

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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COMMITTEE ON TRADE IN CIVIL AIRCRAFT

Minutes of the Meeting held in the Centre William Rappard on 20 February 1980

Chairman: Mr. R. Maynard (United Kingdom)

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1. Election of officers

1. The Committee elected Mr. R. Maynard (United Kingdom) as Chairman, and Mr. S. Piper (United States) as Vice-Chairman.

2. The representative for Japan noted that it was his authorities' understanding that the officers of the Committee would be elected on a yearly rotational basis, and stated that in the view of his authorities the bureau could make a more appropriate combination if one of the officers were from a country advanced in the aviation industry and the other from another less advanced therein, and that his authorities had a strong interest in being elected to the bureau for 1981.

2. Participation of observers

3. The Chairman drew the Committee's attention to a text, based on the CONTRACTING PARTIES' decision of 28 November 1979 (L/4905 providing for the participation of observers.

The Committee adopted the text on the participation of observers, reproduced in Annex I.

3. Conduct of business

4. The Chairman stated that it was his intention, in the conduct of the Committee's business, to be guided by existing GATT rules and practice. It was also his aim, in the conduct of business, to retain the flexibility needed to ensure that the aims of the Agreement were fully achieved.

4. Procedures for modification and rectification of the Annex to the Agreement

5. The Committee decided that the GATT procedures for modification and rectification of Schedules (BISD, 16th Supplement, page 16) would be applied, mutatis mutandis, in respect of the Annex to the Agreement on Trade in Civil Aircraft.

5. Status reports

5.1 Acceptance of the Agreement (Article 9.1)

6. The Chairman drew the Committee's attention to a paper prepared by the GATT secretariat showing the status of acceptances on 20 February 1980, (see Annex II). Members of the Committee confirmed their respective status of acceptance of the Agreement. The representative for Canada stated that the duty-free entry of the products listed in the Annex to the Agreement had been implemented on 1 January 1980. Parliamentary action to complete the legislative procedures would follow, but he could not indicate a date when

this would be done. The representative for Italy said that the procedure for ratification had started early in 1980 and it was hoped that this would be completed soon. The representative for the Netherlands said that the preparation for the procedures for final approval was under way and that Parliamentary action would start in the early days of March. In reply to a question the representative for the Federal Republic of Germany said that his authorities did not expect any change in the status of Berlin (West) with respect to the Agreement. The representative for Belgium said that ratification procedures were under way. The representative for the EEC stated that the Agreement was in force for the EEC and its member States as of 1 January 1980; rights and obligations were fully ensured as of that date, even if certain ratification procedures were still pending.

7. Several questions were addressed to the representative for Japan concerning the date of Japan's final acceptance of the Agreement. In particular, it was suggested that Japan might consider de facto implementation of duty-free treatment prior to the formal entry into force of the Agreement for Japan, as some Signatories had done. The representative for the United States recalled that his authorities had had to seek special authorization to apply the Agreement on 1 January 1980 because Japan had not completed its constitutional procedures, and entry into force for the United States was tied to acceptance by four other industrialized countries. The representative for Japan said that the Aircraft Agreement, together with the other Tokyo Round Agreements, had been submitted to the Diet for approval last December when it convened its present regular session, which after a winter recess had resumed in the second half of January 1980 and of which the length was, under the Constitution, for 150 days, unless extended. While he was not in a position to say when the Diet's approval would be given, he assured the Committee that it was his Government's aim and hope to obtain the approval as soon as possible, and in particular in reply to the United States delegate who had hoped that the Japanese authorities would use its best endeavours to obtain the approval within a minimum delay, he stated that that was precisely what the Japanese Government had been doing all along. With respect to a de facto implementation of duty-free treatment, the representative of Japan stated that most products covered by the Annex to the Agreement, except for small aircraft, were already admitted duty free. He would report to his authorities the Committee's desire to see Japan's final acceptance of the Agreement at an early date.

