

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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COMMITTEE ON TRADE IN CIVIL AIRCRAFT

Draft Minutes of the Meeting held
in the Centre William Rappard on
9 and 10 July 1980

Chairman: Mr. R. Maynard (United Kingdom)

	<u>Page</u>
1. Participation of observers	2
2. Status reports:	2
Article 9.1 - Acceptance of Agreement	2
Article 2.1.3 - GATT aircraft bindings	3
Article 9.4 - Administrative procedures	5
Article 2.2(c) - End-use systems	6
Article 1.2 - Military entities	7
3. Matters arising under Article 3	8
4. List of panelists	9
5. Progress report of the Technical Sub-Committee	9
6. Modifications and rectifications to the Annex	13
7. Matters arising under Article 5	14
8. Relationship between the Aircraft Agreement and other MTN Agreements	15
9. Matters arising under Article 6	16
10. Helicopter Airworthiness Certification	17
11. Matters arising under Article 4	18
12. Procedural matters	18
13. Date of next meeting	19

1. Participation of observers

1. The Chairman drew attention to the Committee's procedures on the participation of observers (AIR/M/1, Annex 1). With regard to paragraph 5 of these procedures he said that after informal consultations he believed there was a consensus that requests from international organizations to participate as observers would be considered individually, and invitations would be issued on a meeting-by-meeting basis. For this purpose he, as Chairman of this Committee, would consult with Signatories to this Agreement to determine if there was objection to issuing an invitation to the requesting international organization. This consultation would take place before the draft agenda the next meeting had been issued in final form.

The Committee took note of this statement.

2. The Chairman then referred to letters sent by the IMF and UNCTAD asking for observer status in meetings at the Committee. He noted that after consultations there had emerged a consensus to invite the IMF and the UNCTAD to this meeting. Accordingly, the representatives of the IMF and UNCTAD were invited to take part in the meeting.

3. The representative of the United States stressed the importance of extending such invitations on a case-by-case basis and meeting-by-meeting basis and added that a consultation prior to the finalization of the agenda would allow delegations to assess whether the whole of an agenda or part of it was appropriate for inviting interested international organizations.

2. Status reports

Acceptance of Agreement (Article 9.1) (AIR/12)

4. The Chairman noted that two governments had accepted the Aircraft Agreement since the last meeting: Austria and Romania. On behalf of the Committee he welcomed the participation of the representatives of Austria and of Romania in this meeting.

5. The Chairman referred to document AIR/12 listing the status of acceptances on 1 July 1980 and called upon those delegations which had not yet completed their final procedures for acceptance to make comments.

6. The representative of Canada said that in order to complete the procedures his Government had to remove a reservation which had been attached to the provisional acceptance and this formality required the passage of a Bill in Parliament. These procedures were under way.

7. The representative for Belgium said that the Agreement was fully applied as of 1 January 1980 and that the only procedure pending was final ratification which required Parliamentary action. These procedures were under way and it was hoped that they would be completed in the autumn.

8. The representative for Italy stated that the Agreement was in full application as of 1 January 1980 and that his Government had used its best efforts to accelerate the pending procedures of ratification in Parliament.

9. The representative of the Netherlands said that his authorities would need a little more time to complete the administrative procedures in order to finalize its acceptance of the Agreement.

GATT Aircraft Bindings (Article 2.1.3) (AIR/13)

10. The Chairman drew attention to document AIR/13 listing the status of Signatories' Aircraft bindings in their respective GATT Schedules as of 1 July 1980.

11. The representative for Norway said that the final list of Aircraft bindings for Norway's Schedule was almost completed and would be sent to the secretariat shortly.

12. The representative for Romania informed the Committee that his authorities were preparing a communication concerning the participation of Romania in the Aircraft Agreement, and this communication would surely include a draft list of Romania's Aircraft bindings. The representative for the United States asked whether the list would be available before 25 July 1980, date of entry into force of the Agreement for Romania. The representative of Romania said that he was not in a position to indicate a date. The Chairman recalled the understanding recorded at the 20 February meeting of the Aircraft Committee (AIR/M/1, paragraph 20) 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 retroactive to the date of entry into force of the Agreement for that Signatory.

