

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## Agreement on Trade in Civil Aircraft

### COMMITTEE ON TRADE IN CIVIL AIRCRAFT

#### Draft Minutes of the Meeting held in the Centre William Rappard on 20 and 22 March 1984

Chairman: Mr. B. Côté (Canada)

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#### 1. Election of Officers

1. The Committee elected Mr. B. Côté (Canada) as Chairman, and Mr. O. Zosso (Switzerland) as Vice-Chairman. The Committee also elected Mr. J. Schraven (Federal Republic of Germany) as Chairman of the Technical Sub-Committee.

2. The outgoing chairman, Mr. T. Sato (Japan) expressed his appreciation of delegations' co-operation which had enabled the Committee to complete the negotiations under Article 8.3 in the course of 1983. He also expressed the

Committee's appreciation and thanks to Mr. Phil Douglas (Canada) for having ensured the acting chairmanship of the Technical Sub-Committee at its last meeting.

2. Harmonized System - Conversion of Annex (AIR/W/44)

3. The Chairman said that at the last meeting it had been agreed that the Committee would discuss the question of a common approach to the implementation of the Harmonized System with regard to civil aircraft products. The papers before the Committee were a suggested schedule of work proposed by the United States (AIR/W/44), and two informal papers which had been circulated to Signatories, one from Japan dated 4 October 1983 and another from Sweden dated 16 February 1984.

4. The representative of the United States said that if it was expected that the Harmonized System would enter into force by 1 January 1987, the work of converting the aircraft concessions into Harmonized System should be completed by the end of 1985, leaving 1986 for domestic legislative procedures. The conversion of the Aircraft Annex into Harmonized System would reveal opportunities to shrink or expand the coverage of the Annex, because at present the three lists did not cover exactly the same products. It was important that the Committee determine at an early date the format for the future Annex in Harmonized System. That done, the Committee could then consider the trade-offs in terms of shrinking or broadening the coverage. He suggested that this could be discussed at the October meeting or early in 1985. Reviewing the current Annex from the point of view of Harmonized System conversion, there seemed to be only one method of formatting that could satisfy the goals of the Harmonized System and meet the requirements of

the Annex. One should be prepared to have product descriptions at the 6-digit level of Harmonized System nomenclature. The minimum product description should reflect Harmonized System nomenclature and of course 6-digit Harmonized System. To do so would require revision for some categories of products now covered. For instance, CCCN ex 39.07; under the Harmonized System that item should be sub-divided into six categories; the first three preceded by a general description. He emphasized the need to maintain 6-digit Harmonized System; the general object being to avoid a lack of uniformity.

5. The representative of Canada said that his authorities were working towards the adoption of the Harmonized System. In February 1984, the Tariff Board had been asked to study the conversion of CTS to Harmonized System and make a final report by 1 January 1986. In the meantime there would be progress reports; but the reports on the chapters dealing with aircraft would not come before the Tariff Board until 1985. Therefore his delegation was not in a position to start work on the conversion of the CTS list in the Annex into Harmonized System at present. On the question of coverage it was true that the CTS, CCCN and TSUS lists in the Annex did not have identical coverage. The CTS items were not all covered in the CCCN list; the converse was also true. The question which would need to be addressed was whether, when converting the Annex into Harmonized System, the Committee wanted to have a broader or narrower or equal coverage to the present Annex. Canada was in favour of broadening rather than narrowing the coverage. He added that his authorities were working on a tentative conversion into Harmonized System which would be available in the fall of 1984. This could be made available, although it should be understood that it would still be subject to review and modification by the Tariff Board.

