and 15x60mm in size, which are most commonly on sale. The prices in 1998 were obtained from the questionnaire survey conducted in 1998 by JWCS (JWCS, 1999), and those in 2002 are from the survey conducted at department stores and hanko shops in Tokyo.

Table I-7: Retail prices of hankos (12x60mm and 15x60mm) in 1998 and 2002

Size		Ivory hankos seller	1999		2000		2002		
Diameter	Length		Price	No. of samples	Price	No. of samples	Price	No. of samples	
12.0mm	60mm	Wholesaler		4,000yen ~ 7,500yen (US\$33 ~ 63)	4	1,950yen ~ 5,270yen (US\$16 ~ 44)	8	1,900yen ~ 5,800yen (US\$16 ~ 48)	7
		Retailer	Department stores	-		-		25,200yen ~ 62,500yen (US\$210 ~ 521)	14
			Hankos stores	13,000yen ~ 35,000yen (US\$108 ~ 292)	4	-		11,700yen ~ 60,000yen (US\$98 ~ 500)	10
15.0mm	60mm	Wholesaler		5,000yen ~ 18,000yen (US\$42 ~ 150)	4	2,500yen ~ 7,170yen (US\$21 ~ 60)	8	2,950yen ~ 14,000yen (US\$25 ~ 117)	8
		Retailer	Department stores	-		-		45,300yen ~ 74,200yen (US\$378 ~ 618)	17
			Hankos stores	11,000yen ~ 80,000yen (US\$92 ~ 667)	6	-		13,000yen ~ 80,000yen (US\$108 ~ 667)	10

120JPY=1US\$

Research prices in 1999 is compiled from JWCS 1999

Table I-7 shows that between 1998 and 2002 there were no great difference in prices, except that in 2002 there were some hankos of 12x60mm, which were slightly highly priced.

There is not much difference in the maximum prices between department stores and hanko shops, though the minimum price is much higher at department stores (see Note I-C, I-D).

Note I-C: Multiple hanko set

Different types of hankos are used for different purposes. Those used to certify important official documents are relatively large in size, while those used for individual daily needs are relatively small. Special hankos for banking use ('ginko-in', or bank hanko), are made in a medium size.

Some ivory retail shops sell these different types of hankos in one set.

During the above survey it was found that such 'multiple ivory hanko set' were on sale at the department store for JPY30,000-85,000 (USD250-708) for a set of two hankos (at four department stores), and for JPY78,000-112,000 (USD650-933) for a set of three hankos (at four department stores). Among the specialized hanko retailers, five shops were selling 'three ivory hanko set' for JPY39,000-100,000 (USD325-833).

Note 1D: Prices of smuggled ivory hankos

A Chinese dealer had a hanko retail shop inside one department store. He said that he imported ivory hankos from China even today to carve and sell in Japan, and that he had a variety of sizes. Excluding the cost of carving, his products were sold at JPY6,000-38,000 (USD50-317), cheaper than ivory hankos found in other places.

The ivory hankos at this shop are thought to be smuggled goods. Ivory hankos smuggled by Chinese traders are thus mixed into the retail market frequently (JWCS, 2000).

I-2-3-3 Trend in retail prices of ivory hankos

Now, let us try to see some trend in the prices of ivory hankos of 15x60mm in size, most commonly found at specialized hanko shops.

- In 1998 JWCS found that the retail price range of ivory hankos of this size was JPY11,000-80,000 (USD92-667).
- The result of the research conducted by a hanko industry journal on ivory hanko retail prices was reported at the national-scale hanko/seals exhibition held in October 2000. For this research a questionnaire was sent to 3,500 hanko retailers all over Japan regarding the prices of ivory hankos of 'fair' grade and 15x60mm in size, and the answers were obtained from 1,172 retailers. The result showed that the price range of this type of ivory hanko was JPY9,000-100,000 (USD75-833), and a chain discount hanko shop quoted the lowest price. The most common prices in Japan were JPY10,000-19,999 (USD83-167) (23%), and those in Tokyo were JPY11,000-14,999 (USD92-125) (38.3%) (Gendai Insho Journal, February and March 2001).
- The prices found by JWCS in 2002 were JPY13,000-80,000 (USD108-667).

Observation 1: Low price for low-quality items

In comparison, the prices of ivory hankos in 2002 were slightly higher than those in 1998, but the former is within the range of prices researched by the hanko industry journal. Therefore, there is no trend of increasing prices due to shortage of raw ivory materials. Also, the most common prices in the nation-wide research were found relatively low. Especially chain discount hanko shops have very low prices for ivory hankos.

The reason why the prices for most common ivory hankos are kept low is probably because of the economic recession. Some specialised hanko shops seem to feel forced to lower the prices further to compete with the chain discount stores. On the other hand, department stores keep relatively high prices while having less variety of ivory hankos on sale.

Observation 2: The range of retail prices is wide, while the demand for ivory hankos is being polarized

The results of JWCS surveys in 1998 and 2002 shows that, the maximum price of an ivory hanko is nearly seven

times higher than the minimum price in the retail market. Research result by an industry journal in 2000 shows the difference as more than ten times. This huge price difference implies that consumer demand for ivory hankos is in a way polarized. While the demand for expensive, high-quality items such as, those carved from special parts of a tusk, Togata ivory and hard African ivory continues, low-priced and low-quality items from 'soft' African ivory and from the surface of the tusk, are also in demand.

I-3 Marketing of ivory accessories

I-3-1 Types and prices of ivory accessories

Ivory accessories are popular in Japan and are used in both traditional Japanese costumes and western dresses. It is said that the demand for ivory accessories was particularly on a rise in the 1980s (Martin, 1985).

Table I-8: Number of certified African ivory accessories

	1995	1996	1997	1998	1999	2000	2001	Total
Number of certification of ivory accessories.	10,132	514	751	7,060	4,496	193	672	23,818

A term in each year is from July 1 in this year to June 30 in next year.

: 1995 is from January 1 in 1996 to June 30 in 1996

Source: Japan Wildlife Research Center

Table I-8 was compiled based on official documents from ME to show the number of certified accessories made from African ivory in Japan. There has been no case of certifying accessories made from Asian ivory. As discussed above, it is up to the manufacturers to decide whether they get their products certified. Therefore, the number of issued certificates does not reflect the actual amount of stock or production of ivory accessories in Japan.

Table I-8 shows that in 1995 (January-June 1996) when the certification system had just started, the number of certificates issued were 10,132 (items), but since then only few to several hundred certificates have been issued annually except in 1998 (7,060) and 1999 (4,496).

JWCS conducted a survey on the retail situation of ivory accessories at 35 department stores in Tokyo.

It was found that only two of them constantly kept ivory accessories for sale, four of them would deal occasionally during special events, and the rest 29 department stores did not have any ivory accessories at any time. Some stores mentioned CITES and related national regulations as a reason for not having such items. At the two department stores that sell ivory accessories, it was found at special jewellery salon and not in ordinary accessory shops.

One of the department stores had a special section, which included products like brooches, pendant heads, necklaces, earrings and tiepins and non-accessories like ear cleaners, paper knives, room ornaments, hankos and Buddha statues, all made of Ivory. The price of these ivory accessories ranged from JPY5,800 to 465,000 (USD48-3,875).

I-3-2 Discussion: Is the ivory imported from the three southern African countries in 1999 being used for manufacturing accessories?

When blank hankos are carved out of a tusk or cut piece, waste chips are always produced (see III-2-3-2). Also, whole tusks weighing 7-8kg or less cannot be used for hanko production. Such waste chips and small tusks need to

be used to produce something other than hankos (Gendai Insho Journal, June 1999). Before the ivory trade was banned under CITES, waste chips and small tusks used to be re-exported from Japan to various countries including Hong Kong and Taiwan as raw materials for accessories (Nash et al, 1997).

Many of the whole tusks imported from the three southern African countries in 1999 were small, and it is said that 40% of the total import was not good for hanko production (Gendai Insho Journal, November 1999). However, in accordance with the annotation to the CITES Appendix regarding elephant populations in Botswana, Namibia and Zimbabwe, re-export of the ivory to Japan as a experimental case was not allowed (CITES Appendix Annotation 604). Consequently, these small tusks had to be used up within Japan for production of accessories and other products.

In 2002 JWCS conducted a survey to verify whether the ivory from the experimental import in 1999 was used for producing accessories. This was done by visiting and calling seven manufacturers and wholesalers involved in ivory accessories manufacture.

- Most of the accessory manufacturers claimed that the ivory from the experimental import had been monopolised by the *hanko* manufactures and it was not available to them.
- One of the wholesalers said that, those tusks from the import that were not suitable for hanko production was neither supplied to the accessory manufacturer and is being kept aside.
- On the other hand, one manufacturer specialized in high-quality designer brand of ivory and *bekko* (Tortoise shell) accessories answered that they were using the ivory imported in 1999 from those three African countries.

As a result of this survey it was confirmed that at least part of the ivory from the experimental import case in 1999 has been used for production of accessories within Japan.

I-4 Marketing of other ivory items

I-4-1 Types of other ivory items

Apart from hankos and accessories, ivory is also used to make, carved ornaments, 'netsuke' trinkets, parts of musical instruments, chopsticks, pipes, statues, and other items used in Japanese daily life

Table I-9: Number of certificates issued for 'other ivory items' from African elephant ivory

Certification of ivory products	1995	1996	1997	1998	1999	2000	2001	Total
Ornament	9,681	704	656	586	708	926	339	13,600
Musical instrument	3,168	0	10	0	0	0	0	3,178
Recreational accessories (Mah-iong,etc.)	42	2	0	0	4	0	12	60
Tableware	3,193	402	246	869	580	1,144	119	6,553
Stationary	150	0	8	11	3	18	14	204
Smoking instruments	2,791	3	0	41	357	106	0	3,298
Buddhism utencil	1,542	7	0	0	0	50	695	2,294
Tea ceremony item	1,050	16	15	0	5	3	0	1,089
Daily goods	1,716	7	0	0	174	32	40	1,969

A term in each year is from July 1 of the year to June 30 in next year.

: 1995 is from January 1 in 1996 to June 30 in 1996

Source: Japan Wildlife Resarch Center

Table I-9 was compiled based on official documents from ME showing the number of certificates issued for 'other ivory items' from African ivory apart from hankos and accessories like, 'furniture and furniture parts', 'musical instruments', 'hanko', 'indoor games and other recreational items', 'tableware', 'stationery', 'smoking items', 'everyday items', 'religious (Buddhist) items', and 'tea ceremony items' (LCES Article 33-7.1, Ordinance Article 5.5, Ministry Ordinance Article 7). There has been no case of certifying these items made from Asian elephant ivory. Again, it is up to the manufacturers whether to get their products certified or not, so the number of issued certificates does not reflect the actual amount of stock or production of these items.

Table I-9 shows that, after the introduction of the certification system in 1995 (January 1996-June 1996), a large number of certificates were issued during the initial six months period but since then, the number declined gradually.

In the latest annual report submitted by the government of Japan to the CITES Secretariat (1998) the number of ivory 'carvings' (probably including all ivory items) imported to Japan is reported both for African elephant ivory and Asian elephant ivory. According to this report, 217 items and other items weighing 51kg in total from African ivory, and 161 items from Asian ivory, were imported in to Japan in 1998.

