

THE JAPANESE SWORD LAW  
&  
EXPORT / IMPORT OF SWORDS FROM / INTO JAPAN

by  
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APPLICATION OF THE SWORD LAW AND RELATED TOPICS

In order to legally own a sword in Japan it has to be registered in accordance with the Ju-tô-hô 銃刀法 (Japanese Firearms and Sword Law). This applies to both antique and newly made swords (Shinsakutô 新作刀). Exempted are blades under 15 cm (5.9 inches), and Iaitô / Mogitô (training and decorative swords made from a zinc-aluminum alloy that can't be sharpened). Presently about 2.3 million swords are registered in Japan.

The certificate / license issued - Juhô-tôken-rui-tôrokushô 銃砲刀剣類登録証 (in short "Tôrokushô" 登録証) - has to stay with the sword at all times. Most collectors attach it to the Shirasaya-bukoro or Koshirae-bukoro (storage bags). It's the blade that is registered, not the owner; however, the Prefectural Education Board (Kyôiku-inkai 教育委員会) has to be notified within 20 days if there is a change of ownership, using the Shoyûsha-henkô-todokesho 所有者変更届書 form.

Licensing is done by the Education Board at a Tôroku-shinsa-kaijô 登録審査会場 (sword evaluation meeting), which usually takes place once a month. The judges conducting the Shinsa are sword experts contracted by the Education Board, usually senior members of the local NBTHK branch (Nippon Bijutsu Tôken Hozon Kyôkai 日本美術刀剣保存協会 = Society for the preservation of the Japanese Art Sword).

If someone who lives in Japan finds an unregistered sword (which happens surprisingly often, for instance after the death of a family member who hid it after the war, or when an old house is torn down), the finder has to contact the crime-prevention section of the district police (Keisatsu-sho-bohan-ka 警察署防犯課). There a Hakken-todoke 発見届 is issued to enable the finder to attend the Tôroku-shinsa.

It should be noted that the Tôrokushô is *not* a certificate of authenticity; only the length, Sori, number of Mekugi-ana and the Mei (name inscribed) are stated, whether it's authentic (Shôshin 正真) or false (Gimei 偽銘).

Only traditionally made Nihontô can be licensed, i.e. swords made in Japan from Tamahagane 玉鋼 (and Shintô swords that are inscribed "Motte Namban-Tesu 以南蠻鐵" ["made using steel from the southern barbarians"]). This means in effect that it has to be either an antique, or made

by a contemporary, licensed smith. Mass produced WWII swords (so called Shôwatô 昭和刀) and foreign made swords are not eligible for Tôrokushô.

Contemporary smiths have to go through an apprenticeship of at least five years and - after they have proven their ability to forge a sword before a panel of judges consisting of senior smiths - become certified by the Cultural Agency (Bunka-chô 文化庁).

Nihontô can be freely imported into, and exported from Japan if all procedures are carried out according to the law. However, there is one notable exception:

In 1950 the Bunkazai-hogo-hô 文化財保護法 took effect, in which important artwork of exemplary artistic and historic significance can be designated as Jûyô-Bunkazai 重要文化財 ("important cultural property") and Kokuhô 国宝 ("national treasure"). At present ca. 900 swords are designated Jûyô-Bunkazai, and out of those 122 are Kokuhô. Although anybody - including non-Japanese - can own such an item, it has to remain in Japan under penalty of law. If such a sword is sold, the government reserves itself the right to buy it for "a fair market price". Only if this right is waved, a private person can buy it (which explains why such swords are usually sold at the end of the fiscal year).

Ranking below the Jûyô-Bunkazai are the Jûyô-Bijutsuhin 重要美術品 ("important art work"). This designation was issued between 1933 and 1950 for a total of 1,004 swords, and an export permit is usually granted. However, once a Jûyô-Bijutsuhin leaves Japan, it is stricken from the register and thus loses its status. Occasionally exceptions are made, but this involves a lot of paperwork and "connections".

#### EXPORTING SWORDS FROM JAPAN

Swords for export must be submitted to the Bunka-chô-bijutsu-kôgei-ka 文化庁美術工芸課 (Art and Craft Section of the Cultural Agency). The Tôrokushô is handed in, and an export permit (Kobijutsuhin-yushutsu-kansa-shômei 古美術品輸出鑑査証明) is issued in return. This export permit is valid for one month; within that time all customs and export procedures have to be completed or otherwise the permit becomes void.