8. The representative for Switzerland explained that by Decree of 10 December 1979, based on Article 4, paragraph 1 of the Federal Customs Tariff Law of 19 June 1959, and on Article 2 of the Federal Decree of 28 June 1972 on Foreign Economic Measures, the Federal Council had put the Agreement into force as from 1 January 1980, on a provisional basis. This implementation would be confirmed by decision of Parliament expected in March 1980.

5.2 GATT Schedules - aircraft bindings (Article 2.1.3)

9. The Chairman drew the Committee's attention to a paper prepared by the secretariat showing the status of Signatories' aircraft bindings in their respective GATT Schedules on 20 February 1980 (see Annex III).

10. The representative of the EEC confirmed that the list of tariff sub-headings as it appeared in document AIR/2 would constitute the EEC's GATT Schedule, subject to some modifications and comments made by Sweden. As soon as the modifications were made it would be incorporated in Schedule LXXII EEC.
11. The representative of Norway confirmed that the Norwegian draft list had been circulated to Signatories on 18 February 1980 and would be incorporated, after comments by Signatories, in Norway's GATT Schedule.
12. The representative of Sweden said that the Swedish draft list had been circulated to Signatories in October 1979 but that no comments had been received yet. There were a number of pending technical questions which needed clarification; it was hoped that this could be done at the meeting of the Committee on Tariff Concessions on 28 February 1980.
13. The representative of Switzerland said that the list of tariff sub-headings in documents AIR/2 constituted Switzerland's draft list which, after ratification, would be incorporated in Switzerland's GATT Schedule.
14. Several representatives reiterated the concerns they had as to the method adopted by Japan for incorporation of its aircraft bindings in its GATT Schedule; i.e. by reference in Headnote 8 in Japan's Schedule XXXVIII to the Annex of the Aircraft Agreement. Concerns were also expressed regarding Japan's intention not to publish the aircraft duty-free tariff headings in Japan's national tariff. It was stressed that this did not contribute to transparency and did not enable traders to be adequately informed.
15. The representative of Japan stated that "Article 2.1.3 of the Agreement on Trade in Civil Aircraft provided for incorporation in the Signatories' respective GATT Schedules by 1 January 1980, or by the date of entry into force of the Agreement, of duty-free or duty-exempt treatment for all products covered by the Agreement. In conformity with this provision, Japan, in Note 8 of its GATT Schedule attached to the Geneva (1979) Protocol, had made an entry stating that from the date of entry into force of the Agreement for the Japanese Government, "duty-exempt treatment as concessions under the GATT shall be accorded to such products as are provided for in the Annex thereto, which is effective on the date of entry into force of that Agreement, and are subject to the provisions of Article 2 thereof".

It had been pointed out by the representatives of some Signatories that such way of describing the concessions in the Schedule did not conform to the general practice followed in the GATT. Japan wished to make the following representations with regard to this matter:

1. First, it should be noted that the circumstances which had led to Japan's adoption of that way of incorporating the concessions in the Schedule was that by the time when the GATT Schedules attached to the

Geneva Protocol were to be finalized, the products to be listed in the Annex to the Agreement had not yet been decided on. Japan had incorporated the concessions in the way mentioned, obtaining, in so doing, the understanding of the negotiating partners through consultations in the preparing of the Agreement as well as the course of finalizing Japan's GATT Schedule.

Japan considered that the legal requirements under the Agreement and under the GATT were duly met by Note 5 of its Schedule.

2. Furthermore, it should be pointed out that the GATT Schedule of Japan thus finalized was attached to the Geneva (1979) Protocol and, in Japan, the MTN package including the Geneva Protocol and the Agreement on Trade in Civil Aircraft had already been submitted to the Diet on 21 December 1979, which was now in session.

3. Given the circumstances, Japan wished to take this opportunity to expressly state again that, at this stage, Japan did not have any intention to alter the way of describing the concessions in its GATT Schedule attached to the Geneva (1979) Protocol.

