

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA

Forty-ninth meeting of the Standing Committee
Geneva (Switzerland), 22-25 April 2003

Interpretation and implementation of the Convention

Elephants

COMMENTS ON IFAW'S REPORT "DEFINING AND IMPLEMENTING CONDITIONS FOR THE
PROPOSED SALES OF IVORY FROM BOTSWANA, NAMIBIA AND SOUTH AFRICA AS
APPROVED BY COP XII OF CITES"

This document has been prepared by Japan.

General

During the 49th meeting of the Standing Committee (Geneva, April 2003), the International Fund for animal Welfare (IFAW) distributed a document entitled "Defining and implementing conditions for the proposed sales of ivory from Botswana, Namibia and South Africa as approved by CoP XII of CITES". The perusal of the document brought us to the conclusion that the IFAW's document was designed to prevent any future trade in ivories even though CoP 12 approved a further one-off trade in ivories from Botswana, Namibia and South Africa. This is so in particular considering the fact that IFAW has long been known as totally opposed to any wildlife trade whether sustainable or not. IFAW explicitly mentions on page 4 of its document that "IFAW ... therefore opposes the proposed sale".

At CoP 7 (Lausanne, 1989), the African elephant was transferred from Appendix II to Appendix I but with clear understanding that some populations do not meet Appendix I listing criteria. Therefore, a Resolution Conf. 7.9 was adopted as a mechanism to allow these countries to trade in ivories after a Panel of Experts investigate the management aspects of African elephants in these countries. Subsequently, southern African countries submitted a proposal at CoP 8 (Kyoto, 1992) to downlist their elephant populations from Appendix I to Appendix II. The report of the Panel of Experts was favourable to these countries but the CoP did not approve the proposals.

If IFAW's recommendations are fully accepted, it seems impossible for any ivory trade to take place in future. IFAW put many new conditions and this is a repetition of the situation faced at CoP 7 and CoP 8.

CITES is a treaty dealing with "international" trade in certain wildlife species. Under the text of the Convention, importing countries are only required to implement border controls. Nevertheless, Japan enacted a new law in 1987 on the regulation of internal transfer of certain CITES-listed species in order to complement the CITES national legislation required under the text of the Convention. The 1987 law was incorporated into the subsequent 1992 law. Japan is one of the very few countries which have such internal control systems, thus demonstrating its firm commitment to CITES implementation.

In addition, Japan is the only importing country that was verified by the Secretariat and approved by the Standing Committee as having an adequate ivory control system. It is true that there was a seizure of illegal ivories destined for Japan in 2002. It is also true that ivories were seized in Japan in 2000 and a Japanese was arrested. Critics say that these are examples to show Japan's system is inadequate. On the contrary, however, we are of the opinion that these cases are good examples to show that CITES system does function.

Our delegation wonders why only the trade in the specimens from African elephants requires extremely strict controls. If the same level of controls is required for other CITES specimens, no country could import any CITES specimens. One could argue that the African elephant is a special case where some populations were downlisted (created the situation of split-listings) and the products are very luxurious, thus requiring a strict control. There is a very similar case to that of the African elephant. Some populations of crocodile species were transferred from Appendix I to Appendix II. Crocodile products are very luxurious too. Nonetheless, the Conference of the Parties has not put any condition other than the universal tagging system, which have been proved to be sufficient to close down illegal activities.

It should also be pointed out that the IFAW's document was prepared mainly based on a joint publication distributed by Japan Wildlife Conservation Society (JWCS) and IFAW at CoP 12 (JWCS/IFAW 2002). Many of the allegations made in the publication have not been proved. Therefore, the IFAW's document is not appropriate to be used as a base of further deliberation of this issue.

