

GENERAL AGREEMENT ON  
TARIFFS AND TRADE

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UNITED STATES TAX LEGISLATION - "DOMESTIC  
INTERNATIONAL SALES CORPORATION" (DISC)

Recourse to Article XXIII:2 by the European Communities

The following communication, dated 24 April 1973, has been received from the Commission of the European Communities for transmission to the CONTRACTING PARTIES.

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On 1 January 1972, new legislation establishing a special tax status for Domestic International Sales Corporations entered into force in the United States.

The Communities consider that the DISC tax status established under this legislation constitutes a continuing exemption from direct taxes in favour of exported products, and thus affords a substantial financial export advantage to American corporations eligible for this privileged status which can, in these circumstances, reduce export prices or avoid raising them without their profits being affected. Another incentive effect of this legislation on exports results from the creation of increased possibilities of self-financing for integrated American corporations with DISC subsidiaries by means of loans to producers financed from funds established by setting aside those profits which result from the partial application of corporate tax. In addition, the tax legislation in question also favours international transport under the American flag.

The Communities therefore consider that the DISC system creates a distortion in conditions of international competition in that it affords tax privileges that are not consistent with the United States commitments under the General Agreement in respect of export subsidies.

On 4 February 1972, the Communities requested the United States to enter into consultations under Article XXIII:1 of the General Agreement concerning the DISC legislation. These consultations, which took place on 4 July 1972, yielded no satisfactory adjustment.

Considering that the tax legislation in question is contrary to the United States commitments under the General Agreement, that it directly impairs a benefit accruing under that Agreement, and that recourse to the procedures provided under Article XXIII:1 has been exhausted with no result, the European Communities request the CONTRACTING PARTIES to initiate the investigation procedure provided under Article XXIII:2.

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This matter will be included in the agenda for the next meeting of the Council.

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