On the other hand, a question had been raised by the representatives of some Signatories, suggesting that, apart from the question of the mode of incorporating the concessions in the Schedule, Japan should be requested to translate those products covered by the Agreement and expressed in terms of CCCN four-digits, into Japan's own customs tariff nomenclature.

In view of this request, a list containing Japan's imports Statistical Code Number (1980) relating to the products listed in the Annex to the Agreement would be circulated for information of the delegations concerned.¹ This list was just for the convenience of foreign exporters, and it should not be regarded as a legal Japanese concession list.

In this connexion, Japan wished to stress that it considered that the list of products provided for in the Annex to the Agreement represented the 100 per cent product coverage agreed upon by the negotiating countries, and that Japan had no intention at all to take any action which might detract from the value of the concessions made in Note 8 in its Schedule.

Should a question be raised as to the definition of the coverage of certain individual products listed in the Annex to the Agreement, Japan considered that such question should be dealt with as a matter in the operation of the Agreement and brought to a multilateral solution through consultations among the Signatories to the Agreement.

¹See document AIR/4.

Finally, with regard to the question of whether or not Japan would list the concessions on the products covered by the Agreement in the Schedule itself rather than in the Note thereof, it was the intention of the Japanese Government to study the possibility and method of doing so, from a technical standpoint, at some suitable opportunity after the entry into force of the Agreement for the Government of Japan."

16. Several representatives thanked the representative of Japan for this statement, but nevertheless retained some concern over particular points. The representatives of Sweden and Canada pointed out that the Japanese approach to the incorporation of aircraft bindings in the Japanese GATT Schedule would be incompatible with the requirements of the loose-leaf system soon to be introduced, and which required a seven-digit listing of tariff bindings. It was also pointed out that Headnote 8 to Japan's Schedule would be inadequate when it came to rectification of the Annex and of the bindings.

17. The representative of Canada made the following suggestion with regard to the publication of aircraft concessions in Japan's national tariff: Japan could footnote in its national tariff all four-digit CCCN headings covered by the Agreement and, at the beginning of each CCCN chapter, identify exactly as set out in the Annex to the Agreement which products will be accorded duty-exempt treatment. Under this proposal it would not be necessary for Japan to identify the seven-digit items but it would give Canadian exporters an indication of what products were to be given duty-exempt treatment by looking at the headnotes to CCCN chapters in the Japanese national tariff. He proposed to pursue this idea on a bilateral basis.

18. The representative of Japan said that his authorities would study the Canadian proposal and would comment at an appropriate time.

The Chairman said that this matter could be reverted to at another meeting.

19. The representative of the United States drew attention to the provisions of Article 9.3 setting the date of entry into force of the Agreement thirty days after final acceptance by a Signatory. In this connexion he asked whether it would be Japan's intention to implement the tariff commitments of the Agreement as soon as the Diet approved the Agreement. The representative of Japan said that it was his authority's intentions to follow the provisions of Article 9.3. The representative of the United States urged the Japanese authorities to reconsider this position and not to wait for ratification plus thirty days to implement duty-free treatment for aircraft products.

20. With respect to the incorporation of aircraft bindings in Signatories' respective GATT Schedules, the Chairman stated his understanding that should there be a lag between the entry into force of the Aircraft Agreement for a

particular Signatory and the time at which the concessions were actually incorporated in the Signatory's GATT Schedule, the bindings would be retro-active to the date of entry into force of the Agreement for each Signatory.

5.3 Administrative procedures (Article 9.4)

21. The representative of the United States referred to document MTN/INF/49 concerning domestic procedures to be taken by the Government of Japan in order to implement commitments undertaken in the course of the Multilateral Trade Negotiations. He asked for clarification of possible quotas concerning tariff positions 84.08, 88.01, 88.02, 88.03, 88.04 and 88.05.

22. The representative of Japan said that the document was inappropriately worded. There were no quotas in Japan for aircraft or parts thereof. What did exist was a licensing system for monitoring purposes. The Japanese delegation would circulate a corrigendum to this document to clarify the situation.