6. The representative of Japan recalled that under Article 2.i.3 of the Agreement Signatories were obliged to incorporate in their respective GATT schedules the aircraft concessions in the Annex. Japan was, of course, ready to do so in a manner as transparent as possible. Towards this end Japan had already established sub-divisions of relevant tariff items within its draft loose-leaf Schedule (Japan) to specify the items which were subject to the Aircraft Agreement. His authorities were now in the process of introducing the Harmonized System. He noted that in transposing the present CCCN list of products in the Annex into Harmonized System nomenclature, the number of items would increase from fifty to more than 250; the number would further expand to some 320 when the new Annex was also transposed into Harmonized System. If sub-divisions of aircraft items were established in the conventional manner, i.e. with a special line within each country's tariff schedule, the national tariff schedules would become very voluminous and complicated, resulting in a certain burden to the administration of customs and to the daily business operations of importers and exporters. His authorities had examined different methods suggested to date in the Technical Sub-Committee and had concluded that the second method indicated by the EEC was the more realistic, both from the viewpoint of avoiding complexity of national tariff schedules and of describing aircraft products in GATT Schedules as transparently as possible. Specifically, the second method proposed by the EEC would compile the aircraft items as an annex to the tariff schedules while cross-referencing by an asterisk attached to the relevant tariff item numbers in the tariff schedule. However, his authorities were not opposed to any Signatory continuing with the conventional method of establishing sub-divisions within the tariff schedule. Each Signatory should be free to choose its own method, provided it was

considered appropriate by the Committee, taking into account proposals made by each Signatory, including the conventional method and the alternative as proposed by Japan. It was his authorities' view that in order to facilitate the preparatory work for introducing the Harmonized System by each Signatory, and in order to complete this preparatory work within the envisaged time-table, it was necessary to determine the basic approaches for incorporation of aircraft products in GATT Schedules. Therefore, his delegation wished to see the Committee agree at this meeting on the conventional method and the Japanese alternative method as two acceptable approaches. If necessary the Committee could continue to examine the other methods, if proposed by other delegations.

7. The representative of the United States said that he had never found quite satisfactory the present ex CCCN method in the Annex, and that his delegation by far preferred the conventional method of incorporating aircraft duty free treatment in national tariffs, i.e. by making sub-divisions and leaving out the ex's and the asterisks. He pointed out that even if there should be an additional three hundred tariff lines in Harmonized System, this would only amount to a few extra pages in the tariff. The important point was that the aircraft concessions be reproduced in a transparent manner.

8. The representative of Canada pointed out that there were really three different problems here. One was the question of transposing the Annex into Harmonized System nomenclature, the other was how to reflect aircraft concessions in national tariffs and the third one was how to reflect aircraft concessions in Signatories' GATT schedules.

9. The representative of Japan said that the Japanese proposal referred only to the GATT Schedules.

10. The representative of the EEC said that in fact there were two methods of reflecting aircraft concessions in GATT Schedules and in national tariffs, either by inserting sub-lines referring to the Agreement, which was seen as the conventional method, or by having appropriate cross-references (asterisks) and regrouping all the aircraft concessions in an annex; either of these methods had advantages and disadvantages. For its part the EEC had not yet decided which of the two methods it would adopt. His delegation was of the view that each Signatory should decide for itself, provided the most important point was respected, i.e. that the aircraft concessions were reflected in a clear and transparent manner. This was not the case at present in the Japanese domestic tariff where there was no reference to the Aircraft Agreement concessions. He urged Japan to correct this. The manner in which aircraft concessions would be reflected in domestic tariffs would also have a bearing on the collection of statistics. As for the transposition of the Annex into Harmonized System nomenclature he said that this should be undertaken without delay. The new Annex in Harmonized System could be drawn up on the basis of a broader or narrower coverage. The EEC was in favour of considering a broader coverage. The present Annex which was in CTS, CCCN and TSUS should be converted into a single Harmonized System list. However, there was a need to keep the actual Annex, at least in CCCN, in order to cover those Signatories who would not be applying the Harmonized System. He also pointed out that some countries, in particular some developing countries, had the right to stay within 4-digit Harmonized System. These were problems to which solutions would have to be found.

11. The representative of Sweden said that the Technical Sub-Committee should be entrusted with the task of preparing the conversion of the Annex into Harmonized System nomenclature. This should be done on the basis of the extended Annex as it would be in force on 1 January 1985; it would be desirable to achieve a single common list on a 6-digit Harmonized System basis. The Technical Sub-Committee should be free to propose any appropriate solutions and to discuss the format. It should report to this Committee at a suitable date.

