

General Council

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

Communication from the United States

The following communication dated 2 July 1999 has been received from the Permanent Mission of the United States with the request that it be circulated to Members.

Paragraph 3(a) of the GATT 1994 provides an exemption from Part II of GATT 1994 for specific mandatory legislation that prohibits the use, sale or lease of foreign-built or foreign-reconstructed vessels in commercial applications between points in national waters or waters of an exclusive economic zone. Paragraph 3(b) requires that the exemption provided under paragraph 3(a) shall be reviewed "not later than five years after the date of entry into force of the WTO Agreement ...for the purpose of determining whether the conditions which created the exemption still prevail." Paragraph 3(c) requires an annual statistical notification from each Member whose measures are covered by this exemption.

On December 20, 1994, the United States invoked the provisions of paragraph 3(a) with respect to specific legislation that met the requirements of paragraph 3(a). The United States invocation of this exemption was acknowledged by the Director-General on the same day (see attached)¹.

The conditions that create the need for the use of this exemption by the United States still exist. Since the United States invoked this exemption in 1994, there have been no amendments, legislative changes, or measures adopted by the United States that would alter the U.S. position in conforming to coverage by the exemption. In fulfilling the terms of the exemption, the United States has provided detailed annual reporting of vessel orders and deliveries from U.S. shipyards as required by paragraph 3 (c) of the GATT 1994.

The domestic-build requirement provides an essential element of our U.S. maritime policy by assuring the maintenance of an industrial shipbuilding base for national defense purposes. The core shipbuilding industrial base, upon which the U.S. Navy depends to meet its acquisition needs, has historically been sustained by a combination of commercial shipbuilding for the domestic trade and military orders. With defense orders declining in a tight budget environment, it is critical for U.S. shipbuilders to build commercial ships for this trade if a viable industrial base is to be maintained to meet future Navy requirements. Moreover, the Navy relies upon shipyards that perform commercial work for the Jones Act trades for day-to-day maintenance of naval and surge fleet vessels, such as the Ready Reserve Fleet. Vessels in the Ready Reserve Fleet are maintained in a state of readiness by the U.S. Government, capable of providing strategic sealift resources to meet national defense and other national security requirements.

Page 2 offset

¹ English only.