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GENERAL AGREEMENT ON TARIFFS AND TRADE

Agreement on Trade in Civil Aircraft

COMMITTEE ON TRADE IN CIVIL AIRCRAFT

Minutes of the Meeting held in the
Centre William Rappard on 9 October 1985

Chairman: Mr. B. Coté (Canada)

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1. <u>Harmonized System - Conversion of Annex - Report of the Technical Sub-Committee</u>	

1. The Chairman recalled that the Committee had in March 1984 asked the Technical Sub-Committee to transpose the new Annex into Harmonized System. He invited the Chairman of the Technical Sub-Committee, Mr. K. Sangway, to report on the work done since the last progress report to the Committee in April 1985.
2. The Chairman of the Technical Sub-Committee said that since April 1985 the Technical Sub-Committee had met twice to continue its work, on 8 and 9 July and on 7 and 8 October 1985. On transposition of the Annex into Harmonized System the Technical Sub-Committee had nearly finished its work. An informal working draft, showing the present status of the work, would be drawn up within a week or two. The list now contained some 260 6-digit Harmonized System items. The Technical Sub-Committee needed to re-examine some twenty of these positions before it could present the Committee with a technically agreed transposition of the Annex into Harmonized System.

3. The final report, which would be submitted to the Committee in April 1986, would flag a few Harmonized System items on which it had not been possible to reach technical agreement. The report would, however, indicate minimum common coverage and maximum partial coverage in terms of the present Annex.

4. The Sub-Committee was also considering the technical changes needed to the Headnote to the Annex to reflect the transposition into the Harmonized System as well as the technical merits of maintaining a CCCN Annex, modified to take account of the Harmonized System transposition.

5. The Sub-Committee intended to finalize and circulate its report to the Committee well in time for capitals to study it for the April 1986 meeting of the Committee. The Chairman of the Technical Sub-Committee appealed to delegates to send to the secretariat those elements of information that were outstanding. He pointed out that if these were not made available to the Technical Sub-Committee, it could not meet its target of finalizing its report for the April 1986 meeting of the Committee.

6. Members of the Committee thanked the Technical Sub-Committee for its Progress Report and looked forward to receiving the final report in good time for its consideration at the April 1986 meeting of the Committee.

2. Implementation of the new Annex

7. The Chairman drew attention to document AIR/58, which listed the notifications received on completion of domestic legislative procedures regarding the implementation of the new Annex. He noted that the new Annex was in force for all Signatories now, although unfortunately not uniformly on the same date. He added that at the last two meetings the Committee had briefly discussed the question of improvement of procedures, and that he had asked for suggestions on this matter.

8. The representative of Japan said that his authorities were working on the subject and that his delegation would circulate a proposal for improvement of procedures.

9. The Chairman recalled that the entry into force of the new Annex called for follow-up action under Article 2.1.3 - binding of aircraft concessions in Signatories' respective GATT Schedules. The Committee on Tariff Concessions had decided on 5 November 1984 (TAR/M/14), to prepare a Sixth Certification of Changes to Schedules and, in GATT airmail 2096 of 21 January 1985, had called for the additional aircraft concessions to be included in the schedules of the countries Signatories of the Aircraft Agreement.

10. The representative of Canada said that work was proceeding and that the new bound items would be submitted for the Canadian Schedule in the Sixth Certification.

11. The representative of Romania said that he was instructed to inform the Committee that the same procedure which was used when signing the Agreement would be also used for binding of the new Annex.

12. The representative of Sweden said that its aircraft bindings had already been submitted for the Sixth Certification. The Norwegian bindings were in preparation.

13. The representative of the United States said that the American bindings were also being prepared and would be submitted to the secretariat shortly.

14. The representative of the EEC said that the Community's bindings for the Sixth Certification were in preparation and would be submitted shortly.

15. The representative of Switzerland said that the Swiss submission was in preparation.

16. The representative of Japan recalled the discussion at the last meeting of the Committee on his authorities' interpretation of Headnote 8 to the Japanese Schedule in the Geneva (1979) Protocol. He explained that the Japanese authorities interpreted Headnote 8, "From the date of entry into force of the Agreement on Trade in Civil Aircraft for the Government of Japan, 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.", as covering the new concessions in the Annex which entered into force on 1 January 1985. He recognized that other delegations were concerned that the apparent limitation of the phrase "... which is effective on the date of entry into force of this Agreement ..." in Headnote 8 would not cover later amendments. He explained that Japanese legal authorities gave the same interpretation to this phrase as they did to the phrase in Article 2.1.1 "... to eliminate by 1 January 1980, or by the date of entry into force of this Agreement ...". The date of 1 January 1980 in Article 2 had been interpreted as 1 January 1985 as regarded the new Annex. The Japanese authorities made a parallel with this interpretation and that of Headnote 8 to their Schedule, which as regarded the new Annex was interpreted to mean 1 January 1985. He added that his authorities would try to incorporate the new bindings in the Japanese H.S. tariff schedule.

