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UNITED STATES - THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

Request for Consultations by the European Communities

The following communication, dated 3 May 1996, from the Permanent Delegation of the European Commission and the Permanent Mission of Italy for the Council of the European Communities, to the Permanent Mission of the United States is circulated in accordance with Article 4.4 of the DSU.

The European Community and its Member States wish to convey to you a request for consultations with the United States of America pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXIII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and Article XXIII:1 of the General Agreement on Trade in Services (GATS) concerning the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, other legislative provisions consolidated therein, and any implementing measures taken thereunder.

The European Community and its Member States wish to express their profound concern about the apparent lack of conformity of certain aspects of this Act, including other legislative provisions consolidated therein and any implementing measures taken thereunder, to the international obligations of the United States under GATT 1994 and GATS. This concern relates in particular, but not necessarily exclusively, to the following aspects:

The Cuban Democracy Act and its companion the Cuban Liberty and Democratic Solidarity Act contain a number of provisions which have the intent and effect to restrain the liberty of the EC to export to Cuba or to trade in Cuban origin goods, as well as to restrict the freedom of EC registered vessels and their cargo to transit through US ports.

In addition, there are provisions which require the provisions of certificates in respect of trade in Cuban sugar. If such certificates are not provided, access to the US sugar quota is denied.

Finally, there are measures which may lead to the refusal of visas and the exclusion of non-US nationals from US territory in a way which may contravene US commitments under GATS.

The European Community and its Member States are of the view that these and comparable measures taken under the two laws mentioned above may not be in conformity with at least the following provisions: Articles I, III, V, XI and XIII of GATT 1994 and Articles I, III, VI, XVI and XVII of GATS and in particular in relation to the Annex on Movement of Natural Persons Supplying Services under the Agreement.

I look forward to receiving your reply to this request from the European Community and its Member States and to setting a mutually convenient date for these consultations.