12. The representative of Japan agreed with this proposal, but added that the Committee should nevertheless keep the matter on its agenda. The representatives of Canada and the EEC also agreed that the matter should be examined by the Technical Sub-Committee. The representative of the EEC said that in order to undertake this work the Technical Sub-Committee would need a technical transposition of CCCN, of TSUS and of CTS into Harmonized System as a starting point. Once these transpositions done, it could then be seen whether the remaining CCCN Annex list would need modification.

13. The Chairman said that it was important to do the ground work for the October meeting. There seemed to be different issues to be discussed and he proposed that some of these could be clarified in an informal meeting.

14. After the informal meeting the Chairman said that there was a common view that while the subject of conversion to the Harmonized System should remain on the Committee's agenda, it was up to the Technical Sub-Committee to do the detailed work.

15. After some discussion the Committee agreed to the following terms of reference for the Technical Sub-Committee:

"The Committee requests the Technical Sub-Committee to undertake the necessary work towards transposing the CTS, CCCN and TSUS lists of the Annex into a single consolidated list in Harmonized System nomenclature, at 6-digit level as appropriate, on the basis of all relevant documents and proposals from Signatories; the Technical Sub-Committee should also examine the methods of incorporating aircraft concessions in GATT Schedules and national tariffs; in the light of discussions in the Committee, with a view to making recommendations to the Committee as soon as possible."

16. The representative of the United States said that during the conversion of the Annex into Harmonized System there would be opportunities to broaden the coverage of the Annex. The United States was prepared to supply by mid-July a draft TSUS annex in Harmonized System, incorporating all concessions reflected in the actual TSUS list and taking into account the Japanese and Swedish draft transpositions.

17. The Chairman of the Technical Sub-Committee, Mr. Schraven, said that he looked forward to receiving at the earliest date possible even rough transpositions of the three Lists in the Annex so that these could be examined by the Technical Sub-Committee. The Chairman said that the Committee looked forward to a progress report from the Technical Sub-Committee at its next meeting in October 1984; the Committee would continue to address the policy questions of conversion of the Annex into Harmonized System, and how to reflect these concessions in GATT schedules and in domestic tariffs.

3. Implementation of New Annex - Signatories' Progress Reports-

18. The Chairman drew attention to document AIR/44/Rev.1 which was a revision of the text of the new Annex. Since circulation of AIR/44 on 24 January 1984, the secretariat had received further corrections to the CTS and the TSUS list; some of the changes to the CTS list in Annex II needed to be explained or commented in the first part of the document. However, the first part of the document was merely a record of how the changes had been effected and as such would not, when the time came, be circulated as a draft certification. He also drew attention to the Second Certification of Changes to the Annex, dated 27 January 1984. The Annex to the Agreement in force at present, and until 1 January 1985, was that contained in the original Agreement of 12 April 1979, as amended by the First and Second Certifications of 17 January 1983 and 27 January 1984 with respect to the TSUS list. It was his understanding that any contracting party which became a Signatory to the Aircraft Agreement after the entry into force of the amendments to the Annex was deemed a party to the Agreement as amended, thus ensuring the same level of rights and obligations at the same time for every Signatory. With respect to the new Annex the Chairman said that the basis of discussion was the second part of document AIR/44/Rev.1. He invited delegations to make their progress reports concerning their domestic legislative procedures for implementing the new Annex on 1 January 1985.

19. The representative of the EEC said that on the basis of the CCCN list in AIR/44 (which had not been altered in AIR/44/Rev.1) the Commission had taken the steps necessary to introduce duty free treatment in the tariff for the new aircraft products. At present the matter was before the EEC's Committee on Nomenclature for verification. Later, it would go before the Council of the EEC; no difficulties were expected for implementation by 1 January 1985.

20. The representative of Austria said that his authorities had started the approval procedures on the basis of AIR/44. The matter would go before Parliament for approval before the end of June, followed by the President's signature. No problems were expected regarding implementation of the new Annex by 1 January 1985.

21. The representative of Canada said that on 15 February 1984 the Ministry of Finance had introduced legislation in Parliament on duty-free treatment for 1 January 1985, for the products which were not yet duty free under the present Annex. He confirmed that the final text of the CTS list of the new Annex was that contained in AIR/44/Rev.1.

