

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

AIR/W/34

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Agreement on Trade in Civil Aircraft

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## MATTERS UNDER ARTICLE 8.3 - FURTHER NEGOTIATIONS

### Discussion Paper Submitted by the United States

Article 8.2 provides that the Committee shall review annually the implementation and operation of the Agreement, taking into account the objectives thereof. Article 8.3 imposes a further obligation upon Signatories, by providing that not later than 31 December 1982, Signatories shall undertake further negotiations, with a view to broadening and improving this Agreement on the basis of mutual reciprocity.

The United States is prepared to undertake such negotiations, and suggests most strongly that adequate time be provided during the course of our meetings the week of 4 October so that a schedule for such negotiations and their specific objectives might be established by the conclusion of such meetings.

Article 8.3 states the negotiations should be directed toward broadening and improving the entire Agreement. We understand that some wish to focus primary attention on certain articles, just as we are of the view that some of them need more broadening and improving than do others. If Signatories are of a mind to do so, we believe that a solid basis can (and should) be established for making the Agreement even stronger and more effective.

#### Approach to the negotiations

It is suggested that the Committee proceed as follows:

1. Signatories circulate papers providing their assessment of the operation, scope, effectiveness of the Agreement for the review in capitals prior to the end of September, per the Chairman's invitation at our last meeting.
2. The Committee discuss such papers and Signatory views at its first meeting the week of 4 October.
3. The secretariat compile from these papers and this discussion a comprehensive list of objectives proposed for the negotiations.
4. The Committee address that list, at its second session the week of 4 October, transforming it into an agreed list of matters to be the subject of the negotiations.

5. The Committee adopt a schedule of negotiations, beginning 7 October with more detailed discussion of various Signatories' specific objectives and an initial session on the scope of annex coverage.

#### Review of the Agreement

The preamble is fully adequate; it provides ample scope and appropriate guidance for the issues being faced by the Committee.

The following paragraphs provide comments on each of the Articles, some of which would benefit from modification. Article 1.1 has not been a subject for Committee discussion, while implementation of Article 1.2 has proven to be more controversial than anyone anticipated. But we see no practical amendment that would eliminate possible future difficulties with implementation of the definition of "military aircraft".

Article 2.1.1 has now been fully implemented and requires no revision.

Article 2.1.2, however, requires a modifying interpretation of the term "civil aircraft", as the Article is, if strictly interpreted, drafted too broadly for efficient adherence. The problem is that "civil aircraft" includes, per Article 1.2, all parts of an aircraft, whether or not classified for customs purposes under one of the tariff headings in the annex to the Agreement. Yet, in practice, we and most, if not all other Signatories, impose duties on the repair of a product at the same rate as the duty on the product itself. None of us, to the best of our belief, has provided in our tariff schedules that the repair of a product, which product is not duty-free under the Annex, shall itself be free of duty. Accordingly, we suggest that the language of Article 2.1.2 be amended to conform more closely to that of Article 2.1.1. We submit when Article 2.1.2 was drafted the focus of attention was on the repair of complete aircraft, and that there never was any intention to make the scope of Article 2.1.2 more broad than that of Article 2.1.1. Specifically, we suggest that the phrase "civil aircraft" in Article 2.1.2 be changed to read "products, classified for customs purposes under their respective tariff headings listed in the Annex".

The proposal set out in AIR/W/27 adequately addresses the still unsettled implementation of Article 2.1.3.

We have no suggestions for changes to make with respect to Articles 2.2, 3, 4, 5 or 7, although Article 4 is a particularly sensitive one, and one that doubtless some of us might wish to modify. However, it does strike a reasonable balance of interests - that was our view when it was negotiated and that remains our view today. The purposes of the GATT and of the Agreement would be better served were senior officials of Signatory governments to state, when appropriate, their understanding of and commitment to Article 4. Unfortunately, there have been instances where senior officials have, rather than supporting the provisions of Article 4, suggested directly that governments can and should influence airlines in procurement decisions.

The Article for which implement/understanding has been most troublesome is Article 6. We have serious doubts, as expressed bilaterally and in the Committee, that obligations under Article 6 are being met. This is not to suggest so much that Signatories' actions are in contravention of Article 6 or of the Subsidies Code, as it is that Signatories are not adhering to the

spirit or the letter of Article 7 of the Subsidies Code. Two amendments to Article 6 should be developed: the first, to address the matter of export credit subsidies, which are trade distorting, not commercially based, and probably constitute the largest trade problem in the civil aircraft sector; the second, to make explicit in the Aircraft Agreement rights and obligations as to information on government supports for the development and manufacture of specific civil aircraft programmes. As stated before in the Committee, we do not suggest negotiating in the GATT disciplines on export credit practices. Those negotiations are already underway in the OECD and their result can and should be referenced in the Agreement.

As to the second point, we do not wish to reargue the discussions of the past three years - but surely all will concede that there has been no resolution of differences of views as to the interpretation of Article 7 of the Subsidies Code. Rather than carrying on that debate in the Committee or in conjunction with the Committee on Subsidies, we should set out anew what transparency should be provided for with respect to civil aircraft programmes, on a mutually reciprocal basis.

In our view, the provisions of Article 8 are adequate as drafted, except that regular submission, in a common format, to the secretariat of trade data on products covered by the Agreement, would facilitate the Committee's annual review of the operation of the Agreement and of developments in trade in civil aircraft (Articles 8.1 and 8.2).

The Committee should evaluate the recent reports of the Technical Sub-Committee to ascertain what products, if any, should be added to the tariff item lists in the Annex.