5.4 End-use systems (Article 2.2.c)

23. The Chairman drew attention to document AIR/2 describing the end-use systems of seven Signatories.

24. The representative of the United States sought clarification of the Communities end-use system, in particular whether there would be nine different systems. The representative of the EEC said that there was only one end-use system described in two community regulations, which would be administered by the nine member States. The representative of the United States raised further questions: on the appropriateness of the terms of the footnote of the special provisions (see document Spec(80)3, pages 3 and 4); on the exact meaning of footnote (a) in the EEC's Annex to the End-Use System (see document AIR/2, page 6); and on the apparent absence of specific reference to civil aircraft products in that Annex.

25. The representative of the EEC requested information on the date of entry into force of the final regulation of the United States end-use system and sought clarification of the use of the word "equipment" in relation to the United States' draft customs service notice of proposed rule making (AIR/2, page 21).

26. After some discussion the Chairman suggested that the EEC and the United States clarify their positions in bilateral consultation and that the clarifications obtained be circulated in writing to the Signatories.

5.5 Military entities (Article 1.2)

27. The Chairman drew attention to document AIR/1 listing seven Signatories' entities operating military aircraft.

28. The representative of Japan recalled that during the negotiation of the Agreement it had been agreed to limit the exceptions to "civil aircraft". In this context he was surprised that a number of Signatories had listed many entities operating military aircraft thus reducing the scope of application of the Agreement. In particular he had doubts concerning the appropriateness of excluding for Canada, the Royal Canadian Mounted Police and Coastguard; for Belgium, the Gendarmerie; for Italy, the Guardia di Finanza; for France, testing centres, police, safety service and customs services and for Norway, the Coastguard and the Maritime Search and Rescue Service. He urged these Signatories to reconsider their list of entities operating military aircraft, and added that it was not Japan's intention to exclude police forces and maritime rescue services. He further suggested that if these exclusions were to be maintained, some evidence for justification of them should be provided.

29. The representative of Canada noted that the United States had also excluded the Coastguard from coverage by the Agreement. He indicated that different countries had different criteria for the definition of what was military and what was non-military, and that there would have to be a balance among parties to the Agreement. He added that Canada could not agree to include aircraft of certain entities merely because they had a civilian registration, when other countries excluded the aircraft of the same entities because these aircraft had military registration.

30. The representative of the EEC said that it would amend its list by deleting the words "or non civil" so that it would read "list of entities operating aircraft subject to military registration".

31. The representative of the United States pointed out that the criteria should not be one of registration but of the military nature of the entities operating the aircraft. He added that coverage in terms of governmental entities was never considered during negotiation of the Agreement. Rather the concept always was that all aircraft other than those of military services were to be covered. He recalled that at one point in the negotiations he had suggested use of the same definition of civil aircraft as is used in the Chicago Convention of Civil Aviation, but that it had been rejected by all the negotiating partners as being too narrow, for it would have excluded from coverage aircraft of customs and police services.

32. The representative of Norway was of the view that the concept of balance was relevant when looking at the definitions presented by various parties. The Norwegian coastguard was an offshoot of the Norwegian navy and was run by the navy, and the Maritime Search and Rescue Service was also operated by the military forces.

33. The representative of Sweden said that the question of balance within the Agreement should not be pursued as this would tend to reduce the commitments. He suggested that Signatories who listed other than armed forces as entities operating military aircraft should provide reasons for including them.

34. The representative of Canada recalled that the Royal Mounted Police and Coastguard could be called upon to act in defence of the territory in case of warfare. He re-emphasized that the key consideration for the inclusion of entities was balance among parties to the Agreement and stated that Canada would not, therefore, participate in procedures to justify the exclusion of certain entities on the basis of domestic legislation.