13. The representative of Sweden informed the Committee that it had received a comment from a Signatory since the official circulation of its last list (L/4967). This would entail a slight modification of Schedule XXI.

14. The representative of the EEC drew attention to its own submission for incorporation (document L/5001) and explained that the sub-positions in square brackets were inserted to differentiate those parts of the positions that were not bound. In other words all texts in square brackets were not bound for the purpose of the Aircraft Agreement.

15. The representative of the United States stated that in accordance with the provisions of Article 2.1.3 the United States had bound duties on repairs in its GATT Schedule. He was surprised that other Signatories had not done the same thing, and requested that they comply with the obligations of Article 2.1.3.

16. The representatives of the EEC and Sweden said that in the absence of any such duties, or even tariff lines, in their respective national tariffs they could not bind non-existent duties. They added that their obligations under Article 2 not to impose any duties on repairs was a sufficient guarantee in substance that no such duty would ever be imposed.

17. The representative of the United States insisted that it was Signatories' obligation under Article 2.1.3 to bind duties on repairs in their respective GATT schedules.

18. The representative for Japan informed the Committee that in accordance with several requests the Japanese authorities were prepared to incorporate the products covered by the Agreement on Trade in Civil Aircraft into their GATT Schedule on a line-by-line basis at the time of introduction of the loose-leaf system, rather than covering them in their Schedule through Headnote 8 to their Schedule in the Geneva (1979) Protocol. Several delegations expressed satisfaction at this move. In reply to a question the representative of Japan said he was not in a position to indicate a precise date for the introduction of the loose-leaf system for Japan.

Administrative procedures (Article 9.4)

19. The representative of the United States informed the Committee that his authorities, in order to give effect to the provisions of the Agreement, had had to waive the provisions of the Buy American Act - which gives

preference to US products when bought by Government agencies - in order to be consistent with its obligations under Article 4.2 of the Agreement. Congress had therefore waived the Buy American Act provisions for products originating from any Signatory, in order to put these products on an equal footing with US products with regard to Government purchase. The 1979 Trade Act has a requirement that the waiver apply to the products of Signatories' only. The date on which the waiver is effective for each Signatory is the date of entry into force of the Agreement for each Signatory. He assured the Committee that even if official publication of the waiver might be late, the effectiveness of the waiver would always be retroactive to the date of entry into force of the Agreement for each Signatory.

End-use systems (Article 2.2(c))

20. The representative for Austria informed the Committee that his authorities' notification concerning the end-use system was in preparation and would be submitted shortly.
21. The representative for Romania indicated that the communication in preparation in his capital would surely contain a section on the end-use system.
22. The representative for the United States indicated that the US legislation concerning the end-use system was still pending; as soon as it was adopted it would make the object of a notification to the secretariat.
23. The Chairman stated that the examination of end-use systems was a matter for the Technical Sub-Committee he therefore proposed that the Committee would restrict its discussion of the matter to notifications of new Signatories' end-use systems, and discussion of any problems referred to it by the Technical Sub-Committee.

Military entities (Article 1.2) (AIR/M/1 and AIR/9)

24. The Chairman referred to document AIR/M/1, paragraph 35 in which he had requested that Signatories who had listed entities operating military aircraft other than armed forces provide, by the end of March 1980, an explanation for the exclusion of such aircraft. To date the only notification received was from Norway (AIR/9). He recalled that his suggestion had not been endorsed by all Signatories.
25. The representative of France said that the concept of "civil aircraft" introduced during the negotiations had led his authorities to consider the exclusion of aircraft with military registration. After the Chairman's request for further justification at the February meeting of the Aircraft Committee his authorities had undertaken to review the military and civil status of aircraft operated by different entities. This review had turned out to be fraught with difficulties, as administrative custom seemed to play a larger part than legal texts. The review was not completed but he was in a position to say as of now that there would be a modification to the French list of entities operating military aircraft. It was likely that the "securité civile" would be deleted. He recalled that the other two ambiguous entries had been police and customs. A new list would be submitted before the next meeting of the Committee.
26. The representative of Belgium said that his authorities would submit a notification to the secretariat explaining the military status of the "gendarmerie" (AIR/16).
27. The representative of Italy said that a notification by his authorities would be submitted shortly. He recalled that under Italian law the police corps, the guardia di finanza, and the forces responsible for the security of judiciary establishments were all considered part of the armed forces.