17. The representative of the EEC requested the secretariat to examine the Japanese position with regard to Japan's bindings and give the Committee some guidance on the proper recording of GATT bindings in GATT Schedules. A proper interpretation of the correct procedures was needed because of the precedence this could set for the future.

18. The Chairman said that the secretariat would examine the question. He also recalled that the provisions of Article 8.3 called for periodic negotiations with a view to broadening and improving the Agreement.

3. Export Credits for Civil Aircraft

19. The Chairman said that discussions within the OECD on an Understanding Regarding Export Credits for Civil Aircraft had progressed, and that draft Guidelines for Officially Supported Export Credits for Large Commercial Aircraft were on their way to completion. He asked that the matter remain on the agenda so that the Committee could take stock of where things stood at the next meeting.

4. Report to the CONTRACTING PARTIES

20. The Chairman recalled the provisions of Article 8.2 of the Agreement which calls for an annual report to the CONTRACTING PARTIES to the GATT.

21. The Committee adopted its Sixth Report to the Contracting Parties contained in document L/5880.

5. Matters under Article 4.4

22. The representative of the United States took note that there had been informal discussions by the Committee that morning on the interpretation of Article 4.4 - government inducements to the sale or purchase of civil aircraft. It was his view that many interesting and constructive observations had been made and important issues raised. Regarding the question of uniform interpretation of the Agreement, however, he regretted that little substantive progress had been made in realising a common operational interpretation of inducements to be mutually avoided, whether in the context of the illustrative examples circulated by his delegation, or otherwise. His delegation believed that the incidence of government intervention through inducements had increased since the Agreement was negotiated, thereby causing distortions in the market place. Furthermore, his delegation believed that unless the governments Signatory to this Agreement took positive action to identify and avoid inducements, competition between products would be increasingly supplanted by competition and rivalry between governments. It was in the mutual interest of Signatories to develop more effective self-disciplines in this area. The subject of inducements needed to be reverted at future meetings.

23. The representative of Canada said that his delegation was prepared to participate fully in a discussion of the interpretation of Article 4.4 with a view to clarifying Signatories' interpretation of what constituted inducements.

24. The representative of the EEC said that past discussions of the matter as well as the informal discussion of this morning, had shown that Signatories had different perceptions of Article 4.4. The EEC did not feel, like the US did, that there was a problem of insufficient operativeness. In his delegation's view no new elements had appeared which could justify the elaboration of an illustrative list of inducements to be avoided. Furthermore, he felt that such a list would pose problems of definition and interpretation. The US perception of increasing inducements could be based on the interpretation of biased information. He suggested that a better course would be to find pragmatic approaches with a view to clarifying specific situations, rather than formally discussing an illustrative list.

25. The representative of Japan said that Article 4.4 was an essential provision of the Agreement. His delegation was prepared to take part in any discussion, provided information was supplied on what these problems were.

26. The representative of the United States said that his delegation had given examples of inducements at previous meetings. These could be found in the Committee's Minutes. He said the matter should be reverted to in the future but left it open whether it should be raised at the 1986 meeting.

27. The representative of France said that he doubted any new elements would emerge within six months, but if they did his delegation would appreciate being informed.

28. The representative of the United States responding to the comment by the EEC, asked whether the Commission was prepared to undertake some work on the degree of government involvement in inducements. It was his delegation's view that circumstances had changed since the entry into force of the Agreement, and that there had been an increase or the perception of an increase of inducements.

29. The representative of the EEC reiterated that it would be preferable to find practical, informal avenues in which to discuss and explain concrete cases between Signatories. In this context, he did point out that, in any clarification exercise, the proof of "inducements" would rest with the delegation asking for clarification.

30. The representative of the United States said that his authorities were not making any accusations and regretted that the illustrative list submitted informally by his delegation had raised so many concerns. He asked the EEC whether it was proposing to discuss concrete examples on an informal basis rather than under Article 8.

31. The representative of the EEC said that this could help clear what in many cases was misinformation.

32. The representative of the United States said that his delegation would continue to raise on a case-by-case basis issues of urgency. However, in order to avoid a climate of accusation or lengthy disputes, his delegation would continue to seek an agreed general interpretation of Article 4.4 with other Signatories.