22. The representative of Romania said that on the basis of the Committee decision of 6 October 1983 his authorities were examining the possibilities of implementing the new Annex on 1 January 1985. He believed there would be no difficulty to implement the new Annex on 1 January 1985.

23. The representative of Norway said that his authorities had initiated the approval procedure for implementing the new Annex by 1 January 1985. No problems were foreseen.

24. The representative of Sweden said that as duty free treatment already existed in Sweden under the end-use system, the implementation of the new Annex would be a mere formality. He did not foresee any problems for implementation by 1 January 1985.

25. The representative of Switzerland said that internal procedures for approval had been based on document AIR/44. Government approval for the new

Annex had been obtained in January 1984. The first approval of the Federal Council had been obtained a few days ago; the final approval was still pending. No problems were foreseen for the implementation by 1 January 1985.

26. The representative of the United States said that on 18 October 1983, at the request of the President transmitted through the United States Trade Representative, the United States International Trade Commission had instituted an investigation under Section 332(g) of the Tariff Act of 1930, on the probable economic effect on US producers of certain articles used in civil aircraft of the granting of duty-free treatment to such articles under the Agreement on Trade in Civil Aircraft. The ITC had concluded its study and filed a report to the President who would review it. After clearance within the administration, legislation would be submitted to Congress probably in April 1984. The basic finding of the ITC had been favourable to proceeding with the duty free treatment. Legislation presented would have first to go to the House of Representatives and then to the Senate. The legislative process might be concluded before the November elections. The Congress would then authorize the President to proclaim duty-free treatment for the new items. However, Congress would condition the President's authority upon his making a determination that the US's major trade partners would accept the same obligations on the same date.

27. The representative of Japan said that, in accordance with the decision taken by the Committee on 6 October 1983, his Government was actively promoting the preparatory work to submit the extension of the Annex to the Diet. In this context his Government sought action by this Committee regarding the final text of the Consolidated Annex. In order to expedite the

internal Japanese legislative procedure it was necessary to present a final text of the extended Annex. He therefore proposed that the Committee take a decision, the text of which had been drafted in consultation with interested parties, which was designed to solve the particular legal requirements of the Japanese legislative process.

28. The Committee adopted the following Decision:

"Noting that the Signatories have concurred, in accordance with Article 9.5.1 of the Agreement, in an extension of the Annex to the Agreement which reflects the result of negotiations among Signatories in accordance with Article 8.3 of the Agreement;

Confirming the understanding that the extension of the Annex to the Agreement as attached to this Decision is intended to come into force for all Signatories to the Agreement by 1 January 1985;

Hereby decides by consensus that the text attached to this Decision is the final text of the consolidated Annex to the Agreement, incorporating the extension of the Lists of tariff items as agreed by the Committee on Trade in Civil Aircraft on 6 October 1983."

29. The Chairman said that the Decision with the Final Text attached would be reproduced in document AIR/45. He stated for the record that the Committee's Decision was an exceptional one taken to facilitate implementation of the agreed extension of the Annex of the Agreement, at the agreed date of 1 January 1985.

30. The representative of Japan said that he was under instructions to state that his Government would do its utmost to seek approval of the Diet, during the course of its present session, to implement the extended Annex. It was encouraging to hear that other Signatories were making progress in their legislative procedures. Regarding the procedure of Certification of Changes to the Annex, it was his authorities' view that this procedure should apply to rectifications of the Annex but did not cover substantial changes to the Annex. Regarding the date of entry into force, he stated that it was Japan's desire that the extended Annex enter into force for all Signatories on 1 January 1985.

31. The representative of the United States asked confirmation from the representative of Egypt that if Egypt was to complete its domestic legislative procedure to ratify its acceptance of the Aircraft Agreement after 1 January 1985 this ratification would include the extended Annex; however, should its ratification procedure be completed before 1 January 1985 Egypt would undertake further action in order to accept the extended Annex.

32. The representative of Egypt said that the subject was under review in his capital. It was his understanding that the Decision of 6 October 1983 concerning the extended Annex was presently under examination by his authorities; further procedures would be needed to accept the new Annex should Egypt complete this ratification procedure prior to 1 January 1985.