35. The Chairman suggested that war service provisions should be left aside as these would include airlines in many countries. He asked those Signatories who had listed entities operating military aircraft other than armed forces to provide, by the end of March 1980 an explanation for the exclusion of such aircraft from the scope of the Agreement. He added that this matter could be discussed at a later meeting if necessary, on the understanding that there were reservations as to the prospects of resolving the issue in this way.

6. Establishment of Technical Sub-Committee

36. The Chairman recalled that the provisions of Article 8.4 called for the establishment of a sub-committee to look into certain technical matters. In addition some Signatories had expressed the wish to start at an early date the work needed to broaden the coverage of the Annex to the Agreement.

37. The representative of the United States said that the United States was not in a position to discuss the broadening of the coverage until experience had been acquired on the operation of the Agreement itself.

38. After some discussion the Committee agreed to establish a Technical Sub-Committee with the following terms of reference:

1. Pursuant to Article 8.4, to examine the implementation of the provisions of Article 2 related to product coverage, the end-use system, customs duties and other charges, including matters relating to aircraft tariff nomenclature, and to report to the Committee.

2. In the light of the Preamble to the Agreement, to examine proposals for modifying the product coverage and to report thereon to the Committee."

39. The membership was open to all Signatories indicating their wish to serve on the Technical Sub-Committee. Mr. R. Wright (Canada) was elected as Chairman.

40. It was understood that the Technical Sub-Committee would make a progress report to the Committee at its next meeting.

7. Export restrictions

41. The representative of Switzerland recorded his authority's wish to have the provisions of Article 5.2, export restrictions, discussed at a later meeting.

42. The Chairman took note that this could be an item for the next agenda and, in reply to a question confirmed that Signatories could raise matters under Article 9.4 at any time.

8. Airworthiness certification of helicopters

43. The representative of the United States drew the Committee's attention to a problem recently discussed at the convention of the Helicopter Association of America. The problem had to do with different interpretations by different countries of the same basic airworthiness regulatory standards. In so far as this led to additional expense and difficulty in obtaining airworthiness approval, it amounted to an impediment to trade. An example was given: five models of helicopters required twenty-three different versions of technical manuals because of slight differences of interpretation from country to country of airworthiness standards. He recalled that the Agreement on Technical Barriers to Trade was relevant to this issue.

9. Authentic text of the Agreement in Spanish

44. The Committee noted that the final text of the Agreement on Trade in Civil Aircraft had been approved in the English and French languages, each text being authentic. It recognized the desirability of there being also an authentic text in the Spanish language. The Signatories indicated a willingness to authenticate such a text should its preparation be requested by any Signatory.

10. Arrangements for distribution of documents

45. The Chairman informed the Committee of the following arrangements for the distribution of the Committee's papers and documents which, in his view, met the general need for transparency and the Committee's particular, if occasional, need for confidentiality. After each meeting he would issue, under his own responsibility, a concise note on the meeting. This would be circulated to all contracting parties. Committee's working papers, minutes, Signatories' notifications, etc., would be issued in their appropriate AIR/ series and circulated to all participants. These documents would be available to all contracting parties on request. When the need for confidentiality would arise, as for instance in a dispute settlement procedure, documents would be issued on an ad hoc basis, and would have a restricted circulation, to be determined in each case.

11. Date and agenda for the next meeting of the Committee

46. It was agreed that the next meeting of the Aircraft Committee would take place before the second half of July 1980, and that the Chairman would draw up a draft agenda in consultation with interested Signatories.

ANNEX I

Participation of Observers

Taking into account the decision arrived at by the CONTRACTING PARTIES at their thirty-fifth session on 28 November 1979, (document L/4905) the Committee agreed on the following procedures for the participation of observers:

1. Representatives of contracting parties which are not signatories may follow the proceedings of the Committee in an observer capacity.
2. Representatives of non-signatory countries not contracting parties, which participated in the multilateral trade negotiations and which are interested in following the proceedings of the Committee in an observer capacity, should communicate a request to the Director-General of the GATT indicating their desire to do so. The Committee shall decide on each request.
3. Observers may participate in the discussions but decisions shall be taken only by Signatories.
4. The Committee may deliberate on confidential matters in special restricted sessions.
5. The Committee may invite, as appropriate, international organizations to follow particular issues of the Committee in an observer capacity. In addition, requests from international organizations to follow particular issues within the Committee in an observer capacity shall be considered on a case-by-case basis by the Committee.

