

# GENERAL AGREEMENT ON

RESTRICTED

# TARIFFS AND TRADE

AIR/M/21

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Agreement on Trade in Civil Aircraft

COMMITTEE ON TRADE IN CIVIL AIRCRAFT

Minutes of the Meeting  
held in the Centre William Rappard  
on 25 March 1987

Chairman: Mr. Ch. Manhusen (Sweden)

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1. Election of officers

1. The Committee elected Mr. Ch. Manhusen (Sweden) as Chairman of the Committee and Mr. T. Shinohara (Japan) as Vice-Chairman. It was noted that there was no work on hand for the Technical Sub-Committee at this time; the election of a Chairman for the Technical Sub-Committee would be postponed until that body would be convened.

2. The Chairman expressed the Committee's appreciation for the work done by the outgoing Chairman of the Committee, Mr. H. Döring (Germany, F.R.).

2. Accession of Spain and Portugal to the EEC

- Authentic text in Spanish (AIR/W/61 and AIR/61/Rev.1)

3. The Chairman said that this matter had been discussed at the Committee's meeting of 8 October 1986 and had been left for completion at this meeting. The secretariat had prepared a note containing a draft decision which, if adopted by the Committee, would complete the authentication of the Spanish text. The Spanish text, reproduced in AIR/61/Rev.1, was identical to the English and French texts and no longer contained the square brackets on pages 12 and 14 (of AIR/61).

4. The Committee adopted the following Decision:

"Recalling that, on 20 February 1980 (AIR/M/1, paragraph 44), the Committee stated its willingness to authenticate a Spanish text of the Agreement, and further recalling that the Spanish text of the Agreement prepared by the GATT secretariat dated April 1986 was the correct translation of the Agreement:

The Committee agrees that the Spanish text of the Agreement on Trade in Civil Aircraft, reproduced in the Annex to document AIR/61/Rev.1, shall be considered authentic."

5. The representative of Japan said that his authorities had no objection to authentication of the Spanish text via a Committee Decision. However, should there be an occasion to amend the Agreement it would be desirable to incorporate the Spanish text in the Agreement itself. Until such time and should any discrepancies appear between the Spanish text and the English and French texts, Japan reserved its right to interpret the provisions of the Agreement on the basis of the English and French texts.

- Notifications under Article 1.2 (Military entities)

6. The Chairman said that at the meeting of 8 October 1986 it had been pointed out that the required notifications by Spain and Portugal on their entities operating military aircraft were still outstanding.

7. The representative of the EEC, speaking on behalf of Spain and Portugal, said that the notifications would be forthcoming.

3. Harmonized System - Status of Protocol (1986) (AIR/62 and AIR/62/Add.1)

8. The Chairman said that at the 2 December 1986 meeting the Committee had adopted the Protocol (1986) Amending the Annex to the Agreement. This was subsequently issued in document AIR/62. A note (AIR/62/Add.1) was

issued on 17 December 1986 advising that the Protocol was open for acceptance until 31 October 1987. The Protocol was also now available in printed form.

9. The representative of Japan said that the Protocol had been submitted to the Diet for approval on 18 March 1987.

10. The representative of Sweden said that the Protocol had been adopted in March 1987 by the respective authorities of Sweden and Norway; thus, both countries would be in a position to sign the Protocol shortly.

11. The representative of the United States said that his administration had submitted legislation to Congress that included adoption of the GATT Harmonized System including the Aircraft Annex. The specific tariff line conversions would be submitted as an amendment after completion of the bilateral negotiations within the next few weeks.

12. The Committee took note of these developments.

#### 4. Implementation of the 1985 Annex - Status of GATT bindings

13. The Chairman said that the binding of aircraft concessions of the 1985 Annex in Signatories' respective GATT Schedules had again been discussed at the October 1986 meeting. Japan had stated that it would incorporate its concessions in the Sixth Certification at an early date. It was his understanding that Japan had handed the required submission to the GATT secretariat on 23 March 1987 and that, pending resolution of some details on concessions other than aircraft, the submission would be issued as a TAR-document within a few days. Once this document was issued all Signatories would have submitted their 1985 Annex aircraft concessions for incorporation in their respective GATT Schedules.

14. The representative of Japan confirmed that the Japanese submission had been handed to the secretariat for incorporation in Japan's Schedule; this was without prejudice to Japan's interpretation of Headnote 8 to its GATT Schedule.

15. The Chairman said that the Committee noted that Signatories' obligations under Article 2.1.3 had been fulfilled and that this item need no longer figure on the agenda.