28. The representative of Japan recalled his authorities opposition to the exclusion of police, customs and coastguard aircraft from coverage under the Agreement.

29. The Chairman suggested that reference to the legislative framework in each country to define "civil aircraft" would probably lead to different interpretations in each country. He suggested that the Committee consider new notifications at its next meeting before taking the matter further. He also invited the new Signatories, Austria and Romania, to submit notifications on their entities operating military aircraft.

3. Matters arising under Article 3

30. The representative of Canada said that his authorities wished to have a clear understanding of the procedures Signatories proposed to use to implement the requirements of Article 3.1 of the Agreement, which includes "civil aircraft certification requirements and specifications on operating and maintenance procedures" as falling within the provisions of the Agreement on Technical Barriers to Trade. He suggested that members of the Committee might want to reflect on this matter and revert to it at another meeting.

31. The representatives of the EEC and Sweden pointed out that not all Signatories would necessarily be party to the Agreement on Technical Barriers to Trade so that it would be necessary to work out some understanding with respect to which committee would deal with notifications and which forum would be used to settle disputes. The representative of the EEC suggested that the Aircraft Committee would be the only appropriate forum to deal with any matter arising between Signatories, one of which would not be party to the Agreement on Technical Barriers to Trade.

32. The Chairman stated that the matter was of considerable interest and proposed to place it on the agenda for the next meeting.

4. List of panelists (AIR/14)

33. The Chairman drew attention to document AIR/14 listing the names of panelists received to date by the secretariat.

34. The representative of Japan said that nominations by Japan would be submitted shortly.

5. Progress report by the Technical Sub-Committee (AIR/W/8 and AIR/W/9)

35. The Chairman of the Technical Sub-Committee, Mr. R. Wright (Canada), drew the Committee's attention to the Progress Report of the Technical Sub-Committee contained in AIR/W/8. It contained a number of issues discussed and, in particular, a recommendation on statistical reporting for the consideration of the Committee. The report also identified an item, automatic data processing machines, which should make the object of a rectification in the Annex. Concerning the extension of the product coverage Mr. Wright said that the Sub-Committee had done a considerable amount of work and was able to present the Committee with document AIR/W/9 which was a short list of the many products that had been discussed and examined for extension of the coverage. AIR/W/9 contained a list of forty-four products with an indication of priority by certain delegations. He concluded by saying that the Technical Sub-Committee would welcome an indication from the Committee concerning the time-frame within which it should complete this part of its work. He also informed the Committee that he was returning to Ottawa in the summer and that the question of the chairmanship should therefore be considered.

36. Members of the Committee expressed their appreciation for the very constructive work accomplished by the Technical Sub-Committee and in particular their gratitude for the dynamism and expert chairmanship of Mr. R. Wright. The representatives of the EEC, Sweden and the United States put on record their interest in having Mr. Wright continue in the chair for a certain period of time.

37. The Chairman summarized by stating that the Committee wished Mr. R. Wright to continue for a further undefined period as chairman of the Technical Sub-Committee. It was the overwhelming view of the Committee that the Canadian authorities should be requested to make Mr. Wright available for this purpose. It was hoped that the Canadian authorities would acquiesce to this request.

38. With respect to statistical reporting, the Committee adopted the following recommendation presented to it by the Technical Sub-Committee.