Table I-10 was compiled based on the official trade statistics from the Ministry of Finance to show the amount of imported 'Worked elephants' tusks and articles of elephants' tusks', under the category of 'Ivory (processed) and its products'

Table I-10 shows that, in a six-year period between 1996 and 2001, a total of 2,063 (annual average 340kg) of ivory products were imported to Japan. It is interesting to note that, a significant amount of 961kg was imported during 1997. The reason for this increase may be due to the anticipation regarding the down-listing of the elephant populations in three southern African countries as referred in the CITES Appendix II.

I-4-2 Discussion: Marketing of Ivory and its demand for traditional musical instruments

In Japan ivory is also used in manufacturing plectra, pegs and bridges of traditional musical instrument like *shamisen* or *samisen* (Japanese guitar) and *koto* (Japanese harp).

In 2002 JWCS conducted a hearing survey on the marketing situation of such items by visiting stores of traditional Japanese musical instruments, mainly shamisen shops. The main findings were as follows:

- Ivory parts of musical instruments are traded from manufacturers to retailers of musical instruments and then to consumers.
- Buyers of ivory plectra for *shamisen* are mainly high-level performers such as professional musicians and teachers, rather than amateur players.
- Most amateur players use alternative items made of wood or synthetic resin, which are more reasonably priced and yet of satisfactory quality for them.
- On the other hand, professional players like to have their items specially order-made, and the alternative items which cannot be processed as elaborately as ivory are not easily accepted by them.

Table I-10 Imports of 'Worked elephant tusks and article

Exporting Country	Import	
	Quantity (kg)	Value (1,000Yen)
1996		
CHINA	215	5,948
RUSSIA	89	1,723
ESTONIA	15	362
USA	0	1,040
TOTAL	319	9,073
1997		
CHINA	931	48,674
HONG KONG	9	2,511
UNITED KINGDOM	3	212
GERMANY	0	1,387
RUSSIA	18	458
TOTAL	961	53,242
(EU)	3	1,599
1998		
CHINA	190	16,804
HONG KONG	11	1,048
USA	3	539
TOTAL	204	18,391
1999		
CHINA	137	10,955
UNITED KINGDOM	6	1,089
TOTAL	143	12,044
(EU)	6	1,089
2000		
CHINA	348	14,534
ZIMBABWE	20	235
TOTAL	368	14,769
2001		
HONG KONG	61	2,108
FRANCE	3	604
USA	4	373
TOTAL	68	3,085

Source: Customs Statistics, Ministry of Finance

- *Shamisen* plectra are non-durable goods for professional players, and normally one person order one new plectrum a year, and sometimes as many as 5-6 plectra a year. Therefore, the annual consumption of *shamisen* plectra is to some extent proportional with the number of professional players i.e. around 1,000 as per the recent data.

According to Table I-9, the number of ivory parts for musical instrument certified by ME were ten in 1997, and there has been no case of certification since then. Therefore, the plectra consumed by *shamisen* players every year as discussed above are thus marketed without being certified.

I-5 Conclusion

The situation in domestic ivory market is that, the consumption of ivory is high in Japan and large amount of raw materials and various products made of ivory are on sale in the Japanese market. Prediction of the actual amount of ivory through the official statistics available with the government of Japan is difficult due to the fact that, the figure doesn't give a correct ratio between raw materials used and the products consumed. Further, it gets more complicated to derive any figure when the actual amount of whole tusks possessed by non-business private owners is unknown and if these tusks enter the legal market. Thus, the study indicates that the potential of getting smuggled ivory legalised is very high and this would definitely continue unless some stringent measure is taken in Ivory trade management to curtail its flow into the legal market.

Chapter II

Smuggled ivory in Japan's black market

II-1 Past official seizure

II-1-1 Blocking import at the Customs and 'violation cases'

Official permits for import and export of ivory to implement CITES regulations are issued by METI, in compliance with the Law for Foreign Exchange and International Trade ('Foreign Exchange Law' hereafter). The Customs is in charge of checking import and export permits and overseeing the contents of actual shipments. The Customs is authorized to block import of shipments based on the Customs Law, which are uncertified if they are permitted under the Foreign Exchange Law (Article 70) (see Note II-A).

In cases where there is serious offence in attempt to import uncertified goods, the importer will be fined with a notification from the Head of the Customs. When there is a violation serious enough to be considered worth imprisonment, the importer will be criminally charged to the prosecutors by the Customs (Customs Law Article 138.1).

(Note II-A)

When import of goods is blocked by the Customs, the importer is compelled either to abandon the ownership of the goods, return the goods to the exporting country, or re-export them to a third country. The provision of the Customs Law allowing the Customs officers to directly confiscate goods after stopping them to enter the country has not been applied in a case of CITES violation (Isozaki, 2000).

Table -1: Number of attempts to import ivory blocked by the**Customs**

Year	Number of seizures	Types of ivory		Methods	
1994	49	-	-	-	-
1995	37	-	-	-	-
1996	37	-	-	-	-
1997	23	-	-	-	-
1998	18	-	-	-	-
1999	15	Raw tusk	3	Trip cargo by air	1
				Trip cargo by sea	2
		Worked ivory	12	Trip cargo by air	10
				Trip cargo by air	2
2000	12	Raw tusk	0	-	
		Worked ivory	12	Trip cargo by air	6
				Foreign mail	6
2001	16	Raw tusk	2	Commercial cargo by sea	1
				Foreign mail	1
		Worked ivory	14	Commercial cargo by air	1
				Trip cargo by air	9
				Foreign mail	4

Source: Ministry of Finance

Table II-1 was compiled based on official documents from METI to show the number of blocked attempts to import ivory into Japan since 1994.

Table II-1 shows that the number of cases where attempts to import ivory were blocked by the Customs has declined in recent years compared to that in 1994, and only 10+ cases per year have been reported since after 1998.

Table II-2 was compiled based on official documents from the Ministry of Finance, to show the number of 'violation cases' of the Customs Law involving ivory since 1994.

Table II-2: Number of 'violation cases' of the Customs Law involving ivory

		1994	1995	1996	1997	1998	1999	2000	2001
Total number of cases		6	1	3	2*	3	2	1	0
Types of ivory	Raw tusk	0	0	0	1	0	1	1**	0
	Inzai(blank hankos)	3	1	2	1	1	1	0	0
	Sculpture et al	3	0	1	0	2	0	0	0

*One case in 1997 was the criminal punishment of the accomplice of the case in 1996.

** The seized raw tusk were cut into almost 30 cm each.

Source : Ministry of Finance

Table II-2 shows that, except in 2001, every year since 1994 a few 'violation cases' involving ivory have been reported.

Table II-3: Details of the ‘violation cases’ involving ivory

Case	Date	Country of origin.	Type of imported ivory	Quantity(piece)	Culprit
1	1990/2	Taiwan	Inzai(blank hankos)	12,000pieces	Four Japaneses ,Two Taiwanese and ,one Hong Kong
2	1990/3/6	Hong Kong	Inzai et al	Inzai 4,000piece and worked ivory et al 6,000pieces	
3	1990/4/5	Hong Kong	Inzai	25kg (1,247pieces)	Two Taiwanese
4	1990/6/22	Hong Kong	Inzai	960kg (30,000pieces)	
5	1990/8/30	Hong Kong	Inzai	78kg(3,000pieces)	One Japanese
6	1991/4/1	The Philippines	raw ivory	780kg (62pieces)	Three Japaneses ,two philippineses and one Korean
7	1992/3	South africa	raw ivory	372.3kg (27pieces)	One Japanese and one Englishman

Source :Japanese newspapers

Table II-3 shows the details of the above Customs violation cases shown in Table II-2.

According to the report of the CITES Panel of Experts issued in 1996, there were 46 cases of Customs Law violation involving ivory between 1989 and 1995 and of which, only seven cases led to prosecution. Of those prosecuted cases, four resulted in one- or more-year imprisonment of the accused, and the rest of the cases were settled down with fines. Details about these cases were not mentioned in the report (CITES Panel of Experts, 1996).

Table II-4: Details of ivory smuggling cases from the media reports (1990-1992)

Case	Year	Exporting country	Types of imported ivory	Quantity (number)
8	1994	Singapore	inzai(blank hankos)	15
9		Taiwan	inzai(blank hankos)	119
10		Singapore	inzai(blank hankos)	18
11		Hong Kong	sculpture etc.	39
12		Taiwan	sculpture etc.	80
13		Taiwan	sculpture etc.	23
14	1995	taiwan	inzai(blank hankos)	1
15	1996	Taiwan	inzai(blank hankos)	1
16		Singapore	inzai(blank hankos)	13,800
17		China	sculpture rtc.	22
18	1997	Cote d'Ivoire	raw ivory	5
19	1998	China	inzai(blank hankos)	100
20		Canary Islands	sculpture rtc.	3
21		Hong Kong	sculpture rtc.	145
22	1999	Senegal	raw ivory	2
23		Hong Kong	inzai(blank hankos)	1,200
24	2000	Singapore	raw ivory	500kg

Source : Ministry of Finance

Table II-4 shows some statistics of ivory smuggling cases before 1993. Details about this case could not be obtained from the Ministry of Finance but some media reports were available.

According to Table II-3 and II-4, most of the smuggled ivory were in the form of blank hankos, and Singapore and Taiwan were the main exporting points. Case No. 16 (see also II-1-2) and No.4 are particularly large-scale cases of seizures.

There were also cases involving raw tusks (Case No. 9, 10, 18, 22 and

24(see also II-3-1). Since raw tusks cannot be marketed without processing further, it is suspected that some ivory manufacturers were involved in these cases.

II-1-2 Smuggling case of 13,800 ivory hankos in 1996 (Case No. 16 in Table II-3)

This case in 1996 is the largest smuggling case of ivory blank hankos exposed in recent years. Following are some details of the incident.

Date of occurrence: November 1996

Port of entry: Kansai International Airport, Osaka, Japan

Port of origin: Singapore

Origin of ivory: Unknown

Accused: (A) Import agent in Osaka; (B) Self-employed individual in Hyogo Prefecture

Form and quantity of ivory seized: Blank hankos 13,800 pieces, 350kg

Description: The accused import agent A, who had been commissioned by B to smuggle in the blank hankos, claimed that the goods had arrived from Hong Kong by mistake when the hankos were discovered by the Customs officials. As 'A' promised to send the shipment back to Hong Kong, the hankos were temporarily stored in the Customs warehouse. The import agent was arrested when he was found trying to swap the hankos with some other shipment and bring them into the country.

The shipment arrived from Singapore, which is quite infamous as an entry port of illegal wildlife products. The accused testified that they have smuggled in ivory many times in the past using the same route.

Considering the extremely large quantity of hankos seized, and that, smuggling had been done many times in the past, as testified by the accused, it is evident that some commercial motive was behind this case. That is, the ivory hankos may be mixed in legal trade in Japan. Therefore, this case proved the existence of organized smuggling routes between Singapore and Japan in bringing in illegal ivory.

