

GENERAL AGREEMENT ON

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TARIFFS AND TRADE

Committee on Trade in Civil Aircraft
Sub-Committee of the Committee
on Trade in Civil Aircraft

MEETING OF 9-10 FEBRUARY 1993

Note by the Secretariat

1. The Sub-Committee held its third meeting on 9 and 10 February 1993 under the Chairmanship of Mr. Mikael Lindström (Sweden). Participants discussed two submissions put forward by Japan and Canada (AIR/RN/4 and 5), respectively, as well as general issues relating to the development of a new aircraft agreement.

2. The Chairman circulated an informal list of issues for discussion which included the following: usage of the terms "support" and "subsidy", engines for civil aircraft, small and medium aircraft and their parts and components, prohibited subsidies, non-actionable subsidies, indirect government support and prior government commitments.

3. One participant raised the question of foreign repair stations in the context of market access in the services area. Regarding a possible approach to a new civil aircraft agreement, one participant suggested building on the current agreement and on the advances in the various Uruguay Round draft texts, as these elements provided the modalities to address the disciplines necessary in the aircraft sector. Participants discussed the concept of "support" and how the term might be defined and incorporated in a new agreement, including the types of disciplines that might apply.

4. One participant held the view that the necessary balance could be achieved only through subsidy-based disciplines complementary to those in the Draft Subsidies text. Another participant agreed that any new aircraft agreement should be complementary to the Draft Subsidies text, but felt that some of the new disciplines should be support-based. A third participant suggested support-based disciplines in what would be a lex specialis for the aircraft sector, and said that the substance of the discipline was more important than the definition of the term "support". Another participant said that "supports" would cover any money provided, i.e. in the form of grants, loans, equity infusions, etc., and that there should be both a limit on that support and disciplines on the terms of the support. Several participants felt that it was important to define this term, and stressed the need for balance in the disciplines that would take account of the different systems of support or subsidization in different countries.

5. Regarding engines for civil aircraft, one participant was of the view that there was a higher level of risk involved in the development of engines, and that as a result, there should be more lenient disciplines, while others disagreed, advocating stricter disciplines and noting the already heavy government involvement in this area. Regarding small and medium aircraft, one participant noted that it was not clear what products would fall into this category. Several participants felt that more lenient disciplines should apply, citing higher risk, while others were of the view that tighter disciplines were needed. Circumvention was mentioned as a potential problem should there be different disciplines for different sizes of aircraft.

6. With regard to prohibited subsidies, the question was raised as to what a prohibition of production subsidies would cover. One participant was of the view that no government involvement in production or in any other activities of an enterprise should be allowed other than limited development support. Another participant supported a prohibition of subsidies to reduce production costs - which he said would have to be defined - and suggested that these could be handled under Part II of the Draft Subsidies text. One participant warned against the scope of such a prohibition being too broad, and suggested the need for specificity, i.e. firms and programmes. Another participant disagreed with the latter point. Participants discussed the question of disciplines and remedies in the case of support provided above an established cap.

7. Regarding non-actionable subsidies, one participant stressed that any support provided in conformity with the new disciplines would have to be non-actionable and non-countervailable, noting that the subsidy element in such cases would be virtually de minimis. Another participant said that this question could only be discussed in the appropriate Uruguay Round negotiating group. One participant said that this question would depend on the types of disciplines that were formulated and on the balance in the package.

8. On the issue of indirect government support, one participant questioned whether the disciplines in this area would be comparable to those on direct support, and another indicated a willingness to lower the cap agreed in the Bilateral Agreement. It was suggested that there was a need for notification of indirect support. One participant pointed to the difficulty of calculating such support and suggested that Article 14 of the Draft Subsidies text could be a useful basis on which to build, and another highlighted the administrative burden involved.

9. With regard to prior government commitments, one participant was of the view that these should not be subject to the new disciplines, but should be frozen and would remain actionable. Another participant said that a 33 per cent cap on support could not be accepted if prior government commitments were subject to the Draft Subsidies text rules.

10. The Chairman made the following summing up, which is carried in extenso:

(a) First, we now seem to have a relatively clear idea of what the term "support" means, that is, a financial contribution by a government - in the sense this term is used in the Draft Subsidies text - including grants, loans, equity infusions and loan guarantees irrespective of whether they confer a benefit or not. The notion of "support" is therefore larger than the notion of subsidy, but it includes subsidies.

(b) It seems that there is a clear intention, at least on the part of some participants, to extend the disciplines in a new aircraft agreement to support which is not a subsidy as defined in the Draft Subsidies Agreement. It also seems to be clear that as far as remedies are concerned, countervailing measures would be limited to only those measures which are subsidies.

(c) Regarding engines for civil aircraft, the majority of those who have spoken seem to be in favour of having disciplines that are at least comparable to, if not more stringent than, the disciplines on large civil aircraft. In the area of small and medium aircraft, there still seem to be differing views, with some participants advocating disciplines comparable to, or more stringent than, those for large civil aircraft, while others advocate more lenient disciplines.

(d) On the issue of prohibited subsidies, it is clear that some participants favour prohibiting also those forms of government support for production which are not subsidies. It is also clear from the discussion that the exact meaning of government support or subsidies for production needs further clarification and precision.

(e) The question of whether subsidies or supports above an established cap should be prohibited or whether they would result in a presumption of serious prejudice still remains to be discussed further. There is also a need to discuss further the question of remedies - that is, assuming that these subsidies are prohibited, would the term "withdraw the measure in question" mean that the entire subsidy would have to be repaid or brought into conformity, i.e., that the subsidy should be reduced to the amount of the cap?

(f) Regarding non-actionable subsidies, firstly, it seems that if all the disciplines on supports are strictly observed, supports below an established cap would not normally result in a high amount of subsidy, although one could find circumstances where this amount would be more significant. Secondly, the question of whether such subsidies should be green or yellow still has to be discussed. If one looks at Footnote 1 to Article 8.2(a) of the Draft Subsidies Agreement, it would seem that - as far as the issue of research and development support is concerned - the elaboration of such rules by this Sub-Committee would not, per se, be prevented by the Draft Subsidies text.

(g) Regarding indirect government support there seems to be some degree of agreement among the participants that an agreement that contains limits on direct programme-specific development supports would need also to incorporate rules regarding indirect supports, in order to be balanced. However, in order to enforce these rules, and in particular to observe "the caps" (whatever they may be) it is necessary to know how to assess the amount of such subsidies, even if such an assessment is to be made at the industry level. We have to give more thought to this issue.

(h) Regarding prior government commitments, there seems to be some agreement that they will not be subject to the new disciplines under the new agreement. Otherwise, I can only say that the issue seems, for the time being, to be highly controversial, and further work will have to be done to narrow the existing gaps.

11. The Chairman encouraged participants to make written proposals, which he stressed should be as specific as possible, in order to provide a basis for discussion at the Sub-Committee's next meeting. The date for that meeting would be decided in informal consultations with participants.