"Statistical reporting of trade data for the products covered by the Agreement is useful and desirable. Bearing in mind the technical problems, the Committee recommends that each Signatory use its best efforts to begin as of now such collection, with a view to reporting on the feasibility of the project to the next meeting of the Technical Sub-Committee, and with a view to submitting the statistical data collectible as early as possible in 1981. The Technical Sub-Committee is requested to review the matter and report to the Committee."

39. The Chairman invited comments concerning the guidance that should be given to the Technical Sub-Committee concerning the time schedule for its work.

40. The representative for Japan said that the Technical Sub-Committee should continue refining the list in future meetings, it was difficult for his delegation to propose a time-schedule as it was his authorities intention to submit new proposals for examination by the Technical Sub-Committee at its next meeting.

41. The representative for the EEC welcomed this statement by Japan. He said that the Sub-Committee's work had already identified a number of categories of products which could be treated in different manners: products that were already covered by some Signatories but not by others, and he suggested that these could be dealt with quite expeditiously: products which had been given some priority by different delegations and which were

compatible with the headnote to the Annex and which could be added to the Annex, and finally the residual requests which could be dealt with later.

42. The representative of the United States said that while his delegation was willing to consider new proposals and clarify the extent of the existing coverage he was concerned with any accelerated time-table to extend the coverage. His delegation had repeatedly pointed out that the inclusion of parts of parts and certain sub-assemblies in the coverage of the Agreement would pose severe administrative difficulties for customs authorities. It was his view that the Committee needed a longer period of experience with the existing coverage before attempting to add to it. He referred to the statistical reporting which the Committee had just decided to recommend and suggested that such reporting would provide a useful tool to identify those items that were trade significant and thus susceptible of being added to the coverage of the Agreement. With respect to the time-frame for extending the coverage he suggested the third year after the entry into force of the Agreement.

43. The representative of Switzerland recalled that his delegation had not pressed for an accelerated time-frame. However, he was prepared to go along and suggested that rectification of those products covered by some Signatories but not by others should be combined with the extension of the Annex. The representatives of Canada, the EEC and Switzerland stressed their view that the trade significance of any given item should not be a precondition for considering its inclusion in the coverage. There were items in which there was little trade for the time being because they were not liberalized. Not every Signatory had the same pattern of trade or the same potential trade interests in all items. If the amount of trade were retained as a precondition, those Signatories with trade patterns in products other than whole aircraft might find their interests disregarded. The representative of Japan recalled that his authority had some reservations concerning the procedure for modifications and rectifications for extending the coverage of the Annex, he also pointed out that any new additions to the Annex would have to go before the Diet for approval.

44. The representative of the United States referred to a proposal relating to the Harmonized Systems Code (AIR/W/8, paragraph 2) and suggested that because of time constraints on the Harmonized Systems Code review, this Committee should invite the Chairman to address a message to the Chairman of the Harmonized Systems Code expressing the Committee's interest in their work and intention to submit comments in the autumn. This would put the Harmonized Systems Code on notice that comments would be received so that they could take them into account in their final review.

45. Several delegations said that while they did not object to expressing interest in the work of the Harmonized Systems Code, it was not appropriate to prejudge the outcome of the Technical Sub-Committee's work by announcing that it would submit comments. The Technical Sub-Committee had not examined the United States' proposal yet and it was not known whether it would make any recommendation.

46. The Chairman said that in the light of the discussion it was evident that the Committee had expressed interest in the work of the Harmonized Systems Code and that he would undertake to flag this interest in an appropriate way.

47. In reply to a question the Chairman said that the recommendation contained in AIR/W/8, paragraph 4, concerning units of automatic data processing machines was not adopted by the Committee because of the reservation of one delegation.

48. The Chairman concluded that it was clear from the discussion that all the members of the Committee were agreed on the usefulness and constructiveness of the work done by the Technical Sub-Committee. This work had permitted some clarification of the existing coverage. It was also clear that the interest and trade value attached to the extension of the Annex was not the same for each Signatory. The Committee urged the Technical Sub-Committee to carry on with its work and to further

refine the list of proposed items. The Committee also urged the Technical Sub-Committee to meet as early in the autumn as possible, leaving open the possibility for it to meet again in case of need just prior to the meeting of the Aircraft Committee.

