

GENERAL AGREEMENT ON TARIFFS AND TRADE

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

Communication from the European Communities

The following communication, dated 26 October 1984, has been received from the European Communities.

At the meeting of the Council on 11 July last, the United States announced that Congress had adopted the Foreign Sales Corporation Act (FSCA) which was shortly to be signed into law by the President. The United States representative stated on that occasion that "the United States believed that the FSCA, as an alternative to the DISC, conformed with the General Agreement and the rulings of the Council on this matter" (C/M/180).

While appreciating the efforts made by the United States to replace the DISC legislation, the European Communities have drawn attention, both at bilateral level and in the Council, to the fact that certain provisions of the new legislation seem to pose problems of compatibility with the General Agreement and, in particular with the Council's Understanding of December 1981 (L/5271). Other contracting parties have likewise expressed reservations as to the compatibility of the new Act with the General Agreement.

The Understanding of November 1979 regarding Notification, Consultation, Dispute Settlement and Surveillance¹ provides that the CONTRACTING PARTIES are to keep under surveillance any matter on which they have made recommendations or given rulings.

Taking into account likewise the history of the DISC question in GATT, and likewise the interest that other contracting parties attach to this matter, the European Communities consider it appropriate that plurilateral consultations should be organized under GATT auspices with the United States in order to give that country an opportunity to present its case as to the conformity of the FSCA with the General Agreement and the decisions of the Council in the matter, and to give interested contracting parties an opportunity to present their views and raise any clarification questions.

As regards the modalities of these plurilateral consultations, the European Communities have no set ideas and are ready to discuss them with interested contracting parties.

¹BISD 26S/210