

**General Council**  
**30 November 2011**

Original: English

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

Questionnaire to the United States from Japan

The following communication, dated 22 November 2011, is being circulated at the request of the Delegation of Japan.

Japan appreciates the information contained in the notification WT/L/810 submitted by the US pursuant to paragraph 3(c) of the GATT 1994 as well as the responses from the US WT/GC/W/624 to Japan's questionnaire WT/GC/W/616 at the time of the 2009 review.

However, Japan is of the view that the responses provided as of now by the US do not fully explain the need to continue this exemption measure. Although this exemption is a serious deviation from the fundamental principles of the GATT, it has been maintained for 17 long years. We have concerns that the continuation of this exemption undermines the credibility of the WTO rules as a whole.

In this regard, Japan wishes to further contribute to the review process at this time by raising relevant questions as stated below. Japan would like to ask the US to respond to the following points in the form of a WTO official document within a reasonable period of time so that all Members can share the responses.

Question 1

Again, we believe that this exemption is a serious deviation from the fundamental principles of the GATT. We would like to again ask you whether or not the US continues to see that the circumstances that necessitated this exemption more than 90 years ago still exist.

Question 2

At this time as Members confirm a commitment to avoiding protectionism, stressing the importance of the multilateral trading system for the global economy, the continuation of this exemption may be misused by other Members as an excuse for creating or maintaining trade barriers, which may interfere with strengthening of the WTO system. We would like to ask for the view of the US on this point.

Question 3

With regard to the level of shipbuilding and maintenance capacity that is essential for US national security, we would like to reiterate our concerns that, unless quantitative criteria or other concrete grounds are objectively shown, the US remains able in practice to make unilateral decisions to maintain this exemption, since there is a very large amount of room for arbitrary decisions on whether or not the exemption is necessary, potentially making this review a mere formality. We would like to again ask for the view of the US on this point as well as whether or not the US has been taking or will be taking any actions for making these criteria clear and transparent.

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