Moreover, had the smuggled ivory not been confiscated upon bringing it inside the country, it could have been simply exported back by air. This case clearly shows the loophole of the Japanese Customs with regard to confiscation of imported goods against CITES regulations (see Note II-A).

II-2 Investigation in Singapore and Taiwan

II-2-1 Introduction

In both the smuggling cases of 1996 and 2000, the export country was Singapore (No.16 and No. 24 in Table II-4, II-1-2, II-3).

Previous to the CITES ivory ban, Hong Kong imported large quantities of ivory from Singapore. Raw ivory imports from Singapore increased from 3.3tonnes in 1983 to 178.4tonnes in 1985. In 1986, Macau ivory trade was shut down to comply with the CITES ban, and Singapore was regarded as Asia's pre-eminent entry port for illicit

ivory. In the same year, Hong Kong imported as much as 285.4tonnes of ivory from Singapore (Keong, 1997).

Hong Kong traders were believed to have established factories in Singapore and were directly encouraging local manufacturers to increase production to supply Hong Kong's ivory market (ibid).

According to Japans Customs data, significant imports of raw ivory, figuring up to 26.8tonnes in 1987 and 24.5tonnes in 1988 were done from Singapore. Japan also recorded two peaks of imports of worked ivory from Singapore in 1985 (0.9t) and 1988 (3.9t) (ibid).

This implies that Singapore was also an important ivory entry port for Japan up to the trade ban.

Regarding the ivory stocks in Singapore, the CITES Secretariat allowed 270.5tonnes of tusks (55,819 tusks) and 26.8tonnes of cut pieces (1986 pieces) to be registered for legal export under the CITES system in 1986 (ibid).

While the amount of stockpile in Singapore was estimated to be an excess of 60t in 1990, traders in Singapore reportedly exported their commercial stockpile before the ban came into effect, leaving little in the way of legal stockpile (ibid).

If that was the case, then where did the ivory seized in the two prominent smuggling cases come from?

II-2-2 Objectives and methodology

JWCS conducted an investigation to obtain more information about the ivory stockpile and existing markets in Singapore, as well as to find the trade route from Singapore to Japan. An investigator visited and contacted some manufacturers and retailers in Singapore in August 2002. Afterwards, another investigator was sent to Taipei, Taiwan, to investigate the suspected trade route between Singapore, Taiwan and Japan.

II-2-3 Results of the investigation

II-2-3-1 'A' Hong Kong wholesaler in Singapore

The JWCS investigator visited an ivory handicraft shop in the centre of Singapore City. Behind the façade of a retail shop, a large stock of ivory was seen and the company was involved in wholesale of ivory products including blank hankos. With its main office in Hong Kong, the company used to export a huge amount of ivory to Japan until the trade ban.

A variety of ivory carvings and accessories including bangles, earrings, necklaces and broaches were on display. However, hankos could not be found. Initially the manager said that there were no more hankos and the company had no plan to produce any more of it because it could not be exported nowadays. However, when the investigator introduced him as an ivory wholesaler dealer, the shop manager quickly said that there is certain amount of ivory in stock in Singapore, and that he would be able to provide 10,000 hankos, as requested by the investigator.

The manager was very familiar with the priority of Japanese hankos, and he knew that the cylinder-shape having

smooth texture with pinkish colour were the most sorted. Considering the fact that he does not display hankos in spite of maintaining big stocks, ivory hankos seems to be given a special status compared with other ivory crafts. That is, good for underground businesses.

The shop manager later mentioned that, the total volume of available blank hankos in stock depended on the sales price and the sizes in demand. This implies that he had some means to obtain more ivory items in accordance with the orders placed by his customers. It is suspected that there may still be an active supply route of blank hankos from Hong Kong to Singapore.

II-2-3-2 Ivory hanko manufacturers in Singapore

II-2-3-2-1 Manufacturer “M-1”

Next, the investigator contacted an ivory manufacturer “M-1”. M-1 used to export a few thousand blank hankos per month to Japan before the ban. Tons of ivory stocks were in his possession at the time of the ban.

At present, M-1 has an office-cum-workshop and a souvenir shop in a big shopping complex, and is dealing with various ivory products like, chopsticks, bangles, pipes, and hankos (of both square shape and cylinder shape).

The investigator visited M-1’s office twice and met with the owner’s brother on the first day and later with the manager himself on the second visit.

Ivory along with other products like bracelets and broaches made of tortoise shell obtained from the endangered hawksbill turtle were displayed in his office. There were more ivory products on displayed inside.

Ivory hankos for the Japanese

According to the manager except hankos and some pendant heads all the products were made in China and some were from Hong Kong. Hankos were made in Singapore. This statement well seemed to reflect the history of Singapore as a major centre for ivory hanko carving and it was established by Hong Kong dealers in the 1980s to avoid the CITES regulation (Thornton and Currey, 1993).

The manager showed a cylindrically shaped hanko having a cross-section of 15mm and a length of 60mm. He said that the customers for this type of hankos were only Japanese. The manager’s brother showed some 20 blank hankos in a plastic bag as the only remaining stock at present.

Ivory hanko of 15 x 60mm were sold at 30-35 Singapore dollars (US\$ 15.9 – 18.55) in the wholesale price.

Ivory stocks

The investigator was able to observe the small warehouse-cum-workshop behind the office. There were about seven whole tusks leaning against one wall. Except for one tusk, which was probably less than 10kg, rest all seemed to weigh around 15-20 kg. All the tusks appeared to have the characteristics of the tusk of African savannah elephant. There were about ten more tusks with top and bottom parts already cut off and stored in a side cupboard. From the shape of the cut pieces, it was clear that they were used to produce hankos. Especially, the short

cut piece of about 70-80mm in length was obviously for processing hankos. These cut pieces were divided into several cylindrical hankos. The original whole tusk might have weighed 9-10kg. Ten to fifteen hankos could be produced from a tusk of this size.

There was a whole tusk by the door between the office and the workshop. The marking "SG52928/8639" on it meant that this tusk weighed 39kg, registered with the Singapore government and legalised for export in 1986 with the registration number 52928. A tusk of this size could produce over 100 hankos (15 x 60mm in size).

The manager's brother promised that their company (M-1) would produce as many as 5,000 hankos and he admitted that they had another warehouse other than that place. However, he suddenly changed his story after talking with the manager on the phone, and he stressed that they had only a small amount of old raw tusks that he had already shown to the investigator. The manager told the investigator that there was not enough ivory stock in Singapore now, and also no transaction of raw materials among Singaporean dealers.

Exporting ivory hankos

The manager told the investigator that his Japanese clients usually bought in small amounts, for instance ten hankos at a time. Upon mentioning the recent major seizure of ivory in Singapore, he insisted that it was difficult to export ivory from Singapore to Japan. However, he confirmed that carrying small quantities of ivory pieces overseas would never be a problem.

The manager recommended Hong Kong as a place to acquire large quantities of ivory products due to reasons of having larger stocks and also it was easier to export from there.

From the conversation with the manager and his brother and with the display of hankos in his warehouse, it was suspected that M-1 had a substantial volume of ivory stocks in his warehouse and might have some trade connection with Japanese brokers who apparently frequented this office.

Asian and African ivory

According to the manager, African ivory has an advantage over Asian ivory in size because more hankos can be produced from one African elephant tusk than from an Asian one. However, Asian ivory has better quality than African ivory. It is more beautiful in texture with a chequered pattern, though it is more fragile and soft compared to African ivory.

According to him it is more difficult to obtain Asian tusks. He used to get his Asian tusks only in singles and never in a large volume at any one time. The last time that he acquired an Asian tusk was over ten years ago. He said he did not have any Asian whole tusks left nor processed at that time.

II-2-3-2-2 Manufacturer "M-2"

The second ivory manufacturing company visited, ("M-2"), was in the manufacturing, wholesale and retail businesses of ivory products. Their products included blank hankos. He had a showroom in a lucrative handicraft shopping complex in Singapore City. The investigator visited the showroom and met with the manager.

M-2 seemed to have all types of common ivory products. Moreover, the manager showed the investigator an antique small bowl made of rhino horn, and said that he had received an order from a Japanese client to make a necklace made of 18 rhino horn beads. This would require two African rhino horns. The manager also showed an unfinished small carving made of a hornbill beak.

Many ivory products were on display in both the wall-mounted display case and the other one on the floor. According to the manager, many of them were produced in Mainland China and some in Singapore.

Ivory hankos for the Japanese

The manager was very proud of his knowledge about the tastes of Japanese customers for ivory hankos. He mentioned that Japanese buyers preferred cylinder-shaped hankos to square-shaped ones, and that they think that the lined pattern on the surface texture was important. He said that Japanese customers did not want ivory from mammoth teeth because they were not only fragile but also lack in texture.

Ivory stocks

The manager said that he had only 10-15 raw tusks in their old ivory stock would be soon used up. He was not sure about supplying blank ivory hankos for the following year.

According to him, three to four years back, there used to be large quantities of ivory stockpile in Singapore. Those stocks had been sold at low prices to Japan and Taiwan. Now, ivory craftsmen were using mammoth tusks from Russia and Canada, though it cracked easily and were not good for carving.

It seemed, doubtful whether M-2 would terminate the ivory business in the following year when their old ivory stock ran out, as ivory products composed their main product line and the company had a broad client base from overseas (see below). The fact that M-2 had raw rhino horns and a hornbill horn, which are both difficult to obtain, may suggest that M-2 still has some means to obtain fresh stock of raw ivory.

Exporting ivory hankos

The manager knew about the recent major seizure in Singapore, and was aware of the difficulty of exporting ivory in large quantities.

He said he had regular buyers of ivory hankos from Japan and Taiwan. One of his dealer-clients from Japan bought certain numbers of hankos every year, but has not come during the investigation in 2002. His Taiwanese dealer-client would visit M-2's showroom every week, and just before this meeting he had placed an order of 1,000 pieces of ivory hankos for every three months. Apparently, the Taiwanese dealer-client told the manager that the hankos would be exported to Japan eventually. The manager also indicated that, three to four years back, certain quantities of ivory used to be exported from the Singaporean stocks to Japan and Taiwan. It means that there are at least two well established trade routes from Singapore to Japan: one being a direct route to Japan and the other via Taiwan.

Asian and African ivory

At first, M-2 said that, there was little difference in terms of quality between Asian and African ivory, he agreed that the price of raw materials from Asian tusks were higher. This dual statement implies that the manager recognised some advantages of Asian tusks from the African ones despite the relative fragility of the former.

II-2-3-3 Ivory hanko retailers in Singapore

II-2-3-3-1 Retailer “R-1”

The first retailer visited by the JWCS investigator (“R-1”) ran a small souvenir shop in a large shopping complex. The old shop owner now had only old stocks of small ivory carvings made in Mainland China which were mixed along with various other cheaper souvenirs. Before the trade ban, his main commodity of sale was ivory products including hankos. At that time, most of the Japanese, Taiwanese and Korean customers preferred such products. He did not seem to have any plans to revitalise his ivory business.

However, the shop owner still maintained his contact with an ivory supplier in Singapore, whose base was in Hong Kong. Without disclosing his identity, the old shop keeper said that this supplier was related to a big ivory company, from whom the shop owner himself used to buy ivory products earlier. After a telephone call to the supplier, the shop keeper told the investigator that the supplier would later make direct contact with the investigator. He promised to check the stocks in Hong Kong because he only had 20 raw tusks in Singapore at that time.

