

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/3860
17 May 1973

Limited Distribution

Original: English

INCOME TAX PRACTICES MAINTAINED BY FRANCE, BELGIUM AND THE NETHERLANDS

Recourse to Article XXIII:2 by the United States

The following communication, dated 14 May 1973, has been received from the United States Mission in Geneva.

I have been instructed to request that the subject of certain income tax practices maintained by France, Belgium and the Netherlands be included on the Agenda of the forthcoming meeting of the Council.

- I. France does not tax the profits of foreign sales subsidiaries or branches. Distributions of such profits from foreign sales subsidiaries are subject to practically no tax. French exporters may allocate substantial income to selling branches and subsidiaries. In addition, French tax law provides special tax deductions for certain export-related expenses.
- II. Belgium does not tax the profits of foreign sales subsidiaries. Only 5 per cent of the dividend received by the parent of such foreign sales subsidiaries is subject to tax. Generally, the tax on income generated by a foreign sales branch is only one quarter of the regular rate. Belgian exporters may allocate substantial income to selling branches and subsidiaries.
- III. The Netherlands does not tax the profits of foreign sales subsidiaries. Distributions of such profits from foreign sales subsidiaries are in most cases exempt from tax. Generally, the income generated by foreign sales branches is exempt from tax. Dutch exporters may allocate substantial income to selling branches and subsidiaries.

The United States Government considers that the total effect of such measures constitutes a continuing exemption from direct taxes in favour of exported products as compared to products sold for the domestic market. The United States Government, therefore, considers that the effect of the French, Belgian and Dutch systems of taxation as they relate to export transactions is to create a distortion in conditions of international competition in that they afford direct tax privileges that are not consistent with the commitments of these contracting parties under the General Agreement in respect of subsidies.

./.

On 24 May 1972, the United States requested France, Belgium and the Netherlands to enter into consultations under Article XXIII:1 of the General Agreement concerning these tax laws and practices. The consultations, which took place on 5-6 July 1972, yielded no satisfactory adjustment. Therefore, considering that the provisions and practices in question are contrary to the commitments of France, Belgium and the Netherlands under the General Agreement, that they directly impair a benefit accruing under that Agreement, and that recourse to the procedures provided under Article XXIII:1 has been exhausted with no result, the United States Government requests that these matters be placed on the Agenda of the forthcoming meeting of the Council for consideration by the Contracting Parties in light of the complaint procedures under Article XXIII:2.

Given the prevalent application of such tax practices by contracting parties, the United States Government proposes that the investigation of these matters be undertaken with a view toward establishing appropriate principles regarding the application of the General Agreement to the taxation of profits derived from export sales, whether through domestic or foreign sales entities.