

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Agreement on Trade in Civil Aircraft

DECLARATION OF THE EUROPEAN COMMUNITIES IN REGARD TO THE RELATIONSHIP BETWEEN THE AIRCRAFT AGREEMENT AND THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES

Aircraft Committee Meeting on 30 October 1981

I. Introduction

The United States delegation has drawn attention in AIR/W/17 and AIR/W/24, to the important subject of government supports dealt with in Article 6 of the Aircraft Agreement. The United States delegation proposed that the Committee should investigate the influence of relations between government and industry on trade in general. To this end, each signatory should provide comprehensive information on all aids granted by its government.

As a preliminary to providing such comprehensive information, it is suggested in AIR/W/24 that initially the information should be limited to published information.

II. The provisions of the GATT

Article 7 of the Subsidy Code provides that a signatory has a right to be informed of subsidy practices in certain circumstances. Accordingly, any contracting party may "apply in writing for information concerning the nature and extent of a subsidy paid by a signatory and which operates directly or indirectly to increase exports of any product from or to reduce imports of any product into its territory". These obligations also apply, of course, to the signatories of the Aircraft Agreement by virtue of Article 6.

The United States proposal however appears to go beyond the obligations set out above because it proposes an exchange of information of all subsidies, whether or not they may have any direct or indirect effect on trade.

III. Position of the EC

The European Communities recognize the importance of avoiding any distortion of trade which may arise from the use of government support for the aerospace industry and attaches importance to the successful implementation of Articles 6 and 8 of the Agreement. It should also be recognized, however, that the provisions of the Subsidies Code and the Aircraft Agreement represent a careful balance of interests. Before accepting obligations which go beyond those negotiated in the context of the agreement it is essential that the existing provisions are properly used.

Thus Article 6 of the Aircraft Agreement and the Subsidy Code as a whole represent a compromise. On the one hand, it is recognized by all the contracting parties that "subsidies are used by governments to further important social and economic objectives" (Article 8, paragraph 1, sentence 1, of the Subsidy Code). Moreover, it is recognized in the preamble to the Subsidy Code that "the emphasis should be on the effects of subsidies". On the other hand, the signatories also recognize "that subsidies may have harmful effects on the interests of other signatories" (Article 8, paragraph 1, sentence 2 of the subsidy code), in other words, that only some subsidies affect trade and that "support in itself is not to be regarded as a distortion of trade " (preamble to the Aircraft Agreement).

In the view of the EC, the causal link between subsidies and distortion of trade is of paramount importance, and for this reason the contracting parties have decided to lay down GATT rules only for those subsidies which affect trade and to leave the responsibility for State support measures in the hands of the individual contracting parties so long as trade is not affected.

The United States proposals for an exchange of information implies that subsidies automatically affect trade. This sort of approach is hardly compatible with the provisions of the Subsidies/Countervailing and the Aircraft agreements referred to above.

If an exchange of information were to take place in accordance with Article 7 of the Subsidies Agreement, it should be noted that there is, as yet, no agreed definition of the term Subsidy. The United States proposal does not therefore appear, for now, to be practicable.

In summary, the EC view is that Article 7 of the Subsidies/Countervailing Agreement should only be involved where a signatory has reason to believe that a particular subsidy is affecting trade and this belief can be substantiated in its request for information.