

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

RESTRICTED

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UNITED STATES: FOLLOW-UP OF DISC -
FOREIGN SALES CORPORATION ACT (FSCA)

Communication from the European Communities

The following communication, dated 18 January 1985, has been received from the European Communities.

European Communities: Request for Consultations
under Article XXII:1

At the Council's meeting of 6-8 November 1984, the European Communities proposed that plurilateral consultations be held with the United States to give that country an opportunity to present its position regarding the compatibility of the FSCA legislation, which had replaced the DISC legislation, with the General Agreement and the Council's decisions on the matter, and to allow interested contracting parties to present their views and make any requests for clarifications.

This request, which was within the context of the November 1979 Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, and in particular paragraph 22 thereof, encountered objections from the United States which stated that the matter had been resolved by the replacement of the DISC legislation by the new FSCA legislation, and that consequently there was no basis for further surveillance.

While reserving their position as to the justification of the United States contention taking into account the past history of the DISC/FSCA issue, the European Communities consider that consultations are appropriate and request that they be held under the provisions of Article XXII:1.

The European Communities wish to recall that they had expressed their concern and remarks both at bilateral level with the United States and in the Council regarding, on the one hand, taxes deferred by American firms under the DISC system which have now been forgiven, and on the other hand, certain other provisions of the FSCA legislation that can pose problems of compatibility with the General Agreement, and in particular with the Council's Understanding of December 1981.

In accordance with the procedure adopted in November 1958 regarding Article XXII consultations, any other contracting party interested in this matter can be included in the consultations.