

GENERAL AGREEMENT ON

RESTRICTED

AIR/M/31

3 July 1991

TARIFFS AND TRADE

Special Distribution

Agreement on Trade in Civil Aircraft

MINUTES OF THE MEETING HELD IN THE
CENTRE WILLIAM RAPPARD ON
6 JUNE 1991

Chairman: Mr. M. Lindström (Sweden)

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1. Adoption of Agenda

1. The Chairman noted that, as indicated in GATT/AIR/3186, the present meeting had been called following informal consultations with signatories. The proposed agenda for the meeting was "Discussion of Modalities and Proposals for the Enhancement of the Agreement on Trade in Civil Aircraft under Article 8 of the Agreement".

2. The representative of the United States indicated that his delegation would raise, under "Other Business", an item related to an imminent measure to be taken by Canada on sole-source procurement of flight simulators for Citation aircraft.

3. The agenda was adopted as amended.

2. Discussion of Modalities and Proposals for the Enhancement of the Agreement on Trade in Civil Aircraft under Article 8.3 of the Agreement

4. The Chairman reported to the Committee that in accordance with the Committee's instructions to him at its 21 March meeting, he had held a number of bilateral consultations with several interested signatories. In addition, he had this morning held informal consultations open to all interested signatories on the question of how best to proceed with the matter raised by the EEC at the Committee's March meeting concerning the proposed revision of the Agreement. He said that in his view, the morning's informal meeting had been an extremely useful exercise and had provided an excellent opportunity for a frank exchange of views on certain procedural issues related to the item on the agenda of the present meeting. In addition, it had provided an opportunity to discuss, on a multilateral basis, issues which had for some time been discussed only bilaterally. On the basis of those consultations, it was his view that there was a common understanding among signatories present at that informal meeting on the need to address certain provisions of Articles 4, 6 and 8 of the Agreement. He recalled that the Committee had two papers regarding Article 4 on the table - from the United States in AIR/W/63 and from the EEC in AIR/W/83 - and a set of draft objectives for a revision of the Agreement from the EEC in AIR/W/79. Many questions had been raised on the substance of these various papers, and it had been felt that these questions and comments should be made available in writing to all signatories through the secretariat as non-papers. Many signatories had expressed their views on certain aspects of a possible revision of Articles 6 and 8, on which to date there had been no proposals submitted in writing. Such proposals would be welcome. He said that as there seemed, at the present time, to be no consensus on the formal launching of a procedure for renegotiation of the Agreement, he would suggest that in the interests of pragmatism, signatories continue to discuss in the Committee the points of substance to which he had just referred and which had been the subject of the morning's informal discussion. In this regard, he would hold informal consultations with interested signatories as to the earliest convenient date for such a further meeting.

5. The representative of the EEC said that his delegation fully shared the Chairman's evaluation of the informal meeting, during which there had been a substantive discussion of elements in Article 4 of the Agreement. The Community hoped that it had succeeded in clarifying some of the aspects of its proposal for the opening of multilateral negotiations, which had not previously been understood by the Committee. The Community would await the non-papers which the Chairman had suggested be circulated, and would respond quickly to the issues raised therein. He noted that in the informal meeting there had been an initial but limited discussion of Articles 6 and 8, for reasons which the Community had made clear at that time, i.e. that the Community would not be drawn into a pre-negotiation exercise. It was incomprehensible to the Community why - in circumstances where many, if not all, signatories agreed on the desirability of reviewing or modifying certain key aspects of the Aircraft Agreement - it was

necessary to continue lengthy informal consultations before being able to reach agreement. As had been noted, suggestions had been made in the past by other signatories to engage in such a revision of the Agreement. The United States had made such a proposal in 1987, and very little time had been necessary to reach agreement on that proposal. At present there was a situation of some tension between the EEC and the United States. A panel was currently examining the German exchange rate guarantee scheme, and the United States had recently made a request for dispute settlement regarding support for the Airbus programme in general. At the same time, the United States was saying that it could not make up its mind with respect to the Community's bona fide proposal for the launching of multilateral negotiations on the Aircraft Agreement. This gave the impression that the United States attached little, if any, importance to the Aircraft Agreement. The Community was willing to undertake these negotiations with the idea of completing them before the end of the Uruguay Round and was willing to consider an even earlier target date. The Community was not at the present time pressing for a definite response to its proposal to open negotiations under Article 8.3, but did want to register its disappointment and lack of understanding as to why that request had not been accepted at the present meeting. In the Community's view, it was essential that a further meeting of the Committee be held in the very near future, because if these negotiations did not soon get underway, this would delay the unblocking of certain other negotiations in the Uruguay Round, and every effort should be made to avoid the spillover of a major trade conflict onto the Uruguay Round itself. The Community asked that the Chairman reconvene the Committee within a very few weeks' time so that this issue could be taken up again, and hoped that the mutual commitment to the multilateral process would lead other signatories to accept the Community's proposal on the basis of Article 8.3.

6. The Chairman recalled that in his earlier statement, he had intentionally used the words "earliest convenient date" with regard to the scheduling of the next meeting, in order to take account of the Community's position. This was a practical matter on which he would have to consult signatories.