Specific comments

The following are the comments made against the descriptions related to Japan. Other comments will be made orally if necessary. (note: The pages in parentheses are identical to those in the IFAW's document.)

a) Preventing re-export (page 14, 15)

Based on the number of the seizures at the Customs, IFAW says that it "provides an indicator of whether it could or would prevent illegal re-export". IFAW failed to recognize that most of the seizures are for souvenir items which are brought into Japan by tourists. At the Customs, tourists with ivory products are asked to waiver their ownership. IFAW referred to the two cases, i.e., incidences which took place in April 2000 in Japan and in June 2002 in Singapore. Only referring to the two cases gives the impression that all other cases are also large-scale illegal activities. IFAW mentions that a board member of the Tokyo Ivory Arts and Crafts Association was involved in the former case. It should be pointed out that he was arrested anyway, thus demonstrating the effectiveness of Japan's implementation and enforcement of CITES. In relation to the latter incidence, IFAW mentions that "to date Japan has not conducted an investigation, demonstrating its lack of political will to crack down on illegal trade". This is not true. The Police Office of Kanagawa Prefecture investigated this case and the Management Authority and the Police informed the CITES Secretariat and ICPO respectively. As far as preventing re-export is concerned, the mere existence of smuggling into Japan does not mean that many ivory products are smuggled out of Japan. There may be some cases where ivory products are bought by foreign tourists in Japan and brought back to their home countries undetected. Re-export of ivories from Japan is illegal but it is difficult to prevent every illegal activity by Japan alone. Japan would like to ask for co-operation of these countries. This is the reason why CITES was invented and more than 160 countries are Parties to CITES. As such, the conclusion made by IFAW is so irrelevant that it is unacceptable.

b) Registration of businesses (page 15)

IFAW says that "wholesalers and retailers trading in ivory products other than hankos are not required to register their businesses". Most of the ivory products are ivory name seals "hankos". In terms of the volume, other ivory products such as "netsuke" and "shamisen" are negligible. There is little chance to be used as a loophole, enough to prevent the system to be abused. The IFAW's document refers to the report published jointly by JWCS and IFAW and distributed during CoP 12, which contains many unsubstantiated allegations. Based on that document, IFAW concluded that "Japan has failed to enforce the registration system as it exists for ivory hanko retailers". Contrary to the IFAW's conclusion, the Government of Japan has actually investigated hanko retailers. It should be noted that there are the 10,500 retailers that were registered with the Government. As far as non-registered ivory retailers are concerned, selling ivory hankos is illegal. We are strengthening our effort to investigate the non-registered ivory hanko retailers. But such investigations may not be 100% perfect and as such, we need more co-operation from other organizations including NGOs. We are concerned that some NGOs are not co-operative. In this connection, the Government of Japan asked Japan Wildlife Conservation Society (JWCS) to provide the information owned by them. As of today, the Government has not received any information related to the allegation made in the publication produced by JWCS and IFAW. In this way, since the fact is contrary to the IFAW's description, Japan objects to the conclusion of IFAW.

d) Trade controls for raw and worked ivory (pages 15, 16)

Firstly, IFAW referred to several weaknesses in Japan's domestic ivory trade control system. On the contrary, the system to control ivory trade by the Government of Japan is one of the most strict and careful in the world, which has already verified by the CITES in the past. Japan would like to stress that we had studied the complexity of ivory business communities and based on that study, Japan introduced the current regulations. If regulations are to work, such regulations must be practical when they are enacted. It means that if the system is not practical, it does not work and our conservation objectives will not be achieved. Japan's existing regulations are the product of deliberations after taking into consideration Japan's social system, business custom, structure of ivory business communities and other relevant legislation. Secondly, in the weaknesses mentioned by IFAW, there are several points which are different from the fact. For example, IFAW says that there is no marking system for registered ivory. But, there is a marking system for registered ivories. Although IFAW mentioned that "it is impossible to get a clear picture of the total stock of ivory in the market place", this is not correct in the case of Japan. Thirdly, even though there are some cases caused from violation of the related laws and rules in Japan, we do not consider that they are weaknesses. These can be remedied case-by-case enforcement of the related laws and rules, and Japan continues making every possible effort to strengthen its capacity.

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