

General Council
18-19 December 2007

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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 21 November 2007, is being circulated at the request of the Delegation of Japan.

The exemption stipulated in paragraph 3 is a serious deviation from the fundamental principles of the GATT, especially Part II, Article 3 (National Treatment on Internal Taxation and Regulation) and Article 11 (General Elimination of Quantitative Restrictions). The exemption was established for only one Member due to its internal political reasons and has been maintained for years. The continuation of this exemption damages the consistency of WTO rules as a whole. We believe that it is necessary to have a serious discussion with a view to correcting the present situation.

Japan appreciates the report presented by the US pursuant to GATT paragraph 3(c), which is contained in WT/L/680.

Based on this information, as well as the results of previous reviews, Japan wishes to further contribute to the review process at 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 the form of a WTO official document within a reasonable amount of time so that all Members can share the explanation for their consideration before the review at the General Council in December 2007. Japan reserves its right to further present additional questions and clarifications on the responses to be provided by the US.

Question 1

Japan would like to point out that some data contained in the tables regarding US shipyard deliveries from 2001 to 2005 on pages 2 and 3 of the report (WT/L/680) seem to be inconsistent, although these tables are based on the same sources (see the following examples). The relationship between the data of the two tables should be clarified and corrected data should be provided if necessary.

For example:

- (1) With regard to merchant vessels of US shipyard deliveries, the figure "407,795" total gross tonnage (GT) from 2001 to 2005 in the table on page 2 seems to be inconsistent with the figure "266,607" total GT by 5 year average in the table on page 3.

(2) With regard to the US shipyard orderbook, the figure "640" average GT from 2001 to 2005 on page 2 seems to be inconsistent with the figure "3599" average GT per year on page 3.

Question 2

The US puts notes in the report that "Cancelled or delayed vessel orders may not be accurately reflected in the report". However, we believe that the US should provide relevant information that accurately reflects the current circumstances of US shipyards. Therefore, we request the US to provide more accurate information based on sources other than Lloyd's Maritime Information Services if the Lloyd's information is insufficient.

Question 3

According to the US's response, it does not have a specific quantitative threshold or criteria for shipbuilding or maintenance capacity for national security. Without such threshold or criteria, how can the US assess its shipbuilding or maintenance capacity? We are concerned that lack of the threshold and criteria would allow the US to make arbitrary decisions and that the exemption would be permitted forever.

Question 4

"Pontoon" is listed in the report. According to the US's response, Pontoon is considered a vessel and registered in US Coast Guard vessel documentation. Since it is used at a fixed point, we believe that Pontoon should not be covered by "vessels in commercial applications between points in national waters or the waters of an exclusive economic zone" in the context of GATT paragraph 3(a). Could the US elaborate on this?

Question 5

According to the US's response, the additional information on the use, sale, lease and the repairing of relevant vessels stipulated in paragraph 3(c) of GATT 1994 is not available. We request the US to provide this information shortly, since the US has an obligation to submit this annually pursuant to the paragraph.
