

GENERAL AGREEMENT ON TARIFFS AND TRADE

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LEGAL STATUS OF LOOSE-LEAF SCHEDULES

Communication by Japan

The following communication, dated 15 April 1983, has been received from the Permanent Mission of Japan.

In order to clarify some legal problems concerning the legal status of the Loose-Leaf Schedules, the Government of Japan wishes to have the views of the GATT Secretariat and member countries of the Committee on the following points relating to the Secretariat's note (TAR/W/34).

1. Is the meaning of the word "obsolete" used in the Secretariat's note different from that of the word "void" used in our questionnaire in TAR/W/33?

We ask this because the term "obsolete" is normally interpreted as meaning "disused", "no longer in use", or "regarded as out of date whether currently in use or not", whereas "void" is usually interpreted as meaning "invalid" or "having no legal force". Was the Secretariat's note (TAR/W/34) drawn up on the basis of the above meanings of the terms "obsolete" and "void"?

Could loose-leaf schedules be understood as comprising "the sole source" in this sense (i.e. that there exist other legal instruments, which are not in use)?

2. If "obsolete" is interpreted as meaning "disused" (para.(1)), the Council's decision made in 1980 (C/107/Rev.1) would mean that on and after 1987, all existing legal instruments other than loose-leaf schedules would, though legally not void, be disused.

Could loose-leaf schedules be understood as comprising "the sole legal source" in this sense (i.e. that there exist other legal instruments, which are not in use)?

3. What does "a legal instrument" mentioned in paragraph 2 of the Secretariat's note (TAR/W/34) mean?

It could mean for instance, a joint letter to the Secretariat which would be prepared as a result of the Article XXVIII negotiations (see paragraph 5 of the Procedures for Negotiations under Article XXVIII adopted by the Council in 1980 (C/113)), and the Geneva Protocol to the GATT.