

## **Defiant Japan Fights for Its Leather Industry: A WTO Saga and an Historic Taboo**

**Hisane MASAKI**

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By Hisane MASAKI

TOKYO - In defiance of mounting pressure to fully liberalize imports of foreign leather products, including footwear, Japan is digging in its heels to safeguard its internationally uncompetitive industry.

At first glance, the import restrictions may look like typical protectionist trade measures that can be seen elsewhere in the world. But lying beneath the surface of the current issue is the bitter legacy of a feudal hierarchy and an historical pattern of discrimination. Under the WTO, international pressure has grown for Japan to take drastic measures to further liberalize its imports of foreign leather products, as well as agricultural ones.

The World Trade Organization's ministerial meeting in Hong Kong in December made only modest progress towards the goal of expansion of free trade. Trade ministers from 149 countries failed to strike a deal on a framework for further liberalizing trade in goods and services. Instead they pledged to work out such a deal by the end of April in hopes of meeting the end-2006 target deadline.

When the current Doha round of WTO negotiations was launched in November 2001 at the WTO ministerial meeting in Doha, Katar, January 2005 was set as the target date for its conclusion. But the ministerial meeting, held in Cancun, Mexico in September 2003, collapsed due to sharp differences, and the target date was pushed back until the end of 2006. The target is based on the fact that the US president will lose his "fast-track" negotiating authority to ease Congressional passage for any trade deal through July 2007.

The biggest sticking point throughout the Doha round has been agriculture. WTO members

remain sharply split over the extent to which barriers to freer cross-border movement of farm produce, such as national subsidies for domestic farmers, export subsidies and high import tariffs, should be eliminated, especially in richer industrialized members. If this primarily reflects a North-South split, the question has also pitted industrialized WTO members, including the United States, the European Union and Japan, against each other.

Japan is on the defensive in the negotiations on agricultural trade liberalization. It is vehemently resisting a proposal supported by many WTO members for setting a ceiling on the import tariffs for farm products because it wants to keep those tariffs, especially for rice, as high as possible to shield weak and internationally uncompetitive domestic farmers from a flood of cheaper imports. For Japan, rice is the most politically sensitive item, and its growers are heavily protected by a whopping tariff of 490% slapped on imported rice. Moreover, the long-ruling Liberal Democratic Party has long relied disproportionately on the rural vote.

In the negotiations on market access for non-farm products, however, Japan is on the offensive. It is clamoring for a complete elimination of import tariffs in many areas where Japan has a competitive advantage, such as automobiles and consumer electronics.

But even here, there are a few exceptions. Japan is dead set against fully liberalizing imports of leather products, including leather footwear, as well as those of forestry and marine products, which are being dealt with in the WTO's negotiating group on non-agricultural market access.

In the previous Uruguay round of negotiations, which was concluded in late 1993, Japan agreed to lower import tariffs for mining and manufacturing goods to an average of 1.5%, the lowest level among major industrialized economies. Leather products were excluded from the sharp reductions.

### **Japan's tariff quota system**

Japan had maintained the import quota (IQ) system for foreign leather products until 1986, when the IQ system was replaced with the current tariff quota (TQ). A country with a TQ system imposes a quota on products that can be shipped into the country either tariff-free or with relatively low tariffs. Imports that exceed the quota face much higher - often prohibitively high - tariffs and, as a result, lose much of their competitiveness in the country's market.

In the case of the Japanese TQ system, leather products within the quotas can be imported into the lucrative market with relatively low tariff rates of 12 to 24%, but not tariff-free. Imports that

exceed the quotas are subject to a higher, flat tariff rate of 30%, except leather shoes.

In the case of the above-quota imports of leather shoes, Japan is entitled to apply the higher of the 30% ad valorem rate or 4,300 yen (US\$36) per pair. Among other leather products, the quota for dyed bull and horse leather is set at 1.466 million square meters and that for leather shoes at 12.019 million pairs for the current fiscal year ending in March.

In the face of international pressure, the Japanese government has cautiously but steadily eased its import restrictions, starting with the 1986 introduction of the current TQ system to replace the previous IQ system. The quotas have been increased gradually, and Japan has also met its Uruguay round agreements to lower the ad valorem ceiling rate by 50% and the alternative "per pair" or specific-rate ceiling by 10%. These market-opening measures have put many weak domestic tanners in dire straits.

Pressure for further liberalization is also growing outside the framework of WTO negotiations. Japan concluded its first free trade agreement, or FTA, with Singapore in 2002, and then struck its second FTA, with Mexico in 2004. In December last year Japan signed its third FTA, with Malaysia. Japan has also reached a basic agreement in FTA negotiations with Thailand and the Philippines, and is now negotiating FTAs

with South Korea, Indonesia and the 10-member Association of Southeast Asian Nations (ASEAN) as a whole. In the FTA negotiations with Mexico, Japan refused to fully liberalize imports of leather products, but made a major concession. Japan agreed to grant Mexican products greater market access by introducing a special and more preferable TQ separate from the already existing TQ system.