It therefore became obvious that the ivory supply route from Hong Kong into Singapore was still active.

II-2-3-3-2 Retailer “R-2”

The second retailer R-2, had a big handicraft souvenir shop selling carvings and accessories from various materials including stones, jade, whale bone, etc. However, the most noticeable commodities were ivory carvings displayed on the upper part of a wall-mounted showcase.

R-2 had hankos as well. The manager showed cylinder-shaped hankos in three sizes: 12 x 60mm, 15 x 60mm, 18 x 60mm. The stock at that time in the shop was small (some ten pieces). The shop manager made a phone call to her supplier in the office behind the showroom, and said that there was not enough hankos in stock at that moment but, up to 1,000 pieces of ivory hankos freshly manufactured from raw materials could be obtained if a deposit was made. The investigator was asked to contact her later if this offer was acceptable.

This supplier has not been identified. However, the shop manager’s explanation was good enough to confirm that R-2 had some means of obtaining new ivory hankos newly produced from some manufacturing source.

II-2-3-3-3 Retailer “R-3”

The third retailer R-3, was a small shop located on the first floor of a shopping complex in a residential district of Singapore. Polished or carved whole tusks, pipes, bangles, ornamental carvings, necklaces and pendant heads, chopsticks, hankos and raw ivory beads were also on display.

Among the ivory hankos on display, the shop keeper showed to the investigator cylinder-shaped hankos in three

sizes: 10 x 60mm, 15 x 60mm and 18 x 60mm. The retail price was SG\$80 (US\$ 42.4) for the largest size, and SG\$ 60 (US\$ 31.8) for the medium one.

When asked about her stock volume, the shopkeeper picked up a set of 100 cylindrically shaped hankos of 15 x 60mm in size, wrapped in a plastic sheet, apparently from mass production. She said that they represented only a small portion of her stock, and that she had a large quantity of hankos left at hand because of the export ban. She and her friends were afraid that they might be arrested by the Customs if they tried to export ivory today.

She used to export ivory products, mainly hankos, to Japan before the ban. However, she refused neither to name her counterpart traders in Japan nor to disclose the exact volume of her stock.

II-2-3-3-4 Retailer “R-4”

The fourth retailer, “R-4”, had two handicraft shops located in two big shopping complexes standing side by side. The investigator visited one shop surrounded by many other handicraft shops. There were many ivory carvings and accessories on display together with those made of jade, whale bone, etc.

The shop exhibited around 30 cylindrically shaped ivory hankos. Most of them were 60mm in length and of different diameters (10mm, 12mm, 15mm and 18mm), while some were 75mm in length (The longer ones were suspected to have been made in Africa). While some hankos had a flat top end, others had slightly round (dorm-shaped) top end and was more popular in Japan.

The total number of blank hankos in stock in those two shops were around 100. The shop owner told the investigator that he could offer a discount price from SG\$85 (US\$ 45.05) down to SG\$ 45 (US\$ 23.85) per piece if he could buy 100 hankos. However, the owner said that he could not promise to obtain new supply of hankos to meet the request of 1,000 pieces from the investigator. In addition, he said that it would be difficult for him to export the hankos, showing a newspaper article on the recent major seizure in Singapore.

II-2-3-3-5 Retailer “R-5”

The fifth retailer, “R-5”, keeps two shops on the same floor of a shopping complex amongst many other handicraft shops. One shop specialised in ivory hankos, had four shelves jam-packed with ivory hankos of various designs and types. An advertisement written in Japanese was shown on the shelves, which read “ivory carvings made by specialised hanko manufacturers”.

There were more ivory carvings and hankos in another shop across the passage. An ad in Japanese was displayed here as well, claiming their ivory products as an excellent souvenir.

The manager in this shop checked his stock of blank hankos of 15 x 60mm in size and found that he had 200 pieces. He told the investigator that he could give a discount price of up to SG\$ 30 (US\$ 15.9) per piece if all of them could be sold. He also did not think he could obtain 1,000 pieces of hankos by the end of the year.

II-2-3-4 Follow-up investigation in Taiwan (Taipei City)

According to the ivory manufacturer in Singapore M-2, a Taiwanese dealer visited his showroom every week and had ordered 1,000 pieces of ivory hankos to be supplied during each quarter of the year and the purpose was for reselling in Japan. Therefore, JWCS carried out a short-term follow-up investigation on this dealer in Taipei City.

First the investigator talked with the owner of one of the souvenir shops where ivory hankos were openly available. The owner said that the import of ivory into Taiwan was banned five to six years ago. He estimated that, the total number of hankos currently in stock in Taipei was about 300 to 400 pieces. In his shop there were only 30 hankos of 15mm and 13mm in diameter. He also said that the area where this shop was located had the highest concentration of hanko shops in Taipei, but that only fewer than five shops dealt in ivory nowadays.

However, the situation was rather different at a well-known Night Market of Taipei. The owner of another hanko shop, where only stone hankos had been displayed earlier, eagerly pulled out ivory hankos from a drawer when the investigator asked him if ivory hankos were available. Furthermore, after discussing with his fellow dealers on the phone, the owner told the investigator in Japanese, that one of his friends owned a hanko manufacture factory and that they could trade ivory hankos to Japan every month. The owner agreed to show the quality of hankos the following day.

Next day, the same shop owner came to the investigator's hotel along with few people. One of them was fluent in English and Japanese, and claimed that he had lived in Japan for ten years in the past. At first the shop owner insisted that they were trading hankos which had remained in stock, and that their manufacturing factory had been closed. However, his story changed during the conversation, and he admitted that his friend who was manufacturing cow horn hankos in his factory could also supply 100 ivory hankos every month for an extended period of time. The quality of the hanko samples that he had with him was very pricey.

According to media information, 139 dealers had officially registered 5,101 raw tusks in Taipei (China Times, April 12, 2000). However, processing of whole tusks and manufacturing ivory products were illegal in Taiwan (Wu and Phipps, 2002). The source of raw materials for the production of hankos at the above factory is not clear, and it could be that, raw materials are provided from the official stocks by some illicit means like smuggling, if not newly supplied. In October 2002 the owner of a well-known store of Chinese art works was sentenced to seven-month imprisonment with suspension of three years at the Taipei District Court for illegally selling ivory products including hankos. Allegedly, he had purchased those hanko pieces from a merchant who travelled between Mainland China and Taiwan (United Daily, October 23, 2002).

Regarding trade routes, all the interviewed shopkeepers denied the existence of any direct route between Taiwan and Japan. They explained that some products were traded through Hong Kong and some others through Mainland China. The Taiwanese trader whom the JWCS investigator tried to trace from Singapore, might be based somewhere outside Taipei City.

II-2-4 Major findings from the investigation

Due to the recent seizure of six tons of ivory in Singapore (EIA, 2002), most of the traders approached by the covert investigator of JWCS appeared to be extremely cautious in admitting their involvement in ivory processing and exports. However, some important facts have become clear through this investigation:

- The claim by the Singaporean traders that the raw ivory stocks are running low is questionable. It is suspected that interviewed manufacturers have certain significant volumes of ivory in stock, and they may also have some trade routes through Japanese brokers.
- Retailers hold substantial amount of blank hankos. Some of them have their own suppliers. In at least one case, the supplier is a Hong Kong dealer and not a manufacturer in Singapore. This Hong Kong dealer also runs ivory hanko wholesale and retail businesses in both Hong Kong and Singapore.
- Though the total trade volume is unclear, this investigation confirmed that certain smuggling routes of ivory hankos exist between Singapore and Japan.
- It appears to be the case that some dealers use Taiwan as a conduit to smuggle ivory from Singapore to Japan.

II-3 Investigation into illegal ivory trade in Japan

II-3-1 Smuggling of raw ivory involving an ivory association board member (No. 24 in Table II-3)

This is the second largest case of ivory smuggling into Japan. The news of this case came as a shock to the international community since it was exposed in the midst of the CITES COP11, with the involvement of a board member of the Japanese ivory association.

Date of occurrence: 14th April 2000

Port of entry: Kobe Port

Port of origin: Singapore

Origin of ivory: Forest elephants in West Africa or Central Africa

Accused: (A) Ivory manufacturer in Saitama Prefecture (board member of the ivory association in Tokyo); (B) Broker residing in Hong Kong (British national)

Form and quantity of ivory seized: 27 whole tusks (492.375kg) cut into 132 pieces of some 30cm long.

Description of the incident: The accused broker B smuggled the ivory into Kobe Port, mixed with other legal goods (chopsticks) certified for import. The accused manufacturer A, who had conspired the smuggling with B, tried to bring the whole shipment to his own company and keep it.

This case was treated as a criminal case upon immediate prosecution by the Customs. Both the accused were found guilty, and the sentences were announced in August 2000. The Hong Kong broker, 'B', was sentenced to 1.5 years in prison with a stay of execution for four years (for import of unauthorized goods, violation of the Customs Law

Article 111.1), and in following December the manufacturer 'A' was sentenced guilty and fined JPY300,000 (US\$2500)(transportation of illegally smuggled goods with full knowledge of the illegality, violation of the Customs Law Article 112.1).

JWCS representatives attended the proceedings in the court and confirmed the following facts:

- The Hong Kong-based broker B used to have business with many Japanese ivory dealers and used to trade ivory into Japan before the CITES ivory trade ban.
- Even after the ivory trade was banned in 1990, B came to Japan almost every year and maintained his close contact with the ivory association board member A. Also, it was known that, a major ivory dealer who was the director of the ivory association in Tokyo then (in 2000) visited the broker B in jail during this time.
- The broker B was involved not only in the illegal transaction of ivory, which had been in possession of a Taiwanese person in Singapore, but also in the marketing of the smuggled ivory in Japan.
- During the planning of the ivory smuggling from Singapore, broker 'B' had requested assistance of the ivory association member 'A' in transporting and storing the smuggled ivory in Japan.

Judging from the above facts, and taking into consideration that the raw ivory was as much as 500kg, it can be concluded that the ultimate buyer of the smuggled raw materials had been decided in advance, and that it could be either the ivory dealer 'A' himself (though this point is denied by both A and B at the trial), or some other major ivory manufacturers.

II-3-2 Investigation into the trade network between professional brokers and ivory manufacturers in Japan

II-3-2-1 Objectives and methodology

The past several seizures by the authorities imply the existence of individual brokers directly involved in ivory smuggling. However, it was unclear whether to whom the ivory was supposed to be traded. It is suspected that for raw tusks and large quantities of blank hankos to be smuggled into Japan, the smugglers need to have the buyers identified beforehand. Especially, for raw tusks, the role of the manufacturing groups cannot be ignored. The smuggling case in which one of the major Japanese ivory manufacturers was involved (see Section II-3-1) might support such speculation.

Therefore, JWCS conducted a series of undercover investigations in several Japanese cities during September 2002, in order to find out the trade network between brokers specialised in ivory and Japanese manufacturers.

II-3-2-2 Result of the investigation

JWCS investigator visited Yamanashi Prefecture, a province in Japan that is considered as the centre for hanko manufacturing, and contacted Mr. 'X', a major manufacturer and wholesaler of ivory hankos.