6. Modifications and rectifications (AIR/15)

49. The Chairman drew the attention of the Committee to document AIR/15 in which was listed different corrections that might be made to the Annex and to the Agreement. He stressed that this list was provided for the convenience of delegations and that it had no particular status. He added that for clarity's sake the secretariat would change the title of the document to "List of items identified for possible future correction".

7. Matters arising under Article 5

50. The representative of Switzerland recalled that the aim of the Agreement was to achieve maximum liberalization in trade in civil aircraft; in some respects it resembled a free-trade agreement. He noted that while this was reflected with respect to imports, the Agreement did not provide for the same degree of liberalization of exports; for example, Article 5 was silent on the question of export duties and other such charges. A number of existing free trade agreements did have provisions regarding obstacles to trade both on the import and the export side. The absence of comparable provisions in the Aircraft Agreement could lead to some trade distortion. His authorities felt that it was desirable to examine this problem in due course. To this end, he thought that informal consultations with other Signatories could usefully be held, on which the Committee would be informed at one of its next meetings. The Committee might then decide whether it should take up the matter formally.

51. The Chairman invited members of the Committee to reflect on the matter. It was not clear to him whether the lacuna concerning export duties was in Article 5 or in Article 2. He added that the matter could be placed on the agenda of a future meeting in the light of consultations having taken place.

52. The representative of the EEC referred to document AIR/Spec/1 concerning import licensing in Japan. He noted that the number of import licences had diminished with regard to items covered in the Agreement, but that four important items remained, i.e. engines and motors and parts thereof, aircraft with a total weight not less than 9,072 kg., helicopters with a total weight of not less than 9,072 kg. He enquired as to the reasons for import licensing requirements on these items and whether the licensing requirement was compatible with the GATT Agreement on Licensing.

53. The representative of Japan said that he was not in a position to reply in detail at this meeting, but that he would do so at the next meeting of the Committee.

54. The Chairman noted that the item would be put on the agenda for the next meeting.

8. Relationship between the Aircraft Agreement and other MTN Agreements

55. The Chairman explained that this item had been placed on the agenda at the request of a number of delegations, and with his encouragement. He recalled that the original Signatories had negotiated the language of Articles 3 and 6 in a context of parallel, and in some respects preceding, negotiations on other MTN Agreements. It was in these circumstances that Articles 3 and 6 were drafted and in particular the reference in paragraphs 1 of these Articles that the Signatories noted the provisions of the Agreement on Technical Barriers to Trade and the provisions of the Agreement on Subsidies and Countervailing Measures.

56. Subsequent to the February 1980 meeting a number of delegations had contacted him concerning the need to clarify the Signatories intentions of these texts. It was suggested that the Committee might wish to record the Signatories understanding of the relationships between Articles 3.1 and 6.1 of the Aircraft Agreement and the other Agreements, bearing in mind that the Agreement did not establish that Signatories must also be Signatories of the other Agreements.

57. In the light of these circumstances the Committee agreed that, with respect to the first sentence of Article 3.1 and of Article 6.1 of the Aircraft Agreement, the words "Signatories note ..." mean that, by virtue of acceptance of the Agreement on Trade in Civil Aircraft, the provisions of the Agreement on Technical Barriers to Trade and of the Agreement of Subsidies and Countervailing Measures, respectively, apply to Signatories trade in civil aircraft.