Under the special TQ system for Mexico, which was introduced last April, specified quantities of Mexican leather products, including footwear, can be imported tariff-free, and the quotas on such tariff-free imports will be increased by 20% annually over five years. In the case of leather footwear, for example, the zero-tariff quota has been set at 250,000 pairs for the starting fiscal year to March this year, compared with only 12,000 pairs imported from the Latin American country in calendar 2003.

Unlike the IQ system, the TQ system is permitted under WTO rules because it does not set a ceiling on the import volume itself. But with the Doha round entering its crucial stages, international pressure is intensifying for Japan to do away with import tariffs for leather products once and for all. While flatly rejecting the growing demand for a total elimination of import tariffs, some Japanese government officials acknowledge that the country may be forced to abolish the nearly 20-year-old TQ system or significantly lower the

still high tariff rates - for products both within and above the quotas - in return for many other WTO members dropping their demand for a complete elimination of tariffs.

### **Long-standing complaint**

To be sure, there are growing calls from many other WTO members, especially from poor, developing ones, for Japan, the world's second largest economy after the US, to fully liberalize its imports of leather products. But leather is also a long-standing irritant in Japan's trade relations with its two major industrialized trading partners - the 25-nation European Union and the US.

The leather trade row between Japan and the European Union first surfaced in late 1996, when the European Commission, the executive arm of the EU, began to press Japan publicly to increase imports from Europe by modifying the TQ system. The EU made the move, apparently at the prodding of such major leather-exporting union members as France, Italy and Spain.

At the heart of the trade spat was the existence of a confidential letter written by Tokyo several years earlier during the Uruguay round of negotiations. Brussels claimed that Tokyo had failed to follow through on its promise to increase leather imports by expanding the quotas.

Brussels claimed that Japan made the promise in exchange for Europe's agreement to drop its demand for sizable reductions in high Japanese import tariffs for leather products. Government sources confirmed the existence of the letter at the time, although they declined to make it clear whether Tokyo interpreted the document as a promise to increase imports or as merely expressing willingness to consider doing so. The letter, signed by the then deputy trade minister, Hatakeyama Noboru, has never been made public.

After its request for increased imports fell on deaf years, the EU took the case to the WTO in October 1998, insisting that Japanese government subsidies to domestic tanners, as well as what it viewed as Japan's opaque operation of the TQ system, were in violation of WTO rules. Several weeks later, Tokyo and Brussels held "bilateral consultations" for the first stage of WTO dispute-settlement procedures.

Under WTO dispute-settlement procedures, the complainant in a trade row can request the establishment of a neutral panel to adjudicate the case, within nine months in principle, if bilateral consultations fail to produce a settlement within 60 days of a complaint being filed. And the losing side can appeal the panel's ruling to the Appellate Body - the WTO's highest court - which hands down a final verdict, within 60 days.

The EU failed to extract any significant concessions from Japan through the bilateral consultations, but did not move to the next stage of dispute-settlement procedures by asking for the creation of a neutral dispute-settlement panel. When the EU filed the WTO complaint, some Japanese officials doubted from the outset that the EU was determined to fight an all-out legal battle with Japan at the WTO. They said at the time that the WTO filing might be no more than a bluff aimed at putting pressure on Tokyo to make concessions.

Seven years later, the EU is still grumbling about the Japanese TQ system. In its annual wide-ranging proposals for regulatory reform in Japan, released on October 27 last year, the EU said, "The EU concerns in the leather sector are related to undue restrictions under the Japanese quota system, especially in light of elimination of textile and clothing quotas in on January 1, 2005 under the WTO agreement."

While acknowledging that the Japanese TQ system is "formally in line with the current WTO rules", the EU said "It is clear that the spirit of liberalization would suggest, especially in an advanced industrialized country as Japan, that the ultimate aim is to dismantle such tariff quotas."

Noting that the 1998 bilateral consultations within the framework of the WTO's dispute-

settlement procedures did not lead to a satisfactory solution, the EU also claimed in the document that Japan indicated at that time that "all sectors would be on the table" in the current Doha round of negotiations "without any a priori exclusion". The EU also complained that Japan maintains tariff quotas on leather footwear "at extremely low levels not corresponding to the market potential".

The Office of the US Trade Representative (USTR) for many years has also harped on Japanese leather import restrictions. The USTR said in its 2005 National Trade Estimate Report on Foreign Trade Barriers, released on March 30 last year, that above-quota imports of footwear still face market access barriers. "US industry has expressed concern that the quota on leather footwear imports effectively bars US footwear manufacturers and US brands from the Japanese market, one of the largest consumer markets in the world," the report said.