X is a registered ivory trader who reports to METI with his transaction ledger. JWCS checked the submitted ledger but did not find any specific violation against the system as far as the registration of ivory business was concerned.

When the JWCS investigator contacted X, he said, he would buy only legal ivory and did not know how he could smuggle ivory at all. He advised the investigator that it was useless to contact manufacturers, because they would be nervous before the CITES meeting (COP 12). When he said, “We manufacturers cannot buy illegal ivory”, he introduced the investigator to another man, Mr. Y.

Upon X's advice, the JWCS investigator went to meet Y in Osaka. Y has worked as a specialised broker supplying ivory to manufacturers for more than two decades. He said he was well known and had good businesses with ivory hanko manufacturers in Japan.

Before the meeting, the investigator has informed the broker about the quality, quantity and price of the “contraband” ivory he would offer (one ton of Asian tusks with 25kg average weight per tusk).

The ivory smuggling route from the specialised broker to manufacturers

Y said that there was a manufacturer in Osaka who wanted to buy the entire shipment proposed by the investigator. In a composed manner he said that it was easy for Japanese manufacturers to pay JPY50 million (USD 416,667) in cash for this deal. He also said that, however, if the shipment contained tusks weighting 5-10kg or smaller, which would not be good for hanko production, the manufacturer would request to lower the price.

The procedure of the trade proposed by the broker was as follows. First, the supplier shows Y the size of each tusk. Then Y reports the weight etc. to the manufacturer, who is the final buyer in this case. Y informs the supplier the price, which is to be decided by the manufacturer. Then the price negotiation can begin.

However, Y suggested a bogus company to be set up by the supplier in Japan as an initial recipient of the imported ivory. A paper company would protect both Y and his manufacturer if the deal was exposed. Y insisted many times not to trouble the manufacturer by the details of the smuggling. Y said that X who introduced him to the investigator bought ivory from him too.

Y suggested that the timing of this transaction should be in December 2002, i.e. after the CITES COP 12.

Smuggling route

While Y said that he has only bought ivory in Japan, he seemed to be quite familiar with the smuggling routes outside the country. According to him:

- A shipment of smuggled ivory from Singapore was seized in Japan just a month before (August 2002). A dealer involved was arrested in Osaka. The Japanese government decided not to reveal the case to the public because it was before the CITES meeting. The Singapore route was now too risky.
- The route through the Philippines was also risky because it was also used as a smuggling route for counterfeits from Korea to Japan. The Japanese authorities watch this route carefully. The Taiwan route might also be dangerous.
- He said that the route through China and Russia might be easier and safer, but did not elaborate in this point further.

Smuggling method

Y advised the supplier to implement his own strategy in smuggling, calling it a 'craft'. "You should charter a small ship with ivory and tranship them onto a Japanese fishing boat in the Sea of Japan. This fishing boat must be docked as a small port somewhere. From there your bogus company can obtain the goods", he said.

The value of ivory from Asian elephants

According to Y, all manufacturers know that the quality of Asian elephants tusks are superior, and when Y mentioned to the manufacturer about the offer of one ton of Asian tusks, he was truly overjoyed.

II-3-3 Discussion:

Structural factors behind the non-ending dependency of Japan's ivory industry on smuggling

II-3-3-1 Can the Japanese ivory industry survive without smuggling?

As discussed in Section II-1, some of the past major ivory seizure cases in Japan involved large quantities of blank hankos which would have been attempted to be mixed into the legal ivory marketing route in the country, and involvement of Japanese ivory manufacturers was also evident in some cases.

The results of the investigation shown in Section II-2 made it clear that in traditionally infamous ivory trade hubs as Singapore and Taiwan, there still exist certain stock of ivory accessible for Japanese ivory dealers.

The results of the investigation shown in Section II-3 proved the existence of some trade network to provide smuggled ivory to Japanese manufacturers.

With all these facts and findings, there is no doubt that the Japanese ivory industry has been involved in ivory smuggling operations.

The question is, whether in future, if ivory continued to be legally imported from southern African countries, can the Japanese ivory industry survive without smuggling ivory? Considering the above-mentioned structural problems of the ivory industry in Japan (II-3-3-2, 3, and 4), the obvious answer seems to be 'No'. To make things worse, the weak domestic control followed by the heavy demand of ivory is making the situation worse and in a way it is encouraging the flow of smuggled Ivory (see Chapter III).

II-3-3-2 Types of ivory in demand

Suitability of raw ivory for different products depends on the type of ivory : i.e., whether it is from a tusk of, Asian elephant *Elephas maximus* ('togata' ivory), African forest elephant *Loxodonta africana cyclotis* (soft ivory), or African savanna elephant (hard ivory). Some items can be made from any of the above type of ivory, but there will be some difference in quality. For instance, 'togata' ivory produces top-grade hankos, hard ivory makes good-quality hankos, musical instrument parts and chopsticks, and soft ivory is widely used for manufacturing

cheaper hankos for mass consumption (Menon, 1998; JWCS, 1999).

At the hanko exhibition mentioned above (Section I-2-3-2), the only 'hard ivory' hankos on display at the booth of one of the largest ivory manufacturers in Japan were square-shaped. The 'soft ivory' hankos were all cylinder-shaped and were the main type preferred by ordinary customers. The reason was that, the stock of hard ivory blank hankos were running short, and to make more cylinder-shaped hankos from hard ivory he would have to cut up the whole tusks in his stock. This manufacturer also stated that some customers would spare any amount of money for beautiful hard ivory hankos.

During the JWCS survey in 2002 on usage of ivory for traditional Japanese musical instruments, one of the shop managers commented that they did not have great expectations about the potential reopening of the ivory trade in 2002, because only soft ivory, that are not suitable for musical instruments, would be imported from southern Africa.

According to an ivory broker specialized in trading with Japanese manufacturers, the superiority of the Asian elephant tusks very well known by the manufacturers and this is proved by the incident of a manufacturer welcoming the offer of an Asian elephant ivory (see II-3-2).

Therefore, there is still deep-rooted demand for 'togata' ivory of the Asian elephant and hard ivory of African forest elephant.

On the other hand, the African elephant populations downlisted to the CITES Appendix II at COP10 in 1997 and COP11 in 2000 are all savannah elephants. Thus, only soft ivory would be available from them for the Japanese ivory industry and it will never replace the extremely high demand for 'togata' and hard ivory in Japan.

II-3-3-3 Sizes and quality of ivory in demand

In order to produce the most widely consumed ivory products in Japan, i.e. hankos (according to Milliken (1989), gross 64% of raw ivory stock), large-size tusks, 7-8kg at minimum, are necessary (Gendai Insho Journal June 1999). In the case of small tusks, large portion of it would remain unused and thus, the production efficiency becomes less. This is because the parts closer to the tusk surface have more cracks and are rough in texture and not good for hanko production (JWCS1999).

Many of the elephant tusks imported from southern African countries in 1999 were small, and 40% of the total import was not suitable for hanko manufacturing (Gendai Insho Journal, November 1999). Botswana, Namibia, South Africa, Zambia and Zimbabwe are still demanding resumption of trade in their ivory stock, but the size and quality of the tusks they want to export in the future would be basically the same as in the case of experimental export in 1999. This is because, the area the exporting countries belong to are same. Therefore, large tusks good enough for hanko production in Japan cannot be expected in a great number from the immediate potential import of ivory from these countries.

II-3-3-4 Price of ivory

Most of the current stocks of raw ivory in Japan are monopolized by a small number of key manufacturers, and

thus, they control the prices. These dealers are the central figures of the ivory associations in Tokyo and Osaka. On the other hand, most of the registered ivory dealers are not members of the ivory associations and are treated as 'outsiders' by the association members (see I-1-1). If these ivory dealers would like to obtain raw ivory through a legal route in Japan, they would have to accept the prices determined by the main association members. Under such circumstances, the ivory dealers may be tempted to go for smuggled ivory, which is more economical than buying raw materials from the monopolised market.

II-4 Conclusion

Thus, it is seen from the above-mentioned facts that, the high demand of ivory and the shortage in domestic market has tempted traders to depend on black markets. The smuggling cases revealed in this chapter explain certain aspects of the illegal trade of ivory where major manufacturers are involved. It's also interesting to note that there are still enough stockpiles of ivory stored in the major entry ports and trade routes to Japan. The investigation reports exposes certain cases on how the manufacturers and the smuggling brokers work to bring in ivory from these entry ports. Now, looking into all these issues, would the resumption of trade of ivory from the southern African nations satisfy the demand for ivory in Japan? Well, the answer is, "NO", because the quality and the prices would never satisfy the Japanese manufacturers/dealers. Also, due to the pressure from the various entry ports and trade routes, the possibilities of smuggling ivory into Japanese ivory market are quite high.

Chapter III:

Loopholes in the Domestic Trade Control of Ivory in Japan

III-1 Current domestic trade control in Japan

III-1-1 Whole tusk registration system

LCES prohibits any transaction and display for sale of whole tusks without registration with the Japan Wildlife Research Centre appointed by ME (LCES Article 12.1.5, Article 20.1, LCES Enforcement Ordinance (‘Ordinance’ hereafter) 23, also LCES Article 12.1.3, Ordinance Article 24 and Article 2-5). ‘Whole tusks’ include raw, polished or carved tusks retaining the original tusk-shape.

LCES allows registration of whole tusks which fulfill any of the five conditions prescribed in the law, such as “obtained in or imported to Japan before the CITES application” etc. (LCES Article 20.1, Ordinance Article 4) (see Note I-A)

Transaction of registered whole tusks need to be accompanied by a registration card issued by JWRC (LCES Article 21.2).

Those who carry out transaction of whole tusks without registration, will be punished but, with maximum imprisonment of one year and, with a maximum fine of JPY one million (USD 8,333) (LCES Article 58.1).

III-1-2 Ivory business registration system

LCES obliges those engaged in transaction of ivory which does not retain the original tusk-shape to register their business as ‘business in internationally specified species’ with ME and METI (LCES Article 33-2.1, Ordinance Article 5.1.1). The following are the two major classifications

- ‘Unprocessed ivory’, i.e. Cut pieces
- Ivory hankos (including unfinished products)

In terms of cut pieces only manufacturers are required to register. Manufacturers, wholesalers and retailers are obliged to register as ivory hanko businesses.

Details of the businesses have to be reported upon registration, such as the name and address of the dealer, the name and address of the place / facilities where transaction in ivory takes place, types of goods to be traded (i.e. tusk of elephant family), starting date of the business, the amount of stockpile at the time of registration (in weight for cut pieces and in number of pieces for hankos), and main characteristics (in appearance) of their commodities (cut pieces and hankos) (LCES Article 33-2, Ministry Ordinance on Registration etc. of Trade in International Specified Species (‘Ministry Ordinance’ hereafter) Article 1.1).

Those who conducted the above specified ivory business without registration, or those who registered with false

information are fined JPY 500,000 (US\$ 4,166) or less (LCES Article 61.1.2).