33. The Chairman said that any delegation could put the question of interpretation of Article 4.4 on the agenda of future meetings.

6. Matters under Article 6

34. The representative of the United States said that his delegation welcomed the Agreement reached in the OECD on Officially Supported Export Credits for Large Aircraft. This sector understanding had nearly, but not completely, eliminated the subsidy element in interest rates for export credits. A parallel arrangement covering civil aircraft other than large commercial aircraft was being negotiated.

35. The United States delegation had met bilaterally with other delegations to pursue the matter of transparency of government supports for civil aircraft programmes. Certain other delegations agreed with the principle of transparency, but were of the opinion that transparency should be universal among the Signatories, not exercised by only a few, which would place those few at a disadvantage. He stressed that the political pressures in the United States were more intense than they had been at any time since the implementation of the Agreement. The inability of the United States to respond to legitimate questions of the Congress and the public about the type and level of supports provided by other Signatories to their domestic aircraft manufacturing industry was a growing concern. A transparency system

would forestall such questions if, as other Signatories contended, their supports for their industries were in accord with the disciplines of the Agreement.

36. Last spring the United States' delegation had asked the EEC why government subsidies to a civil aircraft programme in the EEC had not been notified to the GATT. He wished to remind the Committee that his delegation was waiting for a response from the EEC in the forum of the Subsidies and Countervailing Duty Code, and intended to raise this issue at its scheduled meeting of 23-24 October 1985.

37. The representative of the EEC said that his delegation would explain its position at the meeting of the Committee on Subsidies and would explain why it did not make any notification in that case.

7. Matters under Article 8

38. The representative of the United States referred to the Chairman's statement regarding the broadening and improvement of the Agreement under Article 8.3, which called for periodic negotiations. He recalled that in the past his delegation had suggested the possibility of adding a new paragraph 3 to Article 6 which would be a statement of principle on export financing. This matter had not been pursued pending the results of negotiations in the OECD on the same subject. It seemed that the time had come to consider this matter under Article 8.3. Other subjects which could enter into a renegotiation exercise could include mixed credits (whether inducements or not). He noted that a review of the Agreement and the preparatory work that this would require should be undertaken.

39. The representative of the EEC noted that the delegation of the United States had raised this matter under Other Business; he was therefore unprepared to respond to a proposal for renegotiation under Article 8.3, which had major implications. The United States' delegation had mentioned some points which could be renegotiated, but surely there might be others. He was concerned with the translation of an OECD Agreement into an Aircraft Code discipline. By reinforcing discipline, the Agreement would be even less attractive to non-Signatories. At this stage his delegation was not in a position to respond to a proposal for renegotiation just when a new GATT round of negotiations was being prepared. He could associate himself to a proposal that the secretariat undertake an analysis of the functioning of the Agreement in its present form.

40. The representative of Japan noted that it was the task of the Committee under Article 8.1 to determine the areas in which work should be undertaken. His delegation was in sympathy with the initiative of the United States.

41. The representative of Canada recalled that the last Article 8.3 negotiations had been concluded in October 1983 and that further negotiations were called for at periodic intervals. He believed there were areas of the Agreement that should be reviewed for improvement, and supported the idea that the secretariat should prepare an assessment. The representative of the United States said that preparatory work on issues appropriate to Article 8.3 action should be undertaken. His delegation would submit a paper to the secretariat on this question. As for the link between a new round of GATT negotiations and Article 8.3 negotiations, he said that it was very much this

Committee's decision to say what areas were to be reopened, broadened or improved. He saw no conflict in this action with a broader GATT negotiation.

42. The representative of France said that it was not possible to ignore the development relating to a broader GATT negotiation which would include any work undertaken under Article 8.3. He said his delegation reserved its position until it had made an in depth analysis of the broader MTN package and could see how the points raised by the US delegation regarding civil aircraft renegotiations fitted into a broader picture.

43. The Chairman said that there seemed to be a consensus at delegation level to reflect on the matter of broadening and improving the Agreement under Article 8.3. However, any written contributions submitted by any Signatory would be welcomed by other Signatories. He noted that the secretariat had at its disposal a number of documents containing past proposals for improvement of the Agreement and that these could be usefully drawn upon for further reflection. He invited delegations to reflect on the matter with a view to further discussion at future meetings.

8. Dates of next meetings

44. The dates for the next meetings were set for 23 and 24 April 1986, and for the week of 6 October 1986, tentatively Wednesday, 8 October 1986.