With this permit it is possible to either send the sword via mail / private carrier abroad, or to personally carry it through customs when leaving Japan. Issuing of the export permit usually takes at least two weeks, so the latter is in most cases not practical for those who buy a sword while just visiting Japan. In this case the seller has to take care of the procedure.

In order to obtain an export permit, the following documents have to be send (or handed in) to the Cultural Agency: filled in form\*, original license, copy of license\*, photo of tang\*, photo of full blade\*, and a self-addressed, stamped envelope (\* = in duplicate).

If send by parcel, the sword and export permit has to be brought to the International Post Office (Kokusai Yûbinkyoku 国際郵便局). Customs checks the export permit against the sword (at least the Nakago has to be shown to the customs officer), and only then can the sword be packed while customs observes packing, sealing the parcel afterwards. Another form has to be filled in

by the sender, which is stamped by the carrier at shipping as proof thereof, and must be returned to customs immediately.

#### IMPORTING SWORDS INTO JAPAN

There are two possibilities: sending a sword to Japan via parcel, or bringing it into the country personally (in the latter case there's a limit of 3 swords per person).

If the sword is sent to Japan, the parcel has to include a pro-forma invoice declaring the value of the sword, and that it is being sent for restoration and will be returned to the sender upon completion of the work (otherwise import duties have to be paid by the consignee). The sword is then stored at the International Post Office, and a notification is sent to the recipient to attend licensing. This takes place once a month at the International Post Office; after the Tōrokushō is issued, the sword will be forwarded to the addressee (it can not be brought home directly after Shinsa).

When personally bringing a sword into Japan, it has to be declared at customs. Customs escorts the importer to the port police, which then will issue a temporary import permit (Hikiwatashi-sho 引渡書). The importer has to contact the Prefectural Education Board for proper licensing; if he lives in Japan it's that of his prefecture, otherwise the one at the prefecture of the restorer.

In Tōkyō Shinsa takes place at the Tōkyō Metropolitan Government Office (Tōkyō Tochō 東京都庁) in Shinjuku at the second Tuesday of every month. One fills out the registration form, takes a number, and waits for his turn to be called to one of the Shinsa tables. The inspection itself takes only a few minutes, and after establishing that the sword is eligible for licensing, the Tōrokushō is issued for a fee of ¥ 6,300.

Although most of the inspectors are nice guys, they tend to get sloppy towards the end of the Shinsa day. I've seen quite a few collectors being in a cold sweat, almost refusing to let them handle the sword, out of the fear that the inspectors might yet again scratch up one of their prized blades; once they lost the Mekugi of one of my swords; on another occasion they misread the Mei, and after I complained, another license was issued. Sure, the face-loss was theirs, but it was me who wasted another hour waiting for the outcome of their joint effort to explain to each other this perfectly innocent mistake, and the laminating of the new Tōrokushō.

If a sword is rejected at the Shinsa, the recipient (or owner if at that time in Japan) has to decide whether it will be sent back to where it came from, or handed over to the police for destruction. Swords brought to Japan personally that are held back already at the port police can be picked up again when leaving Japan.

#### CHOOSING A SHIPPING METHOD

Since Japan Post and EMS (a subsidiary of Japan Post) are located at the same building as customs in Tōkyō - the aforementioned International Post Office - the majority of those who send a sword abroad use them for shipping. It's convenient, and most private carriers are not familiar with exporting swords; I've heard quite a few horror stories about how UPS, FedEx, Nittsu etc. messed up the export of swords.

Equally, when sending swords to Japan, either the national postal service (e.g. USPS), or EMS should be used. In both cases the sword(s) arrive(s) at the Intl. Post Office. When using a private carrier, or sending a sword as unaccompanied air luggage, customs clearing has to be done at Narita, since Tôkyô's International Airport is located in Chiba prefecture. A pre-Shinsa takes place at the cargo section of the airport, and the sword has to be taken to the regular Shinsa in Tôkyô after that. Besides the time spent at pre-Shinsa (which usually is done by a very nice, elderly, high-ranking Iaidô teacher [about whom I'm not sure that he wants to see his name published]), driving to Narita and back takes at least 3 hours from downtown Tôkyô.

#### JAPANESE LAW ENFORCEMENT

*or*

"TOTO, I'VE A FEELING WE'RE NOT IN KANSAS ANYMORE"

The above is a summary of the laws and proceedings to the best of my knowledge, and based on my personal experience. It may sound very complicated and unnecessary to those who are used to much more liberal weapon laws, but it's the law in Japan, and we have to abide by it if buying swords there or sending them to, for instance, a polisher.