ANNEX IIAGREEMENT ON TRADE IN CIVIL AIRCRAFTStatus of Acceptances on 20 February 1980

<u>Country</u>	<u>Date</u>	<u>Provisional Acceptance</u>	<u>Final Acceptance</u>	<u>Date</u>
Canada	20.12.79	The Government of Canada reserves its position with regard to the obligations in Article 2 pending the completion of domestic legislative procedures. The Government of Canada will, however, afford duty-free treatment equivalent to that provided for in Article 2 as of 1 January 1980, and will promptly pursue completion of the necessary domestic legislative procedures. This reservation will be withdrawn when these procedures will have been completed.	
EEC			x	17.12.79
Belgium	17.12.79	Subject to ratification	
Denmark	17.12.79	Subject to ratification	Ratification except as regards its application to the Faroe Islands	21.12.79
France			x	17.12.79
Germany, F.R.			The acceptance was accompanied by the following declaration: The Agreement on Trade in Civil Aircraft shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the GATT secretariat within three months of the date of entry into force.	17.12.79

<u>Country</u>	<u>Date</u>	<u>Provisional Acceptance</u>	<u>Final Acceptance</u>	<u>Date</u>
Ireland			x	17.12.79
Italy	17.12.79	Subject to ratification	
Luxembourg			x	17.12.79
Netherlands	17.12.79	Subject to approval. The acceptance was accompanied by the following declaration: On the occasion of the signing today of the Agreement on Trade in Civil Aircraft, done at Geneva on 12 April 1979, I have the honour to declare that the Kingdom of the Netherlands shall, in respect of the Kingdom in Europe only, apply the Agreement provisionally as from the date on which it will enter into force.	
United Kingdom	17.12.79	Subject to approval. The acceptance was accompanied by the following declaration: I refer to the acceptance by the United Kingdom of Great Britain and Northern Ireland of the above Agreement. The United Kingdom accepts the Agreement in respect of its metropolitan territory and the territories for which it has international responsibility except for: Antigua, Belize, Bermuda, Brunei, Cayman Islands, Hong Kong, Montserrat, St. Kitts-Nevis, Sovereign Base Areas Cyprus, Virgin Islands.	x	19.2.80
Japan	17.12.79	Subject to completion of constitutional procedures.	

<u>Country</u>	<u>Date</u>	<u>Provisional Acceptance</u>	<u>Final Acceptance</u>	<u>Date</u>
Norway	17.12.79	Subject to acceptance	x	28.12.79
Sweden	17.12.79	Subject to ratification	Ratification	20.12.79
Switzerland	17.12.79	Subject to ratification ¹	
United States	17.12.79	Subject to acceptance	x	20.12.79

¹See paragraph 8.

ANNEX III

STATUS OF SIGNATORIES' AIRCRAFT BINDINGS
IN GATT SCHEDULES ON 20 FEBRUARY 1980

<u>Signatory</u>	<u>Schedule</u>	<u>GATT legal instrument</u>	<u>Notes</u>
Canada	V	Geneva (1979) Protocol	
EEC	LXXII		Draft list for common external tariff circulated to Signatories on 16 November 1979 and in Spec(80)3.
Japan	XXXVIII	Geneva (1979) Protocol	
Norway	XIV		Draft list circulated to Signatories on 19 February 1980.
Sweden	XXX		Draft seven-digit list circulated to Signatories on 18 October 1979.
Switzerland	LIX		List for inclusion in the Swiss Tariff Legislation circulated to Signatories on 11 December 1979 (Spec(79)43).
United States	XX	Geneva (1979) Protocol	