

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Agreement on Trade in Civil Aircraft

COMMITTEE ON TRADE IN CIVIL AIRCRAFT

Minutes of the Restricted Meeting held in the Centre William Rappard on 18 June 1981

Chairman: Mr. S. Piper (United States)

5. Matters under Article 8 - Government Supports (AIR/W/23)

1. The representative of the United States introduced document AIR/W/23 and drew attention to the questions on page 2, in particular to the question of whether export credit subsidies was an appropriate subject for discussion in the Aircraft Committee. The Agreement on Subsidies and Countervailing Measures specifically mentioned export credit subsidies in the Illustrative List in the Annex. Paragraph k) of that Illustrative List referred to export credits granted at rates below those which governments would actually have to pay for the funds: such export credits were export subsidies and therefore subject to the provisions of the Agreement on Subsidies. The second part of paragraph k) contained a limited exception for international undertakings on official export credits which were not subject to the Agreement on Subsidies. It was the drafters' intention that such international undertakings would include interest rate provisions for, otherwise, the phrase "or if in practice a Signatory applies the interest rate provisions of the relevant undertaking" would be meaningless for non-parties to such undertakings.

2. He drew attention to document AIR/Spec/2 which reproduced the OECD's "Note on Standstill Declarations on Export Credit Terms for Aircraft and for Nuclear Power Stations" and noted that the Standstill did not include any interest rate provisions. It did not qualify for exclusion from the Subsidies Agreement under the second part of paragraph k) of the Illustrative List. Therefore, export credit subsidies for aircraft fell under the provisions of the first part of paragraph k) and was an appropriate subject for discussion by the Aircraft Committee.

3. The representative of the EEC said that the matter was a question of interpretation of the provisions of the relevant Agreement. As it concerned aircraft, it was appropriate for discussion in this Committee; but the question was whether it was in order, in the sense of being a matter current within the scope of the Aircraft Agreement and the Subsidies Agreement. It was the EEC's view that as long as there existed an international undertaking concerning export credits in general, or in a particular sector, such undertakings were exceptions under the second part of paragraph k) of the Illustrative List. There was a Standstill undertaking in the OECD concerning export credits for aircraft. The EEC did not accept the US view about the drafters' intentions in regard to

interest rates provisions in such undertakings. In his view the clear intention of the drafters of the Subsidies Agreement had been to avoid two different sets of rules relating to export credit practices and thus not to create procedural difficulties by having overlapping discussions on the subject in OECD and in MTN Committees. He noted the United States' contention that the OECD Standstill Declaration on Export Credits for Aircraft fell under the provisions of the first part of paragraph k) because it did not contain interest rates. If the US were right, export credits for aircraft would have been subject to the Subsidies Agreement since 1 January 1980. In the EEC view, it was clear that the Signatories of that Agreement and of the Aircraft Agreement had not considered this to be the case at the time of signature of those Agreements. It was his view that the second part of paragraph k) covered the OECD Standstill Declaration on Aircraft, which referred to all terms for export credits in that field; therefore it was an exception to the Subsidies Agreement.

4. The representative of Canada said that any subject touching on aircraft was appropriate for discussion by this Committee. Document AIR/W/23 raised a number of questions concerning the interpretation of the Subsidies Agreement and it was up to the Subsidies Committee to interpret these questions. He suggested that the Aircraft Committee might ask the Subsidies Committee for such an interpretation.

5. The representative of Japan pointed out that because of the historical background the discussion might better be held in the OECD. However there was no reason to exclude discussion in this Committee.

6. The representative of the United States said that the matter had not been raised before by his delegation because it was hoped that negotiations in the OECD would be concluded successfully, so that export credit subsidies aircraft could be considered as an exception under the second part of paragraph k). He noted that the OECD's "Arrangement on Guidelines for Officially Supported Export Credits" specifically excluded aircraft, nuclear power stations and shipping. Both aircraft and nuclear power plants were the object of a Standstill Declaration in the OECD which contained no provisions concerning interest rates.

7. The representative of Sweden said that the question was appropriate for discussion in this Committee and also in the Subsidies Committee. However he noted that export credits were on the agenda of the Export Credit Group within the OECD where it was hoped that agreement would be reached. In order to avoid difficulties of co-ordination, he suggested that the subject not be discussed in different fora at the same time. Once an agreement was reached, its content could be discussed in the Aircraft Committee and in the Subsidies Committee. His delegation was not prepared to seek an interpretation at this stage. He suggested that the question be kept on the agenda of a later meeting.

8. The representative of the EEC said that he did not accept the implication in AIR/W/23 that paragraph k), second part had been drafted in the expectation of further negotiations in OECD, and that it would not cover the standstill on Aircraft unless the standstill was further developed. He maintained his position that there existed an international undertaking in the field of aircraft; therefore export credits for aircraft

were not subject to the provisions of the Subsidies Agreement. The matter was therefore outside the scope of the two Agreements and he could not agree that it should be on the agenda for a further meeting.