### **Taboo behind the issue**

The question of whether to level the playing field between domestic and foreign makers of leather products is not a purely economic one. It is also a highly sensitive political and social question that involves burakumin, or hamlet people.

Even today burakumin, the descendants of Japan's former social outcasts, still face

widespread prejudice and discrimination despite being ethnically identical to other Japanese. Many burakumin earn their living by tanning leather, some of them still in secluded buraku - or hamlets - in various parts of the country, especially in Osaka and surrounding districts of western Japan.

Leather and leather goods manufacturing is a traditional leading industry in buraku. Manufacturers there are mostly minuscule in scale and financially weak, and the Japanese government has tried to keep them afloat with import restrictions as part of broader efforts to address the sensitive issue of socially disadvantaged people.

News about discrimination against Korean residents, Ainu people - indigenous inhabitants in the northernmost main Japanese island of Hokkaido - and Okinawans on the southernmost Japanese island of Okinawa have often grabbed headlines. But even talk of burakumin - another group of relentless segregated people - has traditionally been considered taboo in Japanese society - even in the major media. So Japanese trade diplomats seldom allude to the former untouchables publicly when they make their case against fully opening the domestic leather market to foreign competition in bilateral or global trade liberalization talks.

The oppression of the ancestors of the burakumin, who were branded eta (very filthy or

impure) or hinin (non-human), began during the Edo period (1603-1868), when the four social classes - samurai, farmers, craftsmen and merchants - were arbitrarily created. In addition to these four well-known classes, many other social classes actually existed, and eta or hinin people were at the bottom of the feudal hierarchy.

Numerous regulations rigidly governed the occupation, residence, marriage, style of dress and social behavior of burakumin, who were engaged in occupations thought to be unclean, including disposal of the dead, collecting garbage, butchering animals and tanning and crafting leather. The jobs of handling the flesh of four-legged animals, such as butchers and leather artisans, were considered to violate Buddhist strictures against killing. People who made their living as security guards and executioners were also shunned.



Utagawa Kuniyoshi's ukiyo-e shows Yayoi Oshichi on horseback brought for execution. Disposing of the dead was a burakumin occupation.

Official estimates put the current number of

hamlets where burakumin people are concentrated at 4,442 across the country and the number of burakumin at 1.2 million. But unofficial figures are much higher - 6,000 hamlets and 3 million burakumin, including people who live outside their hamlets.

The Great Hanshin Earthquake that hit Hyogo prefecture and surrounding areas, including Osaka, in the predawn hours of Jan.17, 1995, killed some 6,400 people – more than 80 percent of whom were crushed under collapsed buildings, and most of the remainder perished in blazes. Nagata-ku in the Hyogo prefecture capital of Kobe City was among the hardest hit by the deadliest temblor in post-World War II Japan. Many burakumin, as well as people from other Asian countries, especially Koreans and Vietnamese, live there.

“When I was a child, my grandmother warned me that if burakumin heard me talking about them, they would gouge my eyes out,” said a woman in her early 40s who was born and grew up in Matsuyama City, Ehime Prefecture, western Japan. The woman, who spoke anonymously, also recalled, “When we saw burakumin, we tipped each other a signal with a flash of four fingers indicating a four-legged creature.”

Another woman in her late 30s, a native of Hatano City, Kanagawa Prefecture, adjacent to

Tokyo, spoke about her experience with discrimination against burakumin. Also speaking on condition of anonymity, she said “When I was an elementary school pupil, I befriended a certain classmate without knowing anything. Soon afterward, my parents noticed that and told me in strong language never to play with her again, saying she was burakumin.”

Although the word buraku originally meant only hamlet, it gained new connotations after the government began to use the term hisabetsu buraku (discriminated hamlet) to mean villages inhabited by the descendants of former social outcasts. What is confusing even for most Japanese people is that the word buraku is still often used to mean just ordinary hamlet.

Several years after the 1868 Meiji Restoration, which restored imperial power, the Japanese caste system was abolished and the Emancipation Edict was issued. Article 14 of the post-World War II constitution also mandates equality before the law and bans discrimination based on race, creed, sex, social status or family origin.



Danzaemon XIII, famed Meiji Burakumin leader

based in Tokyo's Asakusa.

More recently, as a result of tenacious lobbying by the Buraku Liberation League, Japan's largest outcaste rights group, the government enacted a series of laws aimed at improving the living conditions in burakumin's hamlets by upgrading such infrastructure as housing and roads, and education, as the main pillar of efforts to promote *dowa*, or compatriot reconciliation. The first such law was enacted in 1969. The most recent one, enacted in 1987 with a five-year life span, expired in 2002 after twice being extended for five years.