33. The Chairman noted the statement made by the representative of the United States to the effect that the President was required to make a determination that the United States' main trading partners would take the

same obligation at the same date. It was his understanding that Signatories had taken note of this legal requirement, and that they would consult bilaterally over the modalities of meeting this requirement. He added that Signatories having completed their internal procedure could send a letter to the secretariat for the information of other Signatories.

34. The Chairman concluded that the Consolidated Annex, including the extension agreed to on 6 October 1983, as attached to the Decision would be issued as a Draft Certification at the appropriate time.

4. Proposal for a New Article 6.3 - Export Credits (AIR/42/Rev.1)

35. The Chairman recalled that document AIR/42/Rev.1 contained a proposal by the United States to add a new paragraph to Article 6. There had been a first discussion of this proposal at the previous meeting (AIR/M/11, page 5).

36. The representative of the United States said that there were presently discussions under way in Washington on the subject of export credits in support of civil transport aircraft exports. It was not his intention here to pre-empt the discussion, but rather to support the principle in GATT that subsidized export credits were unnecessary to support civil aircraft exports. There was increasing competition in the field of large civil aircraft transports and commuter aircraft. A number of firms and governments were seriously concerned with the increasing competition in export subsidies, some of which involved non-Signatories to the Agreement. It was his delegation's view that until this Committee could formulate a clear statement of principle on the matter it would be difficult to establish an effective discipline with countries not in the OECD arrangement or in this Agreement. The

United States delegation wanted a statement of principle that subsidies should be eliminated from official export credits. Discussions of terms and conditions of export credits should continue to be conducted in the OECD forum. Subsidization of official export credits was wasteful of government budgets, distorted trade and encouraged costly competition that was destructive to the industry and the normal conditions of trade. Subsidies were unproductive and harmful. The buyer was the ultimate beneficiary of a subsidy and the industry the loser, since subsidized credit from one country was usually matched by others. The commercial aircraft industry was an international industry in which competition should not be based on the depth of resources to finance export subsidies. The US proposal was the same as the one made at the previous meeting; he invited the members of the Committee to express their views.

37. The representative of the EEC said that he saw no necessity for such a statement. He agreed that the appropriate forum for pursuing the matter was the OECD.

38. The representative of Japan reiterated the position his delegation had stated at the previous meeting. While the issue could be discussed in this Committee, negotiations should be pursued in the OECD. He asked clarification of what the delegation of the United States had meant by "without any support of interest rates".

39. In reply the representative of the United States said that "government support of interest rates" referred to situations where the government intervened to support an interest rate lower than the commercial market rate.

40. The representative of Canada said that his delegation continued to fully support the objective of the United States proposal. His delegation had difficulties with the precise wording of the proposal in AIR/42/Rev.1; but he hoped that the Committee would find ways to develop an acceptable proposal. He was in favour of discussions and negotiations in the OECD and hoped that these would soon be successfully completed.

41. The representative of the United States said that while there was a meeting in Washington at present to discuss export credits concerning large transport aircraft, there were no similar discussions concerning smaller civil transport aircraft. The last discussion in the OECD had been held in October 1982. It could not be said that there was much progress in this area. Referring to the statement by the EEC he hoped that it indicated that there would be some support for an amendment in this Agreement if no progress were registered in the OECD. He felt that a prompt resolution of this matter in this Committee would help resolve some of the problems.

42. The Chairman said, in conclusion, that in the light of comments the Committee had an obvious interest in following the discussions underway in the OECD on export credits for civil aircraft. The matter would remain on the agenda.

5. Report on Consultations with Non-Signatories

43. The Chairman recalled that in its report to the CONTRACTING PARTIES (L/5554) the Committee had invited the Chairman, Mr. Sato, to approach interested non-Signatory contracting parties, in particular developing countries who were producers of aircraft or components, with a view to

preparing a discussion on the obstacles they perceived to accepting the Aircraft Agreement.