9. The Chairman noted the suggestion that if the Aircraft Committee was uncertain as to whether the OECD Standstill qualified as an international undertaking under the second part of paragraph k) of the Illustrative List, the Subsidies Committee could be asked to give its interpretation.

10. The representative of the EEC said that it was not for the Committee on Subsidies to say whether the Declaration covered the question of interest rates; this was a matter for the OECD.

11. The representative of Japan suggested that the Chairman of the Aircraft Committee could communicate the matter to the Chairman of the Subsidies Committee.

12. The representative of the United States said that it was not just a matter of referring the question to the Subsidies Committee, but of finding out how the Standstill Declaration related to the Agreement on Subsidies and Countervailing Duties. There were no references to interest rate provisions in the records of the Standstill Declaration. He did note that the EEC considered interest rates relevant for qualification under the second part of paragraph k) of the Illustrative List.

13. The representative of the United Kingdom, speaking as ex-Chairman of the Aircraft Committee, pointed out that there had been agreement in the Committee that any matters touching on aircraft should preferably be discussed within the Aircraft Committee. He would hesitate to refer any aircraft matter to another committee. Furthermore, as this matter was being discussed in a restricted session it was difficult to ask the Subsidies Committee to discuss the matter in a much larger body.

14. The representative of the EEC reiterated the view that specific export credit practices should not be subject to two rules at the same time. This was the important question. He suggested that it be recognized that there were divergent views on this question, and that the matter might remain before the Committee. But whether it should be on the agenda would be a matter for consultation. He suggested that new elements might develop later which would guide a decision on this matter.

15. The Chairman said that there was a consensus that it was appropriate for the Aircraft Committee to discuss all questions relating to trade in aircraft, including export credits. He also noted that there was a consensus that it was not desirable to have two different sets of rules for export credits. He noted that there were different views on the specific question of whether the OECD Standstill Declaration contained interest rate provisions. The Standstill Declaration was reproduced in document AIR/Spec/2; its interpretation was, however, a subject of divergence of views.

16. With regard to the question of whether the OECD Standstill was an international undertaking in the meaning of the second part of paragraph k) he noted that one delegation had referred to it as a

document and another had referred to it as an agreement. He also noted a suggestion that the Subsidies Committee could be asked to rule on this matter.

17. The representative of the EEC said that he did not fully agree with the Chairman's points. There was no doubt that the OECD Standstill Declaration was an international undertaking. It was not possible for the Subsidies Committee to rule on its status and scope as it was an OECD undertaking.

18. The representative of the United States reiterated that the Standstill Declaration was not within the scope of the second part of paragraph k). He added that if any international undertaking not containing interest provisions qualified as an exception, it would result in differential treatment for non-signatories of these undertakings. He agreed that the matter should be discussed in this Committee and not referred to another body.

19. The Chairman noted that several proposals and suggestions had been made. There was general support for the proposal by the EEC that delegations would consult their capitals on whether the Standstill Declaration did or did not contain interest rates. It could be decided later whether to address the matter at the next meeting.

20. He noted a Japanese proposal that the Chairman of the Aircraft Committee communicate with the Chairman of the Subsidies Committee concerning the Aircraft Committee's interest in export credit subsidy discipline in aircraft. He pointed out that the Subsidies Committee would meet at the same time as the Aircraft Committee should this Committee want him to communicate with the other Committee.

21. The representative of France said that there was no cause to ask the Subsidies Committee, or its Expert Group, for any interpretation when the Aircraft Committee had priority on all aircraft matters. Referring to the argument by the United States that, should the OECD Standstill be an exception under the second part of paragraph k), it would lead to discriminatory treatment of non-signatories to the OECD Standstill, he pointed out that this was not a real problem, as non-members of the OECD could apply de facto the relevant interest rate provisions. This was even provided for in the second part of paragraph k). He then pointed out that it had been the stated view of some US officials that the Aircraft Standstill was not to be considered a part of the Illustrative List of prohibited export subsidies. This was apparent from public statements, from which he quoted, made before a body of the US House of Representatives.

22. The representative of the EEC said that the suggestion that the Chairman communicate with the Chairman of the Subsidies Committee went beyond what he had envisaged. He suggested that the developments which would probably take place in the months to come should be taken into account before pursuing this suggestion.

23. The representative of Japan said that he looked forward to hearing the Chairman's report on the matter at the October meeting.

24. The representative of the United States said that it was clear that some members of this Committee were aware that the Subsidies Committee could make a useful contribution should the Aircraft Committee decide to refer the matter to it. Meantime the Chairman could brief the Chairman of the Subsidies Committee on the discussion that had taken place, as it might be relevant to the Subsidies Committee.