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GENERAL AGREEMENT ON TARIFFS AND TRADE

Agreement on Trade in Civil Aircraft

COMMITTEE ON TRADE IN CIVIL AIRCRAFT

Draft Minutes of the Meeting held in the Centre William Rappard on 2 December 1986

Chairman: Mr. H. Döring (F.R. Germany)

I. Harmonized System: Conversion of the Annex

1. The Chairman said that this meeting had been called to finalize the Committee's work on the conversion of the Annex into the Harmonized System and to approve a Draft Protocol. He drew attention to document AIR/W/57/Rev.1 which contained the conversion of the Aircraft Annex into HS/CCCN (Revised) as it stood at the end of the previous meeting on 8 October 1986. The outstanding matter concerned the United States' reservation on HS Code ex 8483.20 and .90 - Bearing housings incorporating ball or roller-bearings, and parts thereof.

2. The representative of the United States recalled that during discussion of this matter at the previous meeting the Chairman had made a compromise proposal on how to handle the United States' reservation by inserting a footnote to that effect in the Protocol under the relevant item numbers. He indicated his authorities' willingness to accept this solution, if it were acceptable to other delegations.

3. The representative of Japan said that this proposal was not acceptable to his authorities. The insertion of a footnote in the text of a Protocol was without precedent in GATT and it was not appropriate for the Aircraft Committee to introduce such a practice. Furthermore, when submitting the Protocol to the Diet for approval the Japanese Government would find it very difficult to explain the United States policy reasons for not applying duty-free treatment to these items.

4. The representative of the EEC insisted for the last time that the United States review its position with regard to its reservation on bearing housings incorporating roller or ball-bearings. These products were so specialized that there should be no fear of import substitution with bearings not destined for civil aircraft. He also insisted that obligations and benefits under the Agreement should be the same for all Signatories. He agreed with Japan that it was not desirable to insert a footnote in the Protocol as this would create an undesirable precedent for the future. If the United States really could not accept the inclusion of housing bearings (HS Code 8483.20) then the EEC was in favour of withdrawing it altogether from the Annex.

5. The representative of Canada said that his authorities had a strong preference for maintaining the item in the Annex, with US acceptance. If that were not possible, then they would prefer deleting it altogether from the Annex. However, he asked what impact this withdrawal would have on bindings in GATT schedules, in terms of the tariff obligations.

6. The representative of the EEC said that as of 1 January 1988 this position would have a binding of 7 per cent in the EEC's GATT Schedule.

7. The representative of the United States reminded the Committee that this item had not been included in the TSUS Annex and that this had constituted a problem when drawing up the HS list. Adding this item to the Annex was not possible for the United States as it was considered a substantive change. He noted the EEC's preference to withdraw the item from the Annex. It was the United States' expectation that the binding on these items would be respected in Signatories' respective GATT Schedules. If not, the United States would of course have to reserve its rights under Article XXVIII. It should be understood that modification of the binding of the ball-bearing housing item could cause difficulties in obtaining United States congressional approval of the Harmonized System.

8. The representative of the EEC said that he had checked the records of past discussions of this item and had noted that the US representative at the time, in the Technical Sub-Committee, had said that bearing housings containing ball or roller-bearings for civil aircraft were such specialized items that they would no longer be imported under its tariff heading, but would be classified in the superior TSUS-heading as spare parts for aircraft, which were included in the TSUS Annex. However, it now appeared that this was no longer the case, and he regretted that the Community had not asked for this explanation to be given in writing. With regard to possible Article XXVIII action, he said that the Community could not prevent the US from asking for compensation.

9. The representative of Japan said that if the United States could not agree to the inclusion of this item, his authorities preferred to see it deleted from the Annex. Japan would maintain its binding at zero in its GATT Schedule.

10. The Committee adopted the conversion of the Annex into HS/CCCN (Revised) as drawn up in document AIR/W/57/Rev.1, with the deletion of item HS ex 8483.20 and of the text in square brackets in HS ex 8483.90.^{1/}

II. Harmonized System: Adoption of the Protocol (1986)

11. The Chairman said that following informal consultations in November the secretariat had distributed a draft Protocol dated 14 November 1986. Since then a few additional changes had been proposed by Japan and these were reflected in an up-dated draft dated 27 November 1986 which was before the Committee.

12. The representative of Japan explained the additional changes proposed, in particular the deletion of a reference to paragraph 2 at the end of paragraph 3, which was to avoid any ambiguity as to the entry into force of the Protocol for Signatories who might sign it between 1 November and 31 December 1987.

13. These changes were generally acceptable. There was further discussion of whether to retain the reference to the International Convention on the Harmonized Commodity Description and Coding System and also whether it might not be preferable to delete the date of entry into force, 1 January 1988. After consideration, it was decided not to bring any further changes to the draft Protocol dated 27 November 1986.

^{1/} Subsequently distributed in document AIR/62.

14. The Chairman said that there was an additional aspect he wanted to draw the Committee's attention to, which concerned the amended Annex and new Signatories. Up till now, the level of obligation in the Agreement's Annex had been the same for all Signatories - both in the original Annex and in the 1985 Annex. The Protocol (1986), should any Signatory fail to accept it, opened a possibility, however remote, of two levels of obligation. It was his understanding that Signatories' intention was to avoid different levels of obligation and that all Signatories intended to accept the Protocol (1986). However, to avoid any ambiguity with respect to possible new Signatories, it seemed appropriate to put on record that acceptances or accessions to the Agreement on Trade in Civil Aircraft were understood to include any rectifications, modifications or amendments as may have become effective on the day the acceptances or accessions entered into force.

15. The Committee agreed with this interpretation. The Committee adopted the Protocol.

16. The representative of the EEC noted that the Technical Sub-Committee's work on the conversion of the Annex into HS had been completed and suggested that the Sub-Committee should be convened only when the need arose.

17. The Chairman noted that there was no work on hand for the Technical Sub-Committee for the time being.