

# GENERAL AGREEMENT ON

RESTRICTED

AIR/W/75

22 January 1990

# TARIFFS AND TRADE

Special Distribution

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Committee on Trade in Civil Aircraft

Original: English

REQUEST BY THE EUROPEAN COMMUNITIES  
UNDER ARTICLE 8 OF THE AGREEMENT

Communication from the United States

The following communication, dated 19 January 1990, has been received by the Chairman of the Committee from the United States Trade Representative with the request that it be circulated to the Signatories of the Agreement on Trade in Civil Aircraft.

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I have been instructed by my authorities to convey my Government's views with regard to the request by the European Communities (the "EC") for a special meeting of the Committee on Trade in Civil Aircraft (the "Committee") (AIR/W/74).

As discussed below, my Government welcomes the opportunity to participate in a meeting of the Committee convened under Article 8:1 of the Code. Should the Chairman schedule such a meeting in advance of the one currently scheduled for 14 March 1990, we would request that the items contained at Attachment A to this letter be reflected on the Committee's agenda.

We fail, however, to understand the EC's expression of urgency. The EC in its letter states that "it is ... of the greatest importance that ... the Aircraft Code Committee review this matter at the earliest possible opportunity". However, as recently as the Committee's last meeting this past October, the EC was unwilling even to discuss the matter of the Federal Republic of Germany ("FRG") exchange rate scheme when that item came up for discussion. Moreover, the EC to date has not responded to my Government's request for information made at that meeting. At a minimum, we would request that the EC submit to the Committee official information describing the FRG exchange rate scheme sufficiently in advance of the date of any meeting to allow time for consideration.

For the following reasons, we would further request that adequate notice be provided of the date for any such meeting. We note that while the EC request was dated 22 December 1989, the EC did not provide the letter to our relevant authorities in Geneva until 9 January 1990. Moreover, the letter was not officially distributed to the members of the Committee until 11 January 1990 (AIR/W/74). Thus, time has been very short.

In no case, would my Government consider that we or any other member of the Code Committee would have had adequate notice or background for a meeting during the week of 22 January, as requested by the Community. Indeed, we note that the US has requested a meeting of the Subsidies Code Committee. We fear that the urgency importuned to the Committee is merely "gamesmanship" with our request under the Subsidies Code. The EC, not the US, has taken the action complained of (the foreign exchange scheme). The US has decided to seek its remedies under the Subsidies Code. Our request was submitted on 11 December 1989, and announced to the Committee by Airgram dated 3 January 1990, yet the Subsidies Committee meeting will not be held until 30 January 1990. We do not consider it at all appropriate for the Aircraft Code Committee to rush a meeting at the request of the EC under these circumstances. As we have previously indicated, my authorities would be willing to accept a meeting immediately after the Subsidies Code Committee meeting, notwithstanding that the request was received on extremely short notice, with a regular meeting of the Committee scheduled only eight weeks hence.

My authorities also note that the text of the EC letter requests that the meeting "be conducted pursuant to Article 8:7 of the [Code]". However, Article 8:7 states plainly that a meeting may be requested only if "the trade interests in civil aircraft manufacture, repair, maintenance, rebuilding, modification or conversion [of the signatory requesting the meeting] have been or are adversely affected by any action by another signatory" (emphasis supplied). In this case, there has been no such "action" -- except by the EC itself; indeed, the EC request does not identify any "action" taken by the United States or any other signatory, let alone an action that may adversely affect the EC's trade interests. Certainly, the US request for conciliation by the Subsidies Code Committee, a procedural right afforded all signatories to that Code, is not the kind of "action" contemplated by the language of Article 8:7 of the Aircraft Code.

In light of the above, we do not consider that Article 8:7 provides an appropriate basis for the requested meeting of the Code Committee and we would strongly oppose a meeting convened on that basis. We believe it is bad policy and very bad precedent not to make clear that a meeting under Article 8:7 is not appropriate. In addition, we understand that the EC has articulated a number of additional reasons justifying its request for consideration of this matter by the Aircraft Code Committee. As any such argumentation was not presented in the official request, we would simply reserve our right to respond to any such points at such time as the EC presented them formally. In the meantime, our willingness to accede to a meeting under Article 8:1 is done in the interest of continuing the dialogue on this issue and is, of course, without prejudice to our substantive position on any aspect of this matter.

ATTACHMENT A

1. Election of officers;
2. Status of signatories;
3. Matters under Articles 4 and 6;
4. Matters under Article 4 - Report on Mandatory offsets;
5. Matters under Article 6 - Report on FRG aids to German Airbus Partner.