

# GENERAL AGREEMENT ON

## TARIFFS AND TRADE

RESTRICTED

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Special Distribution

Sub-Committee of the Committee  
on Trade in Civil Aircraft

Original: English

### ELEMENTS OF THE FRAMEWORK FOR NEGOTIATIONS

#### Communication from Japan

The following communication, dated 21 April 1993, has been received from the Permanent Mission of Japan.

The attached submission describing our ideas for a revised Civil Aircraft Agreement represents the Government of Japan's current thoughts and positions on several issues. However, the attached submission does not represent either a complete or final statement of its position. Therefore, Japan retains the right to change its positions.

Three fundamental themes underlie the attached submission. First, we believe the parties must recognize the importance of balancing their commitment to free trade and the need to encourage the development of new technologies.

Second, we believe that we must achieve a balance among the degrees of discipline to be imposed on various subsidies/supports. In general, countries should be subject to comparable levels of discipline, regardless of whether they choose to use direct or indirect subsidies/supports, and regardless of the manner (for example, equity infusions, loans, or loan guarantees) in which they provide the subsidy/support.

Third, we also take account of the unique economic characteristics of the civil aircraft sector in the course of discussions.

In many cases, the issues addressed in the attached document overlap issues being discussed in the ongoing GATT negotiations. Final commitment can only be made when the overall Uruguay Round package is completed.

#### **PART I: SCOPE**

In principle, the scope of a new Agreement should be the same as the current Civil Aircraft Agreement. Civil aircraft includes both:

- (a) large civil aircraft, which are all civil aircraft with a passenger capacity equal to or greater than X or its equivalent in cargo configuration, and

- (b) small and medium-sized civil aircraft, which are all civil aircraft with a passenger capacity of less than X or its equivalent in cargo configuration.

In addition to all the obligations under this Agreement, Signatories agree not to require or encourage, directly or indirectly, regional and local governments and authorities, non-government bodies, and other bodies to take action inconsistent with provisions of this Agreement.

Nothing in this provision should limit the applicability of obligations under the existing Agreement on Civil Aircraft.

**PART II: MARKET ACCESS**

Customs Duties and Other Charges	)	
	)	
Non-Tariff Barriers	)	
	)	to be added
Technical Barriers to Trade	)	
	)	
Government Interference in Purchaser's Decisions	)	

**PART III: GOVERNMENT SUBSIDY/SUPPORT (note)**

(note) An appropriate term should be determined after substantial definitions of "subsidy" or "support" are agreed upon through negotiation.

Prior Government Commitments

Government subsidy/support to current programmes involving the products covered by this Agreement, except for grants, committed prior to the date of entry into force of this Agreement, is not subject to the provisions of this Agreement.

The terms and conditions on which such existing subsidies/supports have been implemented should not be modified in such a manner as to render them more favourable to the recipients. De minimis modifications, however, shall not be deemed inconsistent with this provision.

**Direct Subsidy/Support**

**Production Subsidy/Support**

Grants

Signatories shall not provide direct government grants for the production of civil aircraft.

Any change in tax law or measures that provides the equivalent effect of a grant to a producer of civil aircraft shall be treated as a grant for purposes of this Agreement.

This prohibition shall apply both to any future grants pursuant to existing programmes and to any grants pursuant to future programmes.

#### Equity Infusions

Signatories shall not provide equity infusions to finance production activities.

In particular, Signatories shall not provide any equity infusions to cover losses that a company has incurred on its operations concerning products covered by this Agreement.

#### Loans

A loan from a Signatory to a company to finance production activities constitutes a subsidy/support only to the extent that:

- (a) the interest rate charged by the Signatory is less than the cost of borrowing funds generally available in the Signatory, or
- (b) the Signatory forgives repayment of any portion of the loan principal, or
- (c) some other term of the loan is structured in a way inconsistent with normal commercial practice (for example, making loan repayment or royalty payments conditional on reaching certain production levels) and provides some measurable financial benefit to the loan recipient.

Signatories shall not grant loans to finance production activities, if those loans would be deemed a subsidy/support specified under this provision.

#### Loan Guarantees

A loan guarantee by a Signatory constitutes a subsidy/support only to the extent that the loan guarantee enables a company to obtain a loan on more favourable terms (for example, at lower interest rates) than would be obtainable without the loan guarantee.