Registered dealers have the following obligations:

- 1) To record the names and addresses of those from whom the registered dealer obtained ivory cut pieces or hankos. Moreover, if the ivory products are not accompanied by voluntary Management Cards (see Note III-A), the dealer should ask his/her business counterpart from where they got the ivory products. (LCES Article 33-3.1).
- 2) To confirm and keep the record of such information (see Note III-B) in a ledger (LCES Article 33-3.1, Ministry Ordinance Article 2).

Note III-A: Management Card

Registered dealers are entitled to make 'Management Card' to indicate where and how the ivory cut pieces have been obtained (LCES Article 33-6). By having such voluntary Management Cards, the process of hearing the source of ivory can be avoided upon transaction (LCES Article 33-3.1).

Note III-B: Details to be recorded in a ledger

- When receiving ivory from another party

The name and address of the person/company from whom the ivory is received, the source of ivory if unaccompanied by a Management Card (if accompanied, the serial number of the Card), the quantity received (in weight for cut pieces and in number for hanko pieces), main characteristics of the received products, date of transaction (year, month and day) and the total amount of ivory stock after the transaction.

- When passing ivory to another party

The name and address of the person/company to whom the ivory products are transacted, the quantity (in weight for cut pieces and in number for hanko pieces), main characteristics of the products, the serial number of the Management Card if attached, date of transaction (year, month and day) and the total amount of ivory stock left after the transaction.

- When passing ivory hankos to non-registered dealers (i.e. ordinary consumers)

The quantity transacted, main characteristics of the product, date of transaction (year, month and day) and the total amount of ivory stock left.

ME and METI are authorized to request the registered dealers to report on their businesses, and have ministry staff to inspect their business establishment or to ask questions regarding their business (LCES Article 33-5, 33.1). Accordingly, the relevant authorities can request the registered dealers to submit their ledger at any time. Those who refuse request of report, inspection or questions by the authorities, or those who provide false information upon such occasions are fined JPY200,000 (US\$1,666) or less (LCES Article 62.7).

In order to ensure the above obligations, ME and METI are authorized to issue instructions to registered dealers on necessary matters, and also to order temporary (three months or less) closure of part or all of their business activities (LCES Article 33-4). Those who violate such orders from the ministries are punished with imprisonment of six months or less, or a fine of JPY500,000 (USD4,166) or less (LCES Article 59.2).

III-1-3 Ivory product certificate system

Ivory product manufacturers registered as prescribed by LCES (Article 33-2.1) are entitled to have their ivory products certified under certain conditions (see Note III-C) to indicate that the products (see Note III-D) are made from raw materials fitting the conditions required for whole tusk registration (LCES Article 20, Ordinance Article

4), i.e. without violation of CITES (LCES Article 33-7.1). It is up to the dealers themselves whether to get such certification for their products (LCES Article 33-7.1), but those who obtained the certification by false or illegitimate means will be fined JPY200,000 (USD1,666) or less (LCES Article 62.8).

The above certification is issued by JWRC as appointed by the Ministry of Environment and the Ministry of Economy, Trade and Industry (LCES Article 33-8.1).

Manufacturers are given a label for each piece of their certified products (LCES Article 33-7.3). It is again up to the dealers themselves whether to put the certification label on their products, but it is prohibited to use the label for other, non-certified products (LCES Article 33-7.4). Those who violate this rule will be fined JPY200,000 (USD1,666) or less (LCES Article 62.9).

Note III-C: Conditions for certification of ivory products

Currently, the certification can be granted to ivory products which satisfy any of the following conditions (LCES Article 33-7.2, Ministry Ordinance Article 8):

- The product is made of raw materials with a Management Card attached;
- The product is made of raw materials with a Registration Card attached;
- The raw materials of the product was imported by the manufacturer following a legal procedure.

Note III-D: Ivory products which can be certified

The types of ivory products which can be certified are: 'accessories', 'furniture and furniture parts', 'musical instruments', 'hanko', 'indoor games and other recreational items', 'tableware', 'stationery', 'smoking items', 'everyday items', 'religious (Buddhist) items', and 'tea ceremony items' (LCES Article 33-7.1, Ordinance Article 5.5, Ministry Ordinance Article 7). See also I-4-1.

III-2 Loopholes of the current domestic trade control

III-2-1 Loopholes of the whole tusk registration system

III-2-1-1 Tusks that are already cut even only partially are left out of the system

Under the current law, this system is targeted only for complete whole tusks, and ones that are cut even only in small part are not covered by the system.

This is a major hindrance in eliminating smuggled ivory from the domestic market. As seen in the smuggling cases exposed in the past (see Section II-I), most of the ivory being smuggled were in the form of cut pieces or already processed blank hankos. It is probably simply because with whole tusks there is more risk of being caught by the Customs. Many dealers in Singapore also commented that smuggling whole tusks is more difficult (see Section II-2). The current system is meaningless unless registration is made mandatory not only for whole tusks but also for cut pieces and blank hanko.

III-2-1-2 The current whole tusk registration system does not target all the whole tusks existing in Japan, allowing some room for non-registered whole tusks to join the market flow through the legal loophole.

The current registration system is only to regulate transaction of whole tusks. That is, there is no obligation for

registration for having whole tusks in possession without transaction. Therefore, it is suspected that a large number of polished whole tusk ornament (see Section I-1-2) in the possession of non-dealers (consumers) are lying about unregistered.

This also makes the ivory trade management system highly ineffective, because if the owner (non-dealer) of a polished tusk pretends to decide to sell or give away the ivory after cutting it into some pieces, there is no obligation to have the cut ivory registered for transaction (see Section III-2-1-1). In such case as this where the ivory may be traded by a non-dealer, the ivory business registration system which only focuses on management of recorded stock owned by registered dealers also does not have any use (see Section III-2-2-4-2). The fact that there can be such legal flow of ivory outside the management system makes it easier for smuggled ivory to sneak into the legal market of raw ivory materials.

III-2-1-3 There is no system of marking registered ivory

Under the current law there is no system of making registered whole tusks.

This loophole makes it difficult to avoid the situation where some whole tusks are registered more than once, and extra registration cards thus obtained are used for ivory, which is unable to be registered (smuggled).

The current law obliges dealers to describe characteristics of the ivory in the registration application form with photos attached, but it is impossible to prevent double (or more) registration of the same tusks unless some marking is done upon the whole tusks directly.

III-2-1-4 No reliable proof of the legitimacy of ivory is required for applying for registration

The current law requires dealers to attach to the registration application form a ‘document which shows the details as to how and when before CITES application the specimen (individual, organ or part) at issue was obtained within or imported to the country’ (LCES Article 20.2, LCES Enforcement Regulation (“Regulation” hereinafter) Article 11.2.2). Also it is prescribed that, “if such document is not available, any other document that proves the legitimacy of the specimen at issue can be attached instead” (Regulation Article 11.2).

The above prescription does not require any particular proof of which the reliability is guaranteed. This makes it impossible for the institution appointed for ivory registration to demand very strong proof to be submitted to examine the legitimacy of ivory. With this loophole in the legal prescription, it is impossible to ensure any strict screening for registration, while it is made difficult to turn down ivory products being applied for registration only with poor proof of legitimacy.

Column:

Proof of legitimacy required in practice upon application for ivory registration

Upon registration at JWRC, dealers are normally asked, as proof of legitimacy, to submit receipts or invoices which accompanied the transaction when they got the ivory they now try to register. Also accepted in case such documents have already been disposed is a 'transaction certificate' written by the person who sold or gave the ivory to the applicant, or 'certificate of ownership confirmation' written by a third person other than relatives of the owner of the ivory. The only information required to be noted in the 'transaction certificate' is the date of transaction, species of the elephant from which the ivory was taken (either African or Asian elephant), and the number of the whole tusks traded. The 'certificate of ownership confirmation' should contain the information of when, what (ivory) and how many the applicant own (JWRC, 2001a).

Any of the above documents required for registration of whole tusks can hardly be considered as reliable enough to prove that the whole tusks, for which the application for registration has been submitted, had truly been obtained or imported before the application of the CITES regulations.

The 'transaction certificate' can easily be made up by a third person who falsely claims to have sold or gave the ivory to the applicant. It is however more problematic in the case of 'certificate of ownership confirmation.' It can be easily written up by friends or neighbors who have nothing to do with the transaction of ivory, and what is to be 'certified' is only the fact that the applicant owned the ivory at the time of registration. This again is hardly enough to be treated as a reliable proof of legitimacy.

If applications are examined based on such loose documentation only, the whole tusk registration system necessarily becomes a free pass process in reality.

III-2-1-5 Applications are examined only on paper, and there is no procedure of examining the actual whole tusks physically or consult report from other concerned parties.

Under the current system applications for whole tusk registration are examined only on paper (Ordinance Article 11.1). The institute appointed for this task (JWRC) is not authorized by law to conduct physical inspection of whole tusks or to request report from other parties concerned.

Therefore, even in case when it is found difficult to confirm identification of the whole tusks with photos attached to the application form, there is no legal procedure to physically confirm the actual tusks. It is also not possible, under the current law, to consult the person who claims to have transferred the ivory to the applicant before the CITES application.

Under such circumstances, it can be easily concluded that applications for ivory registration are not being examined in any strict manner.

III-2-2 Loopholes of the ivory business registration system

II-2-2-1 Minimum conditions for the system to be meaningful against ivory smuggling

The ivory business registration system is to identify dealers involved in transaction of ivory and the quantity of ivory in their stock, in the hope of tracing the changes in quantity of ivory stock and transactions between registered dealers.

In order for this system to be meaningful and effective in any practical way to eliminate the flow of smuggled ivory out of the domestic market, at least the following three conditions need to be imposed:

- 1) It should be made mandatory for all ivory dealers in the country to be registered.
- 2) It should be made possible to trace all cut pieces that registered dealers obtained legally throughout the process of transaction and consumption (i.e. from the manufacturing to the level of retail to consumers).
- 3) Registered dealers should be prohibited to conduct any transaction of cut pieces and other ivory products clarifying their source or transaction process since import.

If any of the above three conditions are not fulfilled, it is impossible to eliminate smuggled ivory from the legal flow in the market of cut pieces and ivory products made from them. However, in reality none of the above three conditions is imposed satisfactorily under the current law. Following are the detailed reasons.

II-2-2-2 The current ivory business registration system does not target dealers of ivory products other than hankos (lack of the above condition 1).

The current system is targeted only to dealers of cut pieces and ivory hankos. In other words, those dealing in processed ivory products other than hankos are outside this system and not obliged to register.

In reality, a variety of ivory products other than hankos are also manufactured and sold in Japan (see Sections I-3-1 and I-4-1). Moreover, at least some of the ivory traded to Japan in the one-off experimental import in 1999 is possibly used for manufacturing accessories (see Section I-3-2).

Therefore, it can be said that the current system of ivory business registration leaves out a significant portion of the ivory trade business in Japan.

II-2-2-3 Under the current system it is impossible to trace the process of self-consumption of whole tusks which may be cut and processed by registered dealers themselves (lack of the above condition 2).

Under the current system registered dealers are obliged to keep record in a ledger when they ‘transfer’ or ‘acquire’ ivory cut pieces. However, if they cut up the whole tusks in their possession, this production of cut pieces is not treated as ‘transaction.’ As a result, the production process is not obliged to be recorded in a ledger. Accordingly, it is impossible to trace the process of manufacturing and marketing of the ivory that registered dealers obtained by cutting up their originally owned whole tusks.

