

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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

MEETING OF 30 NOVEMBER AND 3 DECEMBER 1993

Note by the Secretariat

1. The Sub-Committee held its ninth meeting on 30 November and 3 December 1993 under the Chairmanship of Mr. Mikael Lindström (Sweden). Participants discussed the Chairman's texts of 19 November 1993 which included a subsidy-based ("Track A") and a support-based ("Track B") approach; the discussion focused on the subsidy-based approach. Participants also discussed a proposal from Canada (dated 2.12.93) regarding royalty-based financing.

2. The Chairman explained that the text would achieve four objectives: to strengthen the Draft Final Act (DFA) Subsidies Agreement by including additional disciplines, to substitute (as among Signatories) the five per cent threshold for presumption of serious prejudice in the DFA with modified thresholds for the civil aircraft sector, to clarify that certain government activities in the non-civil aircraft area might confer subsidies allocatable to civil aircraft, and to establish special rules for royalty-based financing of new civil aircraft programmes.

3. Participants generally agreed with the objectives outlined by the Chairman and several indicated that the text was an acceptable basis for concluding a new Agreement. A view was expressed that the text was not balanced in the disciplines to be applied to the different types of government support and subsidies; the strict disciplines on royalty-based financing could only be accepted if there were grandfathering for prior commitments for such financing, and if the rules on "certain subsidies" were made comparably strict. One participant said that the support-based approach was still a viable way to proceed, while another said that under this approach the DFA Subsidies text would not apply at all to the aircraft sector, whereas in his view it was essential that it did.

4. Two participants said that the text singled out for exceptional treatment one of the many forms of government assistance in this sector (i.e. royalty-based loans) and was thus not balanced; they could not accept these special disciplines. However, it was recognized that others might wish to have these more stringent disciplines apply in return for the green-lighting provided by compliance with these disciplines, and it was suggested that there might be optional routes with respect to this type of financing. One participant questioned the assumptions in the text regarding the trade-distorting effect of particular types of subsidies and said that the prohibitions in the text would be acceptable only if they were both clear and economically just in their impact.

5. Participants made specific comments and proposals on various provisions in the text including: additions to product coverage, the definition of "civil aircraft", a phase-in period for the elimination of customs duties, royalty-based financing and the direct forgiveness of debt, the scope of the prohibition on production subsidies, the scope of green-lighting in the text, the definition of "development costs", the threshold for the presumption of serious prejudice, disciplines on "certain subsidies", government

procurement, notification obligations, dispute settlement provisions, transitional arrangements and final provisions.

6. With regard to Article 10 on royalty-based financing, one participant suggested that the text contain alternatives: those parties wishing to have the benefits of non-actionability and to not have such programmes count against the cap would have to comply with Article 10, while those opting not to meet the criteria in Article 10 would not have such benefits and would be subject to the general rules applicable in the sector. That participant later tabled a text (dated 2.12.93) on this issue. One participant expressed the view, and several others agreed, that a party using royalty-based financing that was within the prescribed limits should not be precluded from offering other forms of assistance, and that the terms and conditions in Article 10 should be more flexible. Another said that there would have to be clear language to the effect that Signatories would not exercise their rights under Parts III and V of the Subsidies text with regard to prior commitments under royalty-based schemes, and that Article 10 would apply only to large civil aircraft and not to other aircraft products. One participant said that Article 10 as it stood provided a sound "up-front" discipline that was not overly stringent; he did not see the need to grandfather prior commitments of this sort. It was explained that in the alternative proposal regarding Article 10 a party would have to declare from the outset its intention to have the special provisions of this Article apply to its royalty-based loans and could not alter this choice once the programme was underway.

7. On other issues, one participant said that he could not accept the concept of notifying information that did not relate to a subsidy. Another participant said that there should be a direct link between the substantive disciplines in the agreement and the notification requirements, while one delegation suggested that notification requirements might be stronger for practices that were green-lighted. Another participant suggested that transitional arrangements might not be necessary and said that if there were such arrangements, any prohibited subsidy thus covered should be counted against the overall cap on subsidies in the sector; he also suggested that the text contain a stronger directive to continue negotiations to improve the agreement. One participant expressed concern that the withdrawal provisions would allow for withdrawal from the agreement after only 12 months. It was suggested by one participant that Article 6 of the draft text on Government Procurement (technical specifications) might be incorporated into the aircraft agreement.

8. The Chairman said that a revised Chairman's text would be ready the following week and that the Sub-Committee should remain on call so that it could meet shortly after circulation of the revised text.