9. Matters arising under Article 6

58. The representative of the United States recalled the objectives of the Agreement as they were stated in the Preamble and in Article 6, which calls for an elimination of adverse effects on trade in civil aircraft resulting from governmental support in civil aircraft development, production and marketing while recognizing that such governmental support of itself would not be deemed as a distortion of trade. He said that the Committee's concern should be not with how a government relates to its industry, but with what effect that relation has on trade. He recalled that Article 7 of the Agreement on Subsidies and Countervailing Measures provided for an exchange of information on the nature and extent of any subsidy granted; and that Article 6 of the Aircraft Agreement reiterated that the provisions of the Agreement on Subsidies and Countervailing Measures applied to trade in civil aircraft. He suggested that members of the Committee might want to consider how to apply these provisions and whether to use Article 7 in the Agreement on Subsidies and Countervailing Measures or to use Article 6.1 of the Aircraft Committee with respect to exchange of information. As this point he had no specific proposal to make, but wished to put the matter before the Committee for discussion at the next meeting.

59. The Chairman invited the Committee to reflect on the matter before the next meeting, in particular on practical procedures which could be followed, bearing in mind that parallel action or procedures existed in the Agreement on Subsidies and Countervailing Measures. He added that the item would be placed on the agenda for the next meeting and suggested that it would be useful to have written papers to serve as guidelines for the discussion.

10. Helicopter Airworthiness Certification

60. The representative of the United States recalled the discussion at the previous meeting on this subject (AIR/M/1, paragraph 43) and described some of the administrative and marketing complications that derived from the different requirements imposed by airworthiness certification bodies; for example, the marketing of one German helicopter with a line of five models called for the printing of as many as twenty-two maintenance and flight manuals in English and German in order to meet all the differing airworthiness certification requirements. He observed that the Aircraft Committee had a rôle in overseeing the practices in trade in civil aircraft and that the Committee might wish to take action with the aim of improving such practices. He suggested that the Committee might want to consider the organization of a symposium under its auspices to discuss the problem, or the Committee might, if it wished to be better informed of this particular situation and practice, consider inviting to a future meeting, formal or informal, an expert from the firm of Messerschmidt to explain the problem from the industry's perspective.

61. Several delegations took the floor to express their initial reactions of concern at the idea of inviting a representative of industry to take part in the Committee's deliberations. It was questioned whether the matter would be within the terms of reference of the Committee and whether any article of the Aircraft Agreement was involved. Interest was expressed in hearing about the problem, but not within the context of the Aircraft Committee.

One delegation remarked that the matter was within the purview of ICAO.

62. The Chairman concluded after further discussion that this type of issue was of general interest to members of the Committee, but did not fall within the competence of the Committee. He noted that there had been a useful exchange of views.

11. Matters arising under Article 4

63. The representative of the United States drew attention to the provisions of Article 4 and 4.2 in particular. He referred to a number of instances reported in the press concerning the rôle of the government in matters of procurement of civil aircraft. He proposed that the Committee could usefully discuss at its next meeting what it would consider as the appropriate government rôle in matters of procurement between competing products in civil aircraft. This discussion should not be focussed on a particular case, but should constitute an exchange of views as to how to handle questions involving government relationship in procurement of civil aircraft.

64. The representative of Canada said that he was very hesitant to embark on a discussion, which could constitute an interpretation of Article 4, in the absence of a particular case to refer to.

65. The representative of the EEC recalled that Article 4 had been one of the more difficult Articles of the Agreement to negotiate. There had been divergent views as to the rôle of governments in procurement, even within Signatory countries. He was equally hesitant to discuss Article 4 in abstract.

66. The Chairman concluded that the Committee, although hesitant, would have an exchange of views at the next meeting on the contents of Article 4 of the Agreement. He said that it would be useful to have written papers in advance indicating the points to be covered.

12. Procedural matters

67. The Chairman requested that a copy of all communications addressed to him as Chairman of the Aircraft Committee be also addressed to the secretariat, in order to avoid delays in circulating documents and information. With respect to the derestriction of AIR/ documents he said that normal GATT practice in matters of derestriction would apply.

13. Date of next meeting

68. The Chairman proposed that the date of the next meeting of the Committee would be set by him after consultation with the Signatories and the secretariat. His aim was to meet during the last week of November or first week of December 1980.