II-2-2-4 It is not possible to prevent cut pieces, of which legitimacy of import cannot be proven, from legally getting into the ivory stockpile of registered dealers (lack of the above condition 3).

II-2-2-4-1 When registered dealers cut up whole tusks in their possession and transfer the cut pieces to other registered dealers:

Under the current system, the information required to be recorded regarding source of cut pieces is the name and address of the person from whom the registered dealer obtained the ivory, and from where this person had received the ivory from (LCES Article 33-3.2, Ministry Ordinance Article 2.1). That is, any information (registration numbers) to identify original whole tusks from which the cut pieces were obtained is not required to be kept in record.

Therefore, without clarifying their source of transaction process since import, cut pieces from whole tusks can get mixed up with the stock of other cut pieces already legalized at the time of registration.

II-2-2-4-2 When non-dealers cut up whole tusks in their possession (mainly polished ornamental tusks) and transfer the cut pieces to registered dealers:

Under the current system, there is no regulation for transaction of cut pieces from non-dealers or non-registered dealers to registered dealers. As a result, registered dealers can legally obtain cut pieces originated from unregistered whole tusks only by recording the name and address of the person from whom he/she obtained the ivory and where this person had received the ivory from (retailers in most of cases).

Therefore, it is possible for cut pieces of whole tusks, of which the source or transaction process since import has never been examined, to mix with the stock of other already legalized cut pieces and join the market flow. Even if smuggled cut pieces are mixed in, it is impossible to distinguish those legal and illegal.

II-2-2-5 Since the management system of cut piece stock and that of ivory hanko stock are not well linked to each other, ivory hankos of unknown source can mix up with already legalized cut pieces and join the legal market flow (lack of the above condition 3).

Under the current system ivory hanko manufacturers are supposed to keep both a ledger for cut pieces transaction and another one for ivory hanko transaction. In the ledger for cut pieces, 'the amount traded (manufactured)' is noted in weight, while in that for ivory hankos it is noted in number (Ministry Ordinance Article 2). That is, the management system of cut pieces stock does not correlate with that of ivory hanko stock well.

This inconsistency of the management system makes it easy to manipulate the information in ledgers to include ivory hankos of dubious source into the registered quantity of stockpile. If the amount to be added to the stockpile is too large, it could be mixed little by little during the course of several transactions. Thus, ivory hankos of unknown source can manipulatively be legalized and marketed.

III-2-3 Loophole in the ivory product certification system

III-2-3-1 The ivory product certification system does not illegalize and ban non-certified products, thus it

does not serve to eliminate smuggled ivory goods

Under the current system, it is up to manufacturers themselves whether to have their products certified or not. That is, even if the products are not certified, they are not outlawed and can be traded legally.

As a result, in reality non-certified ivory products are widely available in the legal market (JWCS, 2000). Ivory parts of traditional musical instruments are traded with no certificate at all in recent years (see I-4-2).

Regarding this certificate system, the Environment Agency (currently the Ministry of the Environment) expected that “by putting the certification label on ivory products, consumers are given a choice to be certain about their propriety and this would lead to elimination of illegal products” (ME, 1995). However, unless non-certified products are prohibited outright, there is no rational reason for consumers to select certified products only.

Therefore, the current ivory product certification system does not have a function to prevent smuggled goods from being mixed in the legal domestic market of ivory products.

III-2-3-2 The certification procedure cannot confirm the legality of the raw materials from which the products to be certified are made, thus even smuggled ivory products can be certified easily.

Under the current system the appointed institute (JWRC), while examining their applications for product certification, is not authorized to consult any information other than application forms and photos of ivory products submitted by applicants (see Note III-E). The appointed institute is also not authorized to check Management Cards nor to inspect the trade ledger of applying dealers.

For these reasons, it is evident that the current certification system cannot eliminate smuggled ivory. Moreover, it could even help launder smuggled ivory products by legalizing them with wrongly issued certificates.

Note III-E

The appointed institute for ivory product certification (JWRC) has introduced a specialized database to confirm whether hankos for which certificates are requested can be produced from the ivory which is claimed to have been the raw material of these hankos. More specifically, certificates are issued if the total weight of the to-be-certified hankos is confirmed to be within 60% of the weight of the raw material (ME, METI, 1999).

However, the weight ratio of raw materials and processed hankos varies depending on the size of cut pieces or original tusks. The smaller the raw material is, the less percentage of it can be used to process hankos and the more waste is produced (Martine 1985). The above checking method of JWRC ignores this point and thus its accuracy cannot be counted upon.

III-3 The implementation and enforcement reality of the ivory business registration system – the ability and willingness of the Japanese government and the ivory industry to implement and enforce the domestic trade control of ivory

III-3-1 Why do we question the enforcement and implementation of the current domestic trade control?

It has been made clear already that the current domestic trade control of ivory in Japan has significant deficiencies at the level of law itself in terms of the practical function to eliminate smuggled ivory from the legal domestic market. Therefore, at this stage it is still not so important to discuss whether such control is properly implemented and enforced or not. However, in order to examine the ability and willingness of the Japanese government and the ivory industry to implement and enforce the trade control, it is necessary to look at the current situation of implementation and enforcement.

In the following section the implementation and enforcement reality of one of the three pillars of the domestic trade control, the ivory business registration system, is examined and evaluated.

To focus on the essential obligation of dealers, and also due to the availability of relevant official statistics, the following four aspects are examined:

- a. Level of obligatory business registration by ivory hanko retailers;
- b. Level of carrying out obligatory submission of ivory hanko transaction ledgers by registered dealers (manufacturers, wholesalers and retailers);
- c. Level of recording in ledgers on ivory cut pieces; and
- d. Level of supervision regarding disposal of the remaining ivory stock when registered dealers walk out of their business.

III-3-2 Level of obligatory business registration by ivory hanko retailers

III-3-2-1 Purpose of the survey

LCES obliges all dealers dealing in ivory hankos to register their businesses with the authorities, and there is a penal clause for those who conduct ivory business without registration (see Section III-1-2). In this section, the current level of fulfillment of this registration rule among ivory hanko retailers is surveyed for analysis.

III-3-2-2 Methodology

The information on registration of ivory hanko retailers in Tokyo was provided by METI in September 2002.

JWCS searched hanko dealers in Tokyo (23 wards in Tokyo) through the internet version of the Town Page ('Town Page-listed dealers' hereafter), and, referring to the above information from METI, picked up dealers who have not registered their businesses as required by the law. (Those who registered their businesses as 'ivory manufacturer' or 'ivory wholesaler' (as opposed to 'ivory hanko retailer') were here considered registered.)

JWCS then conducted a phone survey to those hanko dealers who apparently have not registered their businesses as

‘ivory hanko dealer’ whether they actually dealt in ivory hankos.

III-3-2-3 Results and discussion

	Registration status of hankos retailers			Status of ivory hanko sale by unregistered hanko retailers		
	Number of the hanko retailer listed in the town page	Registered hanko retailers	Unregistered hanko retailers	Unregistered hanko retailers (randomly selected)	Ivory hanko sale	
					Yes	No
No.	1,072	650	422	218	189	29
(%)	-	60.6% (650/1,072)	39.4% (422/1,072)	-	86.7% (189/218)	13.3% (29/218)

Table III-1 shows the survey result.

Table III-1 shows that among 1,072 Town Page-listed dealers, 650 have registered themselves as ‘ivory hanko dealer’, and the rest 422 dealers are unregistered.

Among the 422 unregistered dealers, randomly selected 218 dealers were contacted by phone. Of them, as many as 189 dealers (86.7%) were found dealing in ivory hankos (including sales upon order).

Ivory hankos are widely on sale not only at specialized hanko shops that were searched through the internet Town Page this time, but also they are available from stationery stores and mail order companies. The level of registration of stationery stores and mail order companies is thought to be much lower. The above survey targeted only specialized hanko shops in Tokyo area, but if those non-specialized businesses were also counted, the ratio of those dealing in ivory hanko without registration against registered ones would go up much higher.

III-3-3 The level of fulfillment of the ledger submission duty by registered ivory hanko dealers (manufacturers, wholesalers and retailers)

III-3-3-1 Purpose of the survey

The Ministers of the Environment and of Economy, Industry and Trade are entitled to request registered ivory dealers to report on their businesses at any time in the form of ledger submission etc. (see Section III-1-2). In this section the level of fulfillment of the ledger keeping / submission duty by dealers is studied.

III-3-3-2 Methodology

The data were provided by METI on the number of registered dealers from whom the Ministry has requested submission of their ledgers (on cut pieces and ivory hankos) and those who complied with the request (as of August 2002). As for ivory hanko retailers, prefecture-wise data were also provided by METI.

III-3-3-3 Results and discussion

Table III-2 shows the number of registered dealers who were requested to submit their ledgers and those who

complied with the request.

Table III-2 Number of registered dealers requested to submit their ledgers, and of those complied

	Ledger	Number of transaction ledger	Number of submission of the transaction ledger	Submission rate
Manufacturer	Cut pieces	223	169	75.8%
	Hankos	50	41	82.0%
Whole sellers of hankos	Hankos	362	240	66.3%
Retail sellers of hankos	Hankos	10,263	7,252	70.7%

Table III-2 shows that for the two types of ledgers (on cut pieces and ivory hankos), respectively 34% and 18% of registered dealers neglected their duty to submit their ledgers.

According to the prefecture-wise data on ivory hanko retailers, while the nationwide submission rate was 70.7%, in Shimane and Yamaguchi Prefectures it was 100%. On the other hand, it was below 60% in Iwate (39 out of 65, 60.0%), Aichi (582/951, 59.1%), Oita (59/99, 59.6%) Prefectures, and the lowest rate of compliance was 29.6% in Okinawa (77/260).

As discussed above, there is a penal close for those who do not comply with the submission duty, but till date METI has never charged any dealer with the incompliance.

III-3-4 Level of fulfillment of the ledger keeping duty on cut pieces by registered dealers

III-3-4-1 Purpose of the survey

The purpose of this survey was to understand the level of actual compliance of the ledger keeping duty by dealers (manufacturers) who deal in cut pieces.

III-3-4-2 Methodology

The information on the ledgers (on cut pieces and ivory hankos) submitted by manufacturers (of registered ivory dealers) as of July 2001 was provided by METI.

However, most of the information (date of transaction, trade counterpart (buyer or seller), quantity traded, remaining stock etc.) was not made open to the public for the reasons being “private information is contained” or “some of the information might adversely affect the competitive businesses or other granted interests of the dealers.”

III-3-4-3 Results and discussion

Although the available information was quite limited, still the following problems were found evident:

- Several ivory hanko ledgers contained information only on the quantity of ivory added to or taken out from the stock, or even only on daily sales turnout. The dealers who kept their ledgers in this way apparently did not understand the meaning of the ledger keeping duty at all.
- Some dealers neglected recording the source of newly acquired ivory (i.e. name and address of the person from whom the ivory was obtained) while it is required to do so if the transferred ivory was not accompanied by a Management Card.
- Some dealers neglected describing the characteristics of the ivory transferred.
- Despite the fact that different information is required for cut pieces and ivory hanko ledgers, some dealers mixed up the two different formats and used wrong ones.

