

General Council
1-2 December 2005

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**REVIEW OF THE EXEMPTION PROVIDED
UNDER PARAGRAPH 3 OF GATT 1994**

Questionnaire to the United States from Japan

The following communication, dated 30 November 2005, is being circulated at the request of the Delegation of Japan.

Paragraph 3 of GATT 1994 provides the exemption for a specific measure of a Member related to prohibition of the use, sale or lease of foreign-built or foreign-reconstructed vessels. The same paragraph provides the Ministerial Conference with a mandate to review such exemption no later than five years the date of entry into force of the WTO Agreement and thereafter every two years for as long as the exemption is in force. This mandate has been exercised by the General Council and we are in the fourth round of such review.

In order to conduct a substantial and meaningful review, it is important for a Member invoking this exemption to provide information pursuant to this paragraph and provide necessary explanation to the Council. It is also important that Members interested in the exemption provide questions and comments expecting the invoking Member will respond in an appropriate manner. All these exchange of views will contribute this Council to examine “whether the conditions which created the need for the exemption still prevail”.

Japan appreciates the report presented by the US, which is contained in WT/L/600. Japan also appreciates the US initiative for providing interested Members with relevant information and explanation in an informal meeting on 27 September 2005.

Based on such information and explanation as well as the results of previous reviews, Japan wishes to further contribute to the review process of this time through raising relevant questions and comments to the US. Japan would like to ask the US to respond to the following points in an appropriate time to the General Council so that all Membership can share the explanation for their considerations. Japan reserves its right to further present additional questions and clarifications on the response to be provided by the US.

Question 1

Please explain the following points. Although those were raised during the previous reviews, Japan was not able to receive satisfactory explanation. Japan would therefore like to request the US, once again, to provide further explanations regarding our interests as specified below.

- (a) Correlation between the national security and the shipbuilding capacity protected by Jones Act;
- (b) Specific quantitative threshold of shipbuilding or maintenance capacity indispensable for the maintenance of the national security;
- (c) Are there any shipyards on the list that have neither supplied nor repaired a vessel to the Navy? However, if this is the case, please clarify how such shipyards contribute to the development or the maintenance of the national security;
- (d) The annual report(WT/L/600) submitted by the US in accordance with the provision of paragraph 3(c) included some records of ship types such as , “Platform” and “Pontoon”, yet it seemed that those types of ships were not covered by paragraph 3(a). Please explain whether the domestic shipbuilding requirement applies to those types of ships.

Question 2

We would like to bring to your attention inclusion of vessels, for exclusive naval use, namely, “BRITIN” on page 14, “WATKINS(AKR-315)” on page 18, “BENAVIDEZ” and “SODERMAN(AKR-317)” on page 19 of the list. Does the US regard those vessels as merchant vessels?

Question 3

During the last review, we have also pointed out about substantial figurative inconsistency between the amount of actual delivery and the amount entered in the order books. Despite the US’ assurance that these data would be adequately modified and the footnotes be newly added to each specific data, the only discernible improvement this time is the footnote merely stating “Cancelled or delayed vessel orders may not be accurately reflected in the report.” This is deeply disappointing and we would like to request the US to provide appropriate data reflecting the actual situation in the US.

Question 4

Quite a number of fishing vessels seem to appear on the list. We would ask a concrete explanation of how these fishing vessels could contribute to the development or maintenance of the existing performance-level of the national security. On this point, during the last informal consultation two years ago, the US insisted that all the listed vessels would contribute to such purpose. We find it difficult to imagine these fishing vessels would be conscripted at the war time. Small- sized fishing vessels occupy a large portion of the vessels protected by the Jones Act, consisting 65% of the deliveries (9% in the Gross Tonnage). We also find it extremely difficult to accept the relationship, if any, between these small-sized fishing vessels and the national security. We would therefore like to ask the US to provide further explanation on these matters.

Question 5

We would appreciate it if the US could provide us with “additional information on the use, sale, lease and the repairing of relevant vessels” stipulated in paragraph 3 (c) of the GATT 1994. We believe this information would be essential as a starting point of this review process.