I have to warn everybody who entertains the notion of sending a blade to Japan without declaring the parcel's contents, or who wants to smuggle a sword into Japan personally. If you've visited Japan, you probably only came into contact with the police when inquiring at a Koban 交番 (police box) about an address, and they've been as nice as their limited command of the English language allowed.

But if police only suspects as much as you having violated the law, you're in for an unpleasant surprise. Technically speaking, if you are riding a bicycle, a policeman can stop you on the suspicion that you may have stolen it. Since there is no law of *habeas corpus* in Japan, the Japanese police can - and often do - keep people in rooms for weeks without charge, adequate food or even sleep until incriminating confessions are signed. Be it known that cops in this country have a lot of arbitrary power; they make their moves, and let the lawyers or Amnesty International sort it out later.

Possession of a sword or firearm - and be it only a smallish Tantô or a muzzle loader - without the proper registration isn't only a misdemeanor but a criminal offense, punishable by up to Yen 300,000 and / or up to three years imprisonment.

The harsher forms of interrogation and punishment are usually reserved for their fellow countrymen, and foreigners often get away with a slap on the wrist - in this case meaning being deported after incarceration with other criminals for at least several days (sometimes at a charge of ¥ 60,000 per day), without access to family, a consulate, or even a lawyer. Not to mentioned banishment from Japan for ten years. Well, at least that's what I heard from very reliable sources. Feel free to prove me wrong by trying to bring a sword into Japan without declaring it.

If you like to live dangerously, be my guest. But please don't make life difficult for the poor schmuck you're sending a sword to. I know a polisher who once was suspected of violating the Ju-tô-hô, and was interrogated by police for hours. Knowing he did nothing wrong, he somehow

rubbed them the wrong way, and although they were not able to charge him with any crime, he is checked upon by the police regularly ever since. They visit (or should I say raid?) his house at all odd hours, looking for unlicensed swords, and when he was fed up and complained, they "accidentally" slammed his head into a wall.

### URBAN LEGENDS

As scary as my stories about the police are, Japan is definitely not a lawless country. If you play by the rules, your sword is safe from harm. Yes, if a Japanese finds his grandfather's Guntô after he passes away, the police will destroy it (they break it into parts of less than 1 Shaku 尺 [30.3 cm or about one foot] each). It's considered a weapon - as opposed to a work of art - and residents of Japan are not allowed to own weapons (with a few exceptions like shotguns for hunting). But if you're not sure whether or not your star-stamped Gendaitô qualifies for licensing, don't be afraid that it'll be destroyed upon arrival in Japan. As explained above, it will be send back to the sender if mailed, or held at the airport police until you pick it up again on your way out of Japan.

Another popular story I hear often - even from Japanese collectors! - is the tale of the sword that was confiscated after being submitted for Shinsa because it turned out to be a national treasure. In one word: nonsense!

備考	銘文 (裏) 無 (表) 銘	目くぎ穴	反り	長さ	種別	刀 劍 類
		二 個	センチメートル	二六・四 センチメートル	短刀	
		口径	銃身長	全長	種別	銃
		センチメートル	センチメートル	センチメートル		砲

平成 平 成 四 年 拾 月 拾 参 日 交 付  
東京 都 教 育 委 員 会

銃砲刀剣類登録証  
登録記号番号 東京都第 2 [blacked out] 1 号

First of all, there are - technically speaking - no unknown or missing Kokuhô. In 1950 all former national treasures were re-assigned as Jûyô-Bunkazai, and had to be submitted again to regain their Kokuhô status. The designation of the 14 pre-war Kokuhô that were "lost" after WWII is therefore void. And even if one of those swords would surface now, it's perfectly legal to privately own a Jûyô-Bunkazai, the Japanese government doesn't simply snatch it from its rightful owner.

But be that all as it may, more than 60 years after the end of the war there's no evidence of a rediscovered (former) national treasure, and not a single case of a sword that was confiscated after it was send to Japan. I'm very sorry if I made the post-sword-show story-telling-time a little duller. But, as they used to say in the TV show DRAGNET: "Just the facts, Ma'm!"

*A Japanese sword license, the Juhô-Tôken-Rui-Tôrokushô (serial number partially blackened).*