III-3-5 Monitoring of disposal of ivory stocks at the closure of registered ivory businesses

III-3-5-1 Purpose of the survey

When registered dealers close down their ivory businesses, they are obliged to report to ME and METI within 30 days of the closure (LCES Article 33-5, 33-3). In such cases, there is a problem as to how the ivory stock from the closed business should be treated. In this section it is studied how METI monitors and deals with such left over ivory stocks.

III-3-5-2 Methodology

The information on ‘reports of closed ivory businesses’ was provided by METI in June 2002. However, the information on the quantity of stockpile at the time of closure was not made open to public, for the reason being “this information might adversely affect the competitive businesses or other granted interests of the dealers.”

III-3-5-3 Results and discussion

By the end of 2001, 15 reports of ivory business closure were submitted.

Among them, five reports were accepted even without such information as the date of closure and the means of disposing of remaining ivory stock. One of them, in which the remaining stock quantity was legible, showed that at the time of closure the dealer had as much as 115.57kg of ivory left in stock.

According to a METI official in charge of the ivory trade business registration issues, the Ministry requests dealers who plan to close their businesses to transfer (sell or give away) their leftover ivory to other dealers or to discard it somehow. Also, he claimed that, if a closure report does not say how the remaining ivory is treated, the Ministry checks with the dealer by phone. However, it is never confirmed whether the ivory is actually disposed of in the way it is claimed in their report or by phone.

Such loose monitoring system by the government over the remaining ivory stock of closing businesses may allow unregistered dealers to obtain ivory, thus making it possible for them to start ivory business against the regulation (see Section III-1-2).

III-3-6 Discussion

Involvement of the ivory associations in the enforcement / implementation of the domestic ivory trade control, and its problems

III-3-6-1 Law enforcement in heavy reliance on the leadership and honesty of the ivory associations

The ivory associations in Tokyo and Osaka (see Section I-1-1) have had considerable influence over the current domestic ivory trade control (whole tusk registration system, ivory business registration system and ivory product certification system) and its implementation.

In 1995 when the ivory business registration system for cut pieces and ivory product certification system were started based on LCES, manufacturers registered their whole tusks and reported the quantities of cut pieces and ivory products in stock to the government. Application for registration and reports were accepted for such ivory which had been in possession of manufacturers since before the implementation of the law, as long as it was owned based on 'legitimate authorization' (see Note III-F). The 'legitimate authorization' here should be interpreted as having acquired without violating the CITES regulations, that is, before the CITES application was enforced. However, then the Ministry of International Trade and Industry (MITI, currently METI) allowed, under certain condition, registration of ivory even in such cases when there was no documentation like import invoices to prove the legitimacy of its import, when the person from whom the ivory had been acquired was unknown. The 'certain condition' was to apply for registration within the first six month of the registration system, with a brief note issued by either of the two ivory associations in Tokyo and Osaka, which read: "We confirm that the date of acquisition of the ivory as declared by this applicant is correct" (MITI briefing document, 1995). This shows how heavily dependent the domestic ivory trade control is on the leadership of the ivory associations within the ivory industry, and on their honesty.

Note III-F

Regarding registration of whole tusks, please refer to Enforcement Ordinance Article 2. Regarding cut pieces for which Management Cards can be attached, refer to Ministry Ordinance Article 6.2. Regarding ivory products for which certificates can be obtained, refer to Ministry Ordinance Article 8.2.

III-3-6-2 Danger of the heavy reliance on the leadership and honesty of the ivory associations

As discussed above (see Sections III-3-2, 3, 4, and 5), the implementation and enforcement reality of the ivory business registration system is seriously problematic. The problems are summed up below.

Firstly, the registration of ivory businesses, which should be the very basis of the whole system, is highly incomplete. The fact that in the capital Tokyo over 80% of unregistered hanko retailers (40% of all hanko retailers) are openly dealing in ivory hankos, is shocking. If this is the case in Tokyo where the management authorities as well as the headquarters of the relevant industry associations are based, it is quite possible that in other prefectures the situation is much direr.

Secondly, submission of ledgers, which should provide key information for the management by the authorities, is not done to a satisfactory extent. There are also deficiencies in the way the ledgers are kept by dealers.

Thirdly, there is no proper monitoring and management system to deal with remaining ivory stocks of registered dealers who close their businesses.

Fourth, the management authority of the whole trade control system, METI, has not even once exercised its given authority to order suspension of business or to raise criminal charges against neglect of duties by dealers.

It is clear that the willingness and ability on the dealers' side to comply with the rules and regulations of the system are quite low, and so are the intention and ability of the management authority METI to properly run the control system. Also, it can be said that as far as the implementation of the domestic trade control is concerned, leadership of the ivory associations within the entire industry is very weak.

Moreover, the ivory smuggling case exposed in April 2000 in which a board member of the ivory association in Tokyo was involved proved how unreliable the leadership and honesty of the ivory associations are (see Section II-3-1).

This association board member was one of the buyers of the ivory traded to Japan in the experimental import from southern African countries in 1999. It is known that some six months after this import, he was contacting a broker in Hong Kong regarding smuggling of 500kg hard ivory. That is, while the tusks for the experimental import were on their way thoroughly checked, packed and transported under the guidance of the CITES Secretariat, he was preparing another lot of ivory to be brought into Japan through a smuggling route.

This smuggling case revealed the reality that, despite their seeming cooperative attitude, the ivory associations were willing to secure ivory through the double routes – i.e. not only by the legalized official import, but also by smuggling.

Therefore, the ivory associations in Japan are not in a position to lead the whole ivory industry, and their honest approach to the law enforcement can be hardly counted upon. It is a highly worrying situation that the current domestic trade control of ivory is heavily dependent on the ivory industries. Unless this situation is improved significantly, any proper and strict implementation and enforcement of the law and the system can never be expected.

III-4 Conclusion

This chapter thus explains the drawbacks, which include the loopholes of the whole tusk registration system and that it doesn't target all the whole tusks, making it less effective in eliminating smuggled ivory. One of the prime drawbacks of whole tusk registration system is , it doesn't require any proof of documents with guaranteed legitimacy for the registration process and thereby increasing the chances of legalizing illegal ivory. Another major loophole in the law concerning ivory business registration system is that, wholesalers and retailers of ivory products (except hankos) are not covered by the ivory business registration system and thus it is extremely difficult to find out the exact amount of ivory produced and consumed (manufacturers – retailers - consumers). And also, it is possible for registered dealers to obtain cut pieces without clarifying the import source, enabling illegal ivory to

get into the legal market. The ivory product certification system does not have any legal right to expel smuggled ivory products due to the very reason that the products without certification are not outlawed. Moreover, due to the same loophole as in the whole tusk registration system (lack of need to submit strong proof documents), legalizing of the smuggled products can be easily done.

Regarding implementation and enforcement of the ivory business registration system, only few follow it, and submission of trade ledgers are not done properly.

It can be concluded from the above analysis that, effectiveness of the law in handling smuggled ivory is weak and hence, strict measures are to be introduced to control the illegal ivory trade.

Chapter IV

Conclusion and Recommendations

“Can the domestic trade control system in Japan serve as an effective preventive measure against the illegal trade in black market, once the ‘limited’ trade in ivory is resumed?”

As mentioned in chapter 1, the potential risks of mixing smuggled ivory in legal trade triggered by the situation in the domestic ivory market in Japan are as follows;

- In Japan, a large amount of raw materials and various products of ivory are legally marketed and this based on the survey conducted and official records of the government.
- The actual quantities of annual consumption of raw ivory and production of ivory products cannot be determined through the official statistics.
- And the fact that, there exists an unknown amount of non registered whole tusks in the possession of non-business private owners, and its potential to add to the legal market once sold, makes it extremely difficult to determine the actual amount of ivory stock in the market.

In conclusion, the study indicates that the potential of getting the smuggled ivory legalised is very high and this would definitely continue until there is some stringent measure in Ivory trade management to curtail its flow into the legal market.

In Chapter 2, potential risk of ivory smuggling into Japan is discussed. The major points are;

- The series of ivory smuggling cases exposed in Japan include the shocking reality of a major manufacturer being involved in illegal import of raw ivory, and also, one in which a large quantity of blank ivory hankos were plotted to enter into Japan’s legal hanko market.
- The entry ports and trade routes from where illegal ivory is destined to reach Japan are still active and there still exists stockpiles of ivory available for export.
- There are brokers specialised in ivory smuggling both inside and outside the country, and the Japanese ivory industry, in collaboration with such brokers, gets supplies of smuggled ivory from international black market.
- The southern African ivory for which the limited trade resumption is being discussed does not satisfy the demand of Japanese ivory industry in terms of quality and prices. Therefore, it is highly improbable that its reliance upon smuggled ivory would be terminated with the limited resumption.
- As a result of the high demand for Ivory and relatively weak customs checking, the risk of allowing smuggled ivory into the country is quite high.

Chapter 3 describes about the effectiveness of the law in controlling domestic trade of Ivory. The major points to be noted are as follows;

- The ‘whole tusk’ registration system does not target all the ‘whole tusks’ existing in Japan. The loophole in the registration system, that it does not require proof of documents with guaranteed legitimacy, increases the potential for legalising smuggled ivory.
- The purpose of ivory business registration is to track the changes in quantity of reported stalk of ivory and the

transactions made between registered dealers. However, wholesalers and retailers of ivory products (except hankos) are not covered by this registration system. Also, with the current system it is impossible to track down the entire process of production and consumption (from manufacturing up to retail to consumers) of ivory cut pieces. It is not prohibited for registered dealers to obtain cut pieces or finished products without clarifying the source since import. Therefore, the system is extremely faulty and can hardly fulfil its objective.

- The ivory product certification system does not have any legal right to expel smuggled ivory products due to the very reason that the product without certification is not outlawed. Moreover, due to the same loophole as in the whole tusk registration system (lack of need to submit strong proof documents), it can easily legalise non-legal products processed from smuggled raw ivory.
- As for the implementation and enforcement of the ivory business registration system, only a few dealers follow it, and submission of trade ledgers, which is the basis of the whole system, is not done properly as obliged to the registered dealers. Despite these problems, the management authorities have never taken any authorised actions such as ordering business suspension or applying for criminal charges.
- One of the reasons behind this reality is that, meaningful enforcement of the domestic trade control system is heavily dependent on the leadership and trust of the ivory associations in the entire industry. Any strict implementation and enforcement of the system cannot be expected at all in the present situation.

Considering these points it can be concluded that the domestic control system of ivory trade in Japan is almost helpless. As a preventive measure, the 'limited' international legal trade should not be allowed.

It is nothing but a mere illusion that the legal ivory market in Japan remains 'white' under some proper management authorities. The colour it assumes today is still thick 'grey', being fed with the constant 'black' flows of ivory from the ever-active illicit market.

It is strongly recommended that, irrespective of whether the limited trade would be resumed or not, the government of Japan should take immediate actions to amend the LCES and its bylaws. The enforcement measures should be improved and reinforced based on this amended law, in order to fill in the loopholes clearly pointed out in this report.

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Black and Grey

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