44. Mr. Sato (Japan), the outgoing chairman, said that he had started some consultations with non-Signatory contracting parties with a view to preparing a discussion as he had been asked to in the Committee's Report to the CONTRACTING PARTIES. These were by no means completed and he invited the new Chairman, Mr. B. Côté (Canada), to continue the consultations.

45. The Chairman said that the absence of countries manufacturing aircraft or components from the Agreement was of some concern to Signatories. The question should continue to be examined and he assured the Committee that he would follow up on the work Mr. Sato had initiated.

46. The representative for Egypt recalled that such consultations should refer to the obstacles these countries encountered in accepting the Agreement. The CONTRACTING PARTIES' decision on the matter had been taken in the context of all the MTN Codes. He reminded the Committee that developing countries had their own problems which could differ from Code to Code; generally he thought that an open discussion of the obstacles perceived could be positive.

6. Counterfeit in Civil Aircraft Parts

47. Under "Other business" the representative of the United States referred to a meeting held last December in GATT concerning the trade problems caused by counterfeit goods. Consultations had been held in the United States with the aircraft industry on the problem of counterfeit aircraft

parts, and whether it should be raised in GATT. The industry did not believe that the matter was ready for discussion in the GATT at this time. He asked whether other delegations shared this view, and whether aircraft industries in other countries were interested in pursuing the matter in GATT. For its part the United States would be willing to have consultations with other interested countries on the issue of counterfeit aircraft parts and the risks involved to civil aviation.

7. Government Funding of Aircraft Development Programmes

48. Under "Other Business" the representative of the United States said that it was important that the forum of the GATT Committee on Trade in Civil Aircraft be used to express views regarding developments which affected or might affect trade in civil aircraft. He took this opportunity to express some views on matters related to Articles 4 and 6 of the Agreement. There had been cases recently reported in the press of government inducements and political pressures linked with procurements decisions. This kind of practice was trade distorting. It was not appropriate for governments to entertain political considerations when considering airline fleet decisions. In fact the rôle of government in airline fleet decisions should be that of a commercial banker or airline stockholder - what was the best aircraft for the airlines route structure, operating economics and customer base. The United States applauded the recent decision by Airbus member governments to launch the Airbus 320 programme. It was aware that the member governments had decided to provide much of the very substantial investment necessary to launch this programme and believed that the trade impact of this support was an appropriate question for the Committee's consideration. The United States believed that government support to aerospace industries should be extended

in a way that did not distort the conditions of normal competition. This support should be extended only on a commercially competitive basis. Article 11 of the Subsidies Code, as well as the preamble of the Aircraft Agreement, established commercial competition as the norm and defined the limit of the rôle of government funding. He recalled the Preamble of the Aircraft Agreement in which Signatories expressed the desire "that their civil aircraft activities operate on a commercially competitive basis". Private companies could not be expected to compete with governments when it came to funding the billions of dollars required to develop and produce new series of civil aircraft. His delegation looked to the potential trade consequences of such government funding programmes and would watch that all aerospace companies operate on a commercially competitive basis. He asked Signatories to take note of this concern and asked those who were providing, or contemplating provision, of government support for the development and production of specific models of civil aircraft, to take particular note of the possible adverse effects of such subsidies on the trade interests of other Signatories, and to ensure that they avoid adversely effecting the conditions of normal competition. He added that his delegation was considering pursuing the provisions of Article 7 of the Subsidies Code by making written requests for information on the nature and extent of any subsidy granted or maintained by another Signatory, which operated directly or indirectly to increase exports of aircraft from or reduce imports of aircraft into its territory.

8. Further work under Article 8.3

49. The representative of Canada said that his delegation was pleased that the negotiations under Article 8.3 had been concluded on 6 October 1983. It

was important that the work continue in this area; there were many proposals tabled in the Technical Sub-Committee on other aircraft products that were not yet covered by the Aircraft Agreement. He invited the Committee to consider how best to continue the work.

9. Dates of next meeting

50. The date of the next meeting was set for Wednesday, 10 October 1984 starting in the afternoon and Friday, 12 October 1984. It was understood that the Technical Sub-Committee would meet before these dates in order to make a first report to the Committee on the question of the Harmonized System.