

General Council
15, 16 and 18 December 2003

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FIVE-YEAR REVIEW OF THE EXEMPTION PROVIDED UNDER PARAGRAPH 3 OF THE GATT 1994

Communication from Japan

The following communication, dated 11 December 2003, is being circulated at the request of the Delegation of Japan.

During the previous review process pursuant to GATT 1994 paragraph 3, Japan submitted two lists of questions to the United States in 1999 and 2000. While appreciating the US's response to those questions, Japan regrets that some questions received only partial or insufficient answers. Moreover, additional information provided thereafter includes some other issues that Japan considers warrant further clarification by the US. To contribute to a more substantive and effective discussion in the current review process, Japan submits the following points to which it requests the US to respond. Japan reserves its right to further present, in the current review process, additional questions and requests for clarification on any responses it might receive from the US.

1. For an effective and substantive review, verification is needed not only of whether the objectives of the exemption in question are appropriate, but how effectively the measures taken by the US serve these objectives. The US is invited to establish the effectiveness of its measures, using concrete data that distinguish the relevant vessels covered by the exemption provided for in GATT 1994 paragraph 3(a) from other vessels. Namely, the US is requested to verify that the US merchant fleet engaging "in commercial applications between points in national waters or the waters of an exclusive economic zone" is continuously renewed and its tonnage is maintained via the building of the relevant vessels covered by the exemption provided for in GATT 1994 paragraph 3(a) by US shipbuilders. This verification requires accurate statistical data in terms of the number of vessels and their tonnage, etc. on US shipbuilders' annual production of the relevant vessels covered by the exemption provided for in GATT 1994 paragraph 3(a).

- (a) The annual report (WT/L/512) submitted by the US this January failed to isolate the relevant vessels covered by the exemption provided for in GATT 1994 paragraph 3(a), as the statistical data provided in the same annual report apparently include the data on many vessels which are owned by governmental bodies and thus might not be for commercial use. Japan would like to know the reason for this inclusion, and to have statistical data suitably defined for the purpose of this review.
- (b) There are some inconsistencies between the statistics on orders and the statistics on deliveries. 17 ordered vessels appearing with the delivery date of 1998-2000 on page 46-47 of the annual report (WT/L/512) submitted by the US this January are missing

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from their corresponding delivery list. Japan would like to know the reason for this discrepancy. On this point, Japan would like to request the US to add sufficient annotative information to the statistics which would clarify these inconsistencies.

2. Japan requests the US to provide the following data, which Japan had already requested in 1999 and 2000 but has never received. These data are not included in the annual report (WT/L/512) submitted by the US this January.

- (a) the number of shipbuilders in the US owned or controlled by foreign capital;
- (b) the number of shipbuilders in the US building the relevant vessels covered by the exemption provided for in GATT 1994 paragraph 3;
- (c) the number of employees and annual amount of sales of those shipbuilders of (b) above;
- (d) the share of the shipbuilders of (b) above, their employees and annual amount of sales (referred to in (c) above) among the total shipbuilders in the US, their employees and annual amount of sales.

3. In response to Japan's questions in 1999 and 2000, the US stated that there had been proposals in Congress to change US cabotage laws (also referred to collectively as the "Jones Act"). Japan would like to learn of the development thereafter. It also requests elaboration on possible specific effects of the proposed amendments on foreign enterprises.