Some of the government funds provided to burakumin hamlets under these laws were regarded by the EU in the late 1990s as subsidies to leather tanners. When the EU filed a WTO complaint over Japan's leather import restrictions in 1998, a senior Japanese trade official said "Even if a WTO panel is set up at the EU's request, it is inconceivable that the panel's decision will require Japan to abolish the tariff-quota system itself. But there is a possibility that government subsidies to domestic tanners will be judged a violation of WTO subsidy codes, which prohibit any government from doling out subsidies greater than 5% of the value of the domestic output of a product in question."

Justice Ministry officials boast that as a result of government-funded projects, efforts to develop the physical infrastructure of buraku

communities have achieved steady results and that the regional disparity with other districts has become considerably smaller.

To be sure, the living standards of burakumin may have significantly improved, but more than a century after they were legally liberated under the Emancipation Edict, burakumin still experience prejudice and discrimination. The Justice Ministry officials, frankly acknowledging that discrimination in marriage and employment has not ended, say that the ministry has been developing affirmative human rights promotion activities aimed at resolving such problems.

The Japanese government has passed a series of special laws to address the discrimination issue, including the 2000 law on the promotion of human rights education and human rights awareness-raising, targeted at liberating burakumin. The Buraku Liberation League is now calling for an early enactment of the so-called Human Rights Protection Law now pending in the Diet.

There is a highly publicized murder case that the defendant's supporters claim is symbolic of ongoing discrimination against burakumin. In the case, widely known as the "Sayama incident," Ishikawa Kazuo, then 24, was arrested in 1963 on suspicion of kidnapping and killing a high school girl in Sayama, Saitama Prefecture, adjacent to Tokyo. He confessed to the killing



immediately after his arrest on an unrelated charge of theft, but later retracted the confession and pleaded not guilty to the murder. He was sentenced to life in prison.

Ishikawa, who was paroled in 1994, filed a retrial request twice with the Tokyo High Court, but was turned down. He then filed a special interlocutory appeal with the Supreme Court, which threw out the appeal in March last year. Ishikawa's supporters claim that he was falsely charged simply because he is of buraku origin.

A report commissioned by a United Nations panel on human rights and released in August 2001 expressed concern about the continuing Japanese social practice of discriminating against burakumin, not only in marriage and employment but also in the use of derogatory terms. The report likened the Japanese attitude toward them to the caste system in the Indian subcontinent.

The report voiced concern about the practice in Japan of circulating lists of burakumin households with the names of the occupants to prevent their employment at major companies. "Particularly hurtful is the use of derogatory terms in speech and writing" about burakumin, the report said. "It is admitted that the living standard of burakumin has improved, but discrimination in marriage and employment continues."

In addition, Japan's family registry system enables potential marriage partners or employers to track down burakumin origins because it keeps files on all Japanese citizens' background information going back generations.

Some people claim that with rapid demographic changes, many burakumin have quietly blended into the rest of society and that beyond the Kansai area, particularly in Tokyo, little, if any, discrimination against burakumin remains. But the Buraku Liberation League dismisses the claim, citing a survey of 2,000 Tokyoites conducted by the Tokyo metropolitan government in 1999.

The survey showed that 87.2 percent of respondents answered they were aware of the issue of discrimination against buraku. The survey also showed, among other things, that when asked what they would do if they found the partners of their children were burakumin, 53.9 percent answered they would respect the will of their children while 20.9 percent said they would either oppose or never recognize the marriages.

The Tokyo branch says in an article posted on its website, "The figures in Tokyo are not very different from the national average, and the claim that Tokyoites entertain little, if any, sense of discrimination against burakumin is unfounded."

Meanwhile, while keeping import restrictions for leather products with the TQ system, Japan, bowing to international pressure, has gradually increased imports by expanding the quotas on low-tariff imports and lowering tariff rates. As for leather footwear, China is by far the largest source of imports under the TQ system. Also outside the framework of the TQ system, tariff-free and quota-free imports of cheap leather footwear from such least developed countries (LDCs) as Bangladesh, Myanmar and Cambodia are soaring thanks to the special treatment granted to them under the so-called Generalized System of Preferences (GSP).

The Tokyo Jinken-ren (Tokyo Human Rights Federation), which is affiliated with the Zenkoku Jinken-ren (National Human Rights Federation), another burakumin rights group, estimates that Japan's imports of leather footwear have risen 80% in the past decade while domestic output has plunged 40%. Shipments of leather footwear

by business establishments in Tokyo alone, including the traditional producing district of Asakusa, have shrunk to 57% of what they were 10 years ago.

The Tokyo group, headquartered in Ueno, very close to Asakusa, warns that Japan's leather-footwear industry is "in danger of extinction because it is being effectively liberalized at an accelerated pace". In its current, fiscal 2005 campaign policy, the group vows it is determined to demand continued protection of Japan's leather-footwear industry, especially maintaining the TQ system, under the slogan of "Protect Japan's shoes [in general] and Asakusa's shoes [in particular]".

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