#### 5. Matters under Article 8.3

16. The Chairman said that at the last meeting, when discussing the matter of further negotiations under Article 8.3 for improvement of the Agreement, the Chairman had invited all delegations to formulate specific proposals and to circulate them not later than February 1987. To date no proposals had been received.

17. The representative of Sweden, speaking on behalf of the Nordic delegations, recalled the discussions on Article 3.1 which had taken place already in 1980 on the basis of a Canadian proposal (formally introduced in document AIR/W/18) covering broad issues relating to the Agreement on Technical Barriers to Trade, such as notification of standards and technical regulations concerning maintenance procedures. However, the Committee had not reached any conclusion, probably as the matter was effectively dealt with by airworthiness authorities and there were no acute problems at that time. Article 3.1 would seem to need some clarification now. Recent events had clearly shown the trade policy aspect of maintenance standards. Such issues should therefore not be left entirely to airworthiness authorities, even if they were and would remain the technical experts in the matter. To improve transparency her delegation suggested that it be made clear, by way of an interpretative note or a recommendation, that all proposed new national measures in this area be notified and subjected to a time for comment. The disciplines could be exactly the same as those applied under the Agreement on Technical Barriers to Trade or, if necessary, adjusted to any particular conditions in the civil aircraft sector. This would not be duplication of the work of the above-noted Agreement because that Agreement did not cover services.

18. The representative of the EEC said that there was merit in the idea of notification of changes in regulations for aircraft maintenance procedures. The EEC was not opposed to the idea and would study it carefully.

19. The representative of Canada said that his authorities supported a review of the Agreement and were sympathetic to proposals to broaden and improve the Agreement. They were prepared to participate in a process aimed at an agreed interpretation of the Agreement as negotiated, or at the negotiation of improvements to the Agreement, whether through new provisions or interpretation of these provisions.

20. The representative of the United States said that the Committee should be embarking on preparatory work for review of the Agreement under Article 8.3. There were several proposals on the table; some concerned technical corrections to Article 2.1.1. There was the Japanese proposal to incorporate the authentic text of the Agreement in Spanish, as well as other proposals.

21. The Chairman proposed that the item remain on the agenda for the next meeting. He invited delegations to consider whether there was a need to convene the Technical Sub-Committee on any of these matters.

#### 6. FAA regulations - Action Notices

22. The Chairman said that this matter concerned a stricter interpretation of certain US Federal Aviation Administration regulations and had been raised at the 8 October 1986 meeting by the EEC.

23. The representative of the EEC recalled that in 1986 the FAA had announced its intention to give a stricter interpretation to some of its regulations. This would restrict the type of repairs that could be undertaken by foreign repair stations on US registered aircraft. The FAA would also be stricter in certifying foreign repair stations as well as components and parts of foreign origin. While the EEC had accepted the security explanations given by the US delegation at the last meeting, it had nevertheless objected to the measures as a barrier to the aims of the Agreement and as contrary to Article 3.1. The United States delegation had said that there would be further discussions in October 1986 between the FAA and designated foreign regulators. To date the FAA had not suggested any acceptable solutions. Some bilateral waivers have been granted but they were no guarantee for the future of foreign repair stations. The FAA had proposed to certify foreign repair stations, but this would be a duplication of certification by national authorities and would be an additional administrative burden. The FAA would have to hire an additional 200 inspectors. If the cost of FAA certification were to be charged to the foreign repair stations, it would amount to a discrimination in relation to US repair centres. The Community was in favour of negotiating bilateral agreements on the basis of mutual recognition of certification procedures, which would have to take into account countries' experience in their own aircraft industries.

24. The representative of Sweden said that the Nordic delegations were very concerned about the new and restrictive policies adopted by the United States Federal Aviation Administration on the maintenance and repair of US registered aircraft and their components. This new FAA concept appeared to conflict with the policies adopted by the United States under the Aircraft Agreement as well as the Agreement on Technical Barriers to Trade. There was no proof that the new FAA policy was necessary and adequate to fulfil its safety objectives. The measures concerned created unnecessary obstacles to trade, and were contrary to the principles of the Agreement on Technical Barriers to Trade, applied under Article 3.1 of the Aircraft Agreement. The Nordic Governments welcomed the assurance given by the US Department of State in October 1986 that the FAA's policies and actions were not intended to restrain trade in goods or services. However, there was concrete evidence of adverse trade effects, for which no safety justification had been given. By introducing changes in the interpretation of existing rules, the FAA had effectively eliminated long-standing practices and damaged business relationships that had developed through the years. It was the hope of the Nordic Governments that the problem could be solved very soon through bilateral consultations with minimum disruption to the aviation industry. The Nordic delegations reserved their rights under this Agreement, inter alia, under Article 8.7.