Signatories shall not grant governmental loan guarantees to facilitate financing production activities, if those loan guarantees would be deemed a subsidy/support specified under this provision.

## **Development Subsidy/Support**

### Grants

Signatories shall not provide direct government grants for the development of civil aircraft.

Any change in tax law or measures that provides the equivalent effect of a grant to a producer of civil aircraft shall be treated as a grant for purposes of this Agreement.

This prohibition shall apply both to any future grants pursuant to existing programmes and to any grants pursuant to future programmes.

### Equity Infusions

Any amount of equity infusion by a Signatory government shall be considered a subsidy/support as a whole, and shall be restricted within the overall limit set forth in this Agreement.

In case a rate of return to the government is lower than a commercially reasonable rate of return, the differential shall be considered a subsidy/support.

Equity infusions to finance development activities should not exceed the limit imposed by this Agreement.

### Loans

A loan from a Signatory to a company to finance development activities constitutes a subsidy/support only to the extent that:

- (a) the differential, in case that the interest rate charged by the Signatory is less than the cost of borrowing funds generally available in the Signatory; or
- (b) the whole amount of the principle, in case that the government forgives repayment of the part of the loan principal; or
- (c) the financial benefit, in case that some other term of the loan is structured in a way inconsistent with normal commercial practice (for example, make loan repayment or royalty payments conditional on reaching certain production levels) and provides some measurable financial benefit to the loan recipient.

Any amount of loan principal or interest forgiven shall be considered a subsidy/support, regardless of whether the loan is structured as a fixed term loan or as a conditional loan.

The amount of the loan principal or interest forgiven shall be restricted within the overall limit set forth in this Agreement.

### Loan Guarantees

A loan guarantee by a Signatory on behalf of a company constitutes a subsidy/support only to the extent:

- (a) the financial benefit associated with the more favourable terms, in case that the loan guarantee enables a company to obtain a loan on more favourable terms (for example, at lower interest rates) than would have been obtainable without the loan guarantee; or
- (b) the amount of loan principal paid by the Signatory, in case that a Signatory honours the loan guarantee and repays the principal amount of the loan.

The amount of the subsidy/support shall be restricted within the overall limit set forth in this Agreement.

### Upper Limits on Development Subsidy/Supports

The amount of the development subsidy/support shall be no greater than the amount specified as the following:

- (a) for large civil aircraft, and for parts, components, and subassemblies (other than engines, or their parts), the total direct government subsidy/support for development shall not exceed [...] per cent of the overall development budget for the particular project.
- (b) [To be added]

The amount of development subsidies/supports, etc., shall be converted in present value.

These limitations should be calculated based on either the estimated total development cost at the time of commitment or on the actual development costs, whichever is lower.

### Repayment of Development Subsidy/Support

[To be added]

### **Direct Subsidies/Support Contingent upon Export Performance**

Signatories shall not provide any direct subsidy/support contingent, whether solely or as one of several other conditions, upon export performance.

A subsidy/support is contingent whenever the facts demonstrate that the subsidy/support, without having been made legally contingent upon export performance, is in fact tied to actual or anticipated exportation or export earnings.

Official export credit financing consistent with the Large Aircraft Sector of the OECD Understanding on Official Export Financing shall not be deemed inconsistent with this Agreement.

**Direct Subsidies/Supports Contingent upon the Use of Domestic over Imported Goods**

Signatories shall not provide any direct subsidy/support contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

**Indirect Government Subsidy/Support**

[To be added]

**PART IV: COUNTERVAILING MEASURES**

If a subsidy/support by a Signatory stays within the certain thresholds set forth in this Agreement, the Signatory shall not be subject to actions pursuant to the Agreement on Subsidies and Countervailing Measures.

If a subsidy/support by a Signatory exceeds the threshold set forth in this Agreement, the Signatory shall be subject to actions pursuant to the Agreement on Subsidies and Countervailing Measures.

**PART V: COMMITTEE ON TRADE IN CIVIL AIRCRAFT** )  
)  
**PART VI: DISPUTE SETTLEMENT** ) to be added  
)  
**PART VII: FINAL PROVISIONS** )