

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Agreement on Trade in Civil Aircraft

GATT BINDINGS OF DUTIES AND CHARGES ON REPAIRS

Paper submitted by the Delegation of the United States

The issue of binding duty-free treatment for civil aircraft repairs in accordance with Article 2.1.3 of the Aircraft Agreement has been on the agenda of the Aircraft Committee since it was first raised at the July 1980 meeting of the Committee.

This paper is being circulated by the United States delegation in the hopes that it will facilitate the resolution of this matter at the upcoming March meeting. If the Committee members are not able to agree on a common interpretation of Article 2.1.2 and the insertion of an appropriate note in their respective GATT Schedules at this time, the United States will be forced to initiate formal proceedings to withdraw the existing note on repairs from its GATT Schedule XX in order to bring US application of the Agreement in line with that of other Signatories.

The Committee has studied this subject thoroughly and has acknowledged that Article 2.1.3 of the Agreement does require all Signatories to bind duty-free treatment of repairs in their GATT Schedules (see Minutes of meeting of 17 March 1982, AIR/M/7; 28 May 1982, p.3, item 12). There also appears to be general agreement that a uniform note should be used by all Signatories, and several Signatories have expressed support for the language prepared in AIR/W/27, dated 6 November 1981. However, the resolution of this matter has been delayed by differences of opinion with respect to the appropriate interpretation of the term "civil aircraft" in Article 2.1.2 of the Agreement.

A strict reading of Article 2.1.2 in conjunction with Article 1.2 of the Agreement would require a broad interpretation, encompassing virtually all civil aircraft and aircraft products. However, the responses to the questionnaire (AIR/W/31, 26 May 1982) have demonstrated that there is currently a surprising uniformity among Signatories in their treatment of aircraft repairs, which is contrary to such a broad interpretation. That is, duties are, for the most part, assessed on the basis of the value of the repair at the rate of duty applicable to the article being repaired. Thus, repairs of complete aircraft and aircraft products which are included in the Annex to the Aircraft Agreement would be duty-free, but those products which are not included in the Annex to the Agreement would theoretically be assessed a duty when returned after being sent abroad for repairs. As a practical matter, however, since those products which are not included in the Annex are generally not sent abroad for repairs, it does not appear that any Signatory is currently collecting any duties on repairs of aircraft products.

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Thus, although the United States and other Signatories following this practice would appear to be in technical violation of the Agreement, there has not been and there is not likely to be any resulting trade effect. Therefore, to remove this technical violation, the United States has proposed that the following language be inserted in the Committee Minutes:

"The Committee agrees that Article 2.1.2 of the Agreement on Trade in Civil Aircraft, which provides for the elimination of 'all customs duties and other charges of any kind levied on repairs on civil aircraft', applies only to repairs of complete civil aircraft and those aircraft products which are classified for customs purposes under their respective tariff headings listed in the Annex to the Aircraft Agreement." (See AIR/W/27/Add.1, 14 July 1982.)

Such an interpretation would conform to the existing interpretation of most Signatories and would not, as a practical matter, restrict the scope and coverage of the agreement as has been suggested by one delegation. This approach, which is consistent with the original intent of the provision, recognizes the impracticability from a customs administrative standpoint, of assessing a different rate of duty on an imported article which has been repaired abroad from the rate which is assessed on an identical article which has not been repaired.

In view of the foregoing, the United States strongly urges all Signatories to agree at the March meeting to incorporate the note set forth in AIR/W/27 in their respective GATT Schedules and to insert the interpretation of Article 2.1.2 set forth in AIR/W/27/Add.1 in the Committee Minutes.