25. The representative of Switzerland said that he did not have enough elements to have a clear position. It seemed obvious that the FAA's new measures would not benefit foreign repair stations. They might also act as a disincentive to purchase US civil aircraft. He would keep in touch with the competent Swiss authorities on this matter.

26. The representative of the United States said that in his view the 10 October 1986 plurilateral aviation regulators' meeting in Paris had been fairly positive. There had been an FAA commitment to achieve an international aviation regulatory system in co-operation with its counterparts. FAA actions were taken for no other purpose than to ensure safety. As an outcome of that meeting the FAA had taken short-term measures to enforce existing regulations and had started an analysis of longer-term solutions of the problems that had been raised. In the short-term the FAA had instituted an exception mechanism which should improve the situation for original equipment manufacturers and their suppliers who had been servicing and supplying parts for US-owned and operated aircraft. The FAA had identified that warranty work on new sales was not within the scope of the regulatory measures, allowing full ability to provide those services and in no way hindering such trade. In the longer-term the FAA had identified that there were basic differences in the certification structures of participants in the October discussions. It was now necessary to fully identify those differences and align procedures to ensure a "chain of responsibility" from the service and parts suppliers to the regulatory authority. This had traditionally been done through the US-owned and operated airlines who in fact were the consumers of the services and goods and ultimately responsible to the FAA for the airworthiness of their fleets.

27. The United States delegate went on to say that FAA Action Notices were used by the FAA internally to give field staff guidance on the standard implementation of their rules. They were not used nor were they intended to be used to change the underlying FAA rules in any manner. To his knowledge no new Action Notices had been issued and the FAA continued to enforce long standing regulations. Part 121 described air carriers' responsibilities for operating and maintaining airworthy aircraft, including terms under which they could arrange maintenance with other persons. Part 145 described the requirements for issuing repair station certificates and associated ratings and the general operating rules for holders of those certificates and ratings. Part 145 included rules concerning foreign repair stations. The FAA was developing these Action Notices in the wake of a national inspection programme that had revealed that some US air carriers were using products maintained or altered contrary to current FAA rules. Several US-owned airlines had been fined in connection with this inspection. The FAA could not, of course, levy fines on any foreign repair station in violation of its rules. The objective of the Action Notices was to improve standardization of the implementation of current FAA rules. The FAA and other agencies of the US Government had met several times with representatives of other governments to listen to their concerns about the draft Action Notices, and FAA legal staff were scheduled to meet with several of their European regulatory counterparts in early April to address issues related to alignment of requirements for certification and surveillance.

28. The United States delegate pointed out that the FAA regulatory procedures applied to US-owned and operated aircraft only and not to US produced aircraft operated by airlines of other countries. FAA

certification procedures could not affect the competitiveness of US aircraft in Europe. The Action Notices were not intended to change the current long-standing rules relating to foreign repair stations and the use of foreign-source components and parts. The FAA would make every effort to accommodate European and other governments' concerns, and would continue to explore short and long-term steps, to be taken unilaterally or co-operatively, to ensure safety on a world-wide basis while facilitating air commerce.

29. The representative of the EEC said that the statement by the US representative was reassuring; nevertheless, a lasting solution to this problem should be found. The measures as they stood would not fail to discourage US air carriers from doing maintenance work abroad. He stressed the need for bilateral agreements.

30. The representative of the United States reiterated that the FAA was committed to finding long-term solutions to the European concerns so as not to create unnecessary trade barriers.

31. The representative of the United Kingdom said that it was clear that the short-term measures suggested by the FAA, which would allow warranty and maintenance work by original equipment manufacturers to proceed largely as before, were proving not to be satisfactory. There were long delays in processing applications; some of the requirements were unworkable and they were far too restrictive in their applications. It was becoming increasingly clear that the only real solution was to have, as soon as possible, a bilateral recognition régime between the FAA and other competent authorities as already existed between the United States and Canada, and meanwhile to allow established trading practices to continue.

32. The Chairman said that this question would be kept on the agenda for the next meeting.

#### 7. Statistical reporting of aircraft trade data

33. The Chairman noted that the delegation of Japan had circulated an informal paper on statistical reporting and invited him to present the paper.