7. The Committee agreed to the Chairman's suggestion.

8. The representative of the United States said that his delegation wanted to clarify the record with regard to his Government's position on this matter. The United States had negotiated for over 5 years multilaterally within the GATT; in 1985 it had made proposals under Article 8.3 which had been rejected. The United States had also negotiated bilaterally with the EEC Airbus partner governments and other signatories to achieve greater discipline on the subsidies provided to aircraft and to Airbus specifically, and with regard to clarifying other obligations in the Aircraft Agreement. It had been the United States' objective in these negotiations to secure more effective disciplines on all types of subsidies, including production subsidies, direct programme development subsidies and so-called indirect subsidies possibly resulting

from, for example, government equity participation in aircraft manufacturing, guided procurement by government-owned or -influenced airlines, regional aid or unrecouped civilian applications of military research and development. This list was not exhaustive. He noted that the United States had a recoupment programme for unintended civilian applications of military research and that it was contrary to US laws and regulations for civilian goods, development or production costs to be allocated to contracts for the procurement of military goods. Both of the two US airframe manufacturers were experiencing losses in their military programmes, so there were no profits for them to invest in civilian programmes or elsewhere. He said that he was making this statement in response to charges that the United States provided subsidies but in a hidden way. These subsidies disciplines should be equally applicable to all products covered by the aircraft agreement - civil aircraft of all types and sizes, engines and components - and to all signatories, not limited to large civil aircraft with over 140 seats manufactured in the Community and the United States exclusively. More effective disciplines on such subsidies could not reasonably be viewed as inimical to the future of the well-established Airbus consortium, which by US figures had about one-third of the relevant market. Rather, such disciplines would have encouraged Airbus Industrie to introduce financial accountability into its operations, to be more responsive to market forces and to reduce overall reliance on the partner-government treasuries. In addition, provisions for the transparency of state aids would have provided better information to trading partners and to tax-paying citizens of those countries. An intense effort had been made over a period of 18 months to reach a bilateral accommodation with the Community, but those efforts had failed in February, in the US view, because the negotiations were not only not moving forward, but retrogressing. There had been no written response to the United States' last written offer to the Community.

9. In response to the specific concerns raised by the Community regarding the United States' recent request for consultations under the Subsidies Code and the ongoing dispute settlement panel within that Code, the United States was of the view that the Aircraft Agreement reaffirmed the application of the Subsidies Code. That was the United States' reading of Article 6.1 of the Aircraft Agreement. The United States was concerned that the representative of the EEC had referred to this situation as one of conflict. An official EEC press release of 22 May had indicated that the EEC preferred negotiation rather than confrontation, and that such negotiations had not yet started "because of the continued reluctance of the United States to participate therein". He wanted to note for the record that not all signatories had been prepared to enter into the proposed negotiations on 21 March, namely because it had not been possible to take a decision on such an issue with only two days' notice, which was what the Community had provided. He recalled that delegations had taken the proposal under advisement. He then asked the Community to explain why the US request for consultations, or even for a panel, was considered as a confrontation. The United States could accept the Chairman's suggestion as to how to proceed on the Community's proposal for negotiations.

10. The representative of the EEC said that his delegation was ready to discuss all of these matters - including the various allegations just put forth by the United States - as soon as the United States was ready to sit down and negotiate. The Community was ready to do so immediately. With regard to the question of why the Community regarded a request for dispute settlement as a confrontational measure, this was because consultation was the first stage in a three-stage dispute settlement procedure which could lead up to the establishment of a panel. The US action had come as an extreme surprise to the Community in circumstances where, since mid-March, there had been on the table in the Committee a bona fide proposal to engage in multilateral negotiations in order to establish new international disciplines with regard to precisely the same substantive issues which the United States apparently now wished to see dealt with under dispute settlement in another Committee. The Community did not understand this. If one could negotiate away differences and at the same time include other trading partners in those negotiations, this would seem the best way to proceed.

11. The representative of the United States reminded the Community of its existing obligations under the 1979 Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210) which said that it was understood that requests for conciliation and the use of dispute settlement procedures should not be considered to be contentious acts. In the US view, signatories were mutually committed to uphold their rights and obligations arising from the General Agreement and its Codes. To go through established multilateral processes in order to clarify those obligations served to support the GATT and to reaffirm those Codes; to hold to the contrary was destructive of them. He asked the Community to state the relation of its proposed new Aircraft Agreement to the Subsidies Code, i.e. to explain to what extent a new Aircraft Agreement would be a lex specialis and how that would relate to the existing Subsidies Code and to the new Subsidies Code currently being negotiated.

12. The representative of the EEC said that it was the Community's objective to establish under the new Aircraft Agreement the lex specialis with regard to the interpretation of Article XVI of the General Agreement, and this to the exclusion of the new Subsidies Code which was under negotiation and which, in the EEC's view, should not apply to the aircraft sector. Nevertheless, nothing that signatories might do regarding the renegotiation of Article 6 of the Aircraft Agreement should detract from the continuing obligation of all signatories to abide by the existing obligations of the existing Subsidies Code.

13. The Committee took note of the statements.

3. Sole-source procurement by Canada of flight simulators for Citation aircraft

14. The representative of the United States said that his Government understood that the Canadian Government was about to take a measure for the sole-source procurement of flight simulators for Citation aircraft. Such a measure would bring into question whether Canada was observing its obligations under Article 4. He would bring the specific facts to the attention of the Canadian Government and wanted to flag this matter so as to try to avoid a problem before it occurred.

15. The representative of Canada said that he would advise his authorities of this issue and of any other information that the United States might provide informally.

16. The Committee took note of the statements.