34. The representative of Japan explained that under the present system of statistical data collecting in Japan, trade data was available only for those civil aircraft products which were duty-exempt under the Agreement. Data on other civil aircraft products, which were duty-free either under the GATT or Japanese law, could not be collected. Up to now, only very few products covered by the Annex to the Agreement were subject to duty-free treatment under the GATT or domestic law, so that the trade data collected covered almost all items in the Annex. However, as a result of completion of Article XXVIII negotiations relating to leather and leather footwear, and implementation of the Japanese Action Programme to open its market, about half the Annex products had become duty-free under Japan's GATT Schedule or Japanese law. In Japan's HS Schedule, civil aircraft

products made up about 250 tariff items, out of which some 130 would be subjected to duty-free treatment. If Japan continued collecting statistical data on the present basis, the coverage would be smaller than that of the past four years. This had led his authorities to review the data-collecting system. His delegation wished to have the views of other Signatories on this matter. Three factors should be considered, namely: (a) the number of Signatories reporting trade statistics of civil aircraft products had decreased; since 1983 only three Signatories had filed trade statistics; (b) there were discrepancies of trade coverage between reporting countries; (c) the introduction of the Harmonized System on 1 January 1988 seemed to be the best opportunity to harmonize statistical reporting between Signatories, if necessary. He invited Signatories to consider the following points: (a) whether statistical reporting of trade of civil aircraft products was indispensable information; (b) the purposes of statistical reporting; (c) should the products covered by the Annex or all products to which duty-exempt or duty-free treatment applied be reported; (d) was it necessary to harmonize the coverage; (e) the time constraint for changing a collection system to meet the HS implementation date of 1 January 1988; (f) the need to avoid undue burden to importers and customs administrations in revising the data collection system.

35. A revision of Japan's system would add a new burden on importers of civil aircraft products, on customs administration, and on the computer programming unit of the Ministry of Finance. If a new system was to be introduced, all importers of civil aircraft products would be required, as an obligation, to report to the customs administration that they were importing products listed in the Annex. Such reporting was of course not to be considered as a new non-tariff measure. He added that his authorities were flexible on the matter and would take other Signatories' points of view into account.

36. The representative of the United States said that there were several ways of collecting information relative to the Aircraft Agreement. Japan reported as duty-free under the Agreement only those items on which duty would be charged if the Agreement did not exist; the United States, on the other hand, had a line item for each product identified in the Agreement to allow for complete monitoring of trade. She wondered what the practices of other governments were and whether it was possible to get a complete picture of these practices? The United States preferred that trade be reported for all items included in the Annex to the Agreement. The zero rate of duty for these products was bound in the GATT as a result of the Agreement and overrode other provisions of domestic law which granted duty-exempt treatment regardless of the Aircraft Agreement. Reporting of trade covered by the Agreement was necessary. This was an important sector, with high levels of trade. The benefits of trade could only be analysed through complete statistical reporting. Trade flows by industry were indicative of the benefits of free and fair trade, or the absence of such benefits. Governments were hard pressed to evaluate the importance of trade in important sectors unless the trade data was complete and consistent across borders. All products listed in the Annex to the Aircraft Agreement should be reported. The harmonized reporting of trade

under the Agreement had been a problem since it had come into effect. The US would like to see reporting on the trade in items covered by the Agreement, which was what it reported to the Committee on an annual basis. The speaker wondered how this could be done before 1 January 1988. All Signatories were now in the process of establishing their procedures for implementing the Harmonized System. Part of that process should be the establishment of statistical procedures to capture the necessary information for reporting to the Committee. If done as part of the overall process the burden would be less than if done as a separate exercise after 1 January 1988. The burden of submitting reports should be minimal in a world rapidly converting to computer-aided record keeping.

37. The representative of Sweden recalled that this matter had been discussed both in the Technical Sub-Committee and in the Committee. There was a "best efforts" only recommendation to supply trade statistics. The Nordic delegations had difficulties in supplying trade data, both of a technical and confidentiality nature. The introduction of the Harmonized System did not change the problems. They could not accept an obligation to provide statistics. A question of principle was also involved, i.e. of avoiding extra administrative burdens unless a very useful purpose was to be achieved.

38. The representative of the EEC said he had taken note of the different arguments, and would have to consult twelve national statistical offices before being in a position to reply to the Japanese proposal.

39. The representative of Japan said that he did not expect final positions at this meeting and suggested that the secretariat be requested to consult on the matter of statistical reporting with the different Signatories.

40. The Chairman said that the secretariat would take up the matter of statistical reporting informally with delegations and would report at the next meeting.

#### 8. United States Tax Reform Bill

41. The representative of the EEC said that, having completed bilateral consultations under Article XXII:1 of the General Agreement, it was now examining the impact on the aircraft industry of the transitional measures relating to aircraft of less than twenty passenger seats taken by the United States under the Tax Reform Bill. The EEC reserved its rights under the General Agreement and under the Agreement on Trade in Civil Aircraft.

#### 9. Dates of next meetings

42. The dates for the next meetings were set for 21 October 1987 and tentatively for the week of 14 March 1988.