

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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**Sub-Committee of the Committee
on Trade in Civil Aircraft**

MEETING OF 9 NOVEMBER 1993

Note by the Secretariat

1. The Sub-Committee held its eighth meeting on 9 November 1993 under the Chairmanship of Mr. Mikael Lindström (Sweden). Participants discussed the September 1993 non-paper submitted by Canada in the light of an additional paper from Canada (dated 20.10.93) containing elaborations and explanations of the elements in the non-paper. Participants also discussed issues relating to leasing, the definition of civil aircraft, government procurement, duty-free treatment and notification.

2. It was explained that the idea behind the proposal was to adapt the Draft Final Act ("DFA") text on subsidies to the civil aircraft sector; the resulting new agreement would be the lex specialis in this sector. All subsidies would be treated in the same manner, regardless of their form, and all products would be subject to the same rules. Central to the proposal was the need for agreement on the methodology for measuring subsidies in this sector. Several participants welcomed Canada's proposal as a good basis for work. One participant said that although there had not yet been a formal proposal for a bifurcated approach to disciplines in this sector, his delegation remained attached to the idea that the EC/US Bilateral Agreement ("the Bilateral") should be incorporated in any new civil aircraft agreement, with parties free to choose between support- or subsidy-based disciplines. In his view, the prohibitions in the Canadian proposal represented a significant strengthening of the DFA without any attenuating elements as found in the Bilateral, the disciplines on indirect support were less than in the Bilateral, and the "green-lighting" was not balanced. Another participant said that he would be willing to consider subsidy-based disciplines as part of a bifurcated approach, provided the respective disciplines were equivalent; Canada's proposal did not meet this criterion. Another said that not all aircraft products should be subject to the same rules, due to the difference in risk involved in these products. Participants disagreed as to whether engines should be subject to support-based rules in a bifurcated approach.

3. Regarding the proposed global ceiling on actionable subsidies in Canada's proposal, it was explained that the goal was to have a clear definition of "total investment costs" that would allow for clear identification and measurement; the illustrative list of "project-related costs" was a means to that end. One participant suggested that there should be a corresponding clarity with respect to plane-to-plane transfers and indirect subsidies. Two participants asked why non-actionable subsidies had been included in the denominator to be used in the percentage calculation, and it was explained that items could be added to or removed from the list, provided that the range of costs captured was predictable, that they were easily measured, that they were not subject to misinterpretation or ex post manipulation, and that the basis of such a measurement could be known at the time of first sale.

4. Regarding the prohibition of subsidies for production, one participant suggested that a broad and comprehensive definition of production, which included marketing and sales activities, was essential in order to avoid circumvention of other disciplines. Another supported the proposed prohibition and the link to variable costs in the definition of production. It was explained that what some participants would like to see covered by this prohibition was in fact covered either by the global cap or by other prohibitions.

5. With regard to the prohibition of subsidies which in the DFA were "deemed to cause serious prejudice", it was explained that the prohibition of the forgiveness of debt would have to be carefully considered in the case of royalty-based loans where the latter were not repaid due to the project's failure; these would be actionable and subject to the global cap, but not prohibited. In response to a query, it was explained that Article 6 of the DFA would still apply to the aircraft sector, except where its provisions were superseded by these prohibitions.

6. On the issue of measurement, it was explained that the starting point for the proposal was Article 6 of the DFA and its corresponding Annex IV which establishes that calculations should be made on the basis of cost-to-government; however, as the DFA provided no guidance as to how to measure cost-to-government, further work was needed here. One participant said that benefit-to-recipient would be a better approach, and that it was important to have a methodologically consistent approach that would work in all cases. Another said that the concept in the DFA should not be modified unless the particularities of the aircraft sector made this necessary, and only if it was understood that any such modification would apply only to that sector; plane-to-plane transfers and indirect subsidies might require a different approach to measurement. It was explained that under a cap régime, every form of subsidy had to be measurable, and that any guidelines in this area would clearly be aircraft-specific.

7. Regarding non-actionable subsidies, participants disagreed as to why the civil aircraft sector had been excluded from the DFA's green-lighting on basic and applied research. One participant said that such research subsidies had no less trade-distorting effect than any other type of subsidy; he favoured a carefully circumscribed green-lighting that would have equivalent effects in the sector. Another participant said that there should be three, not two, categories of subsidy, and suggested that basic and applied research might be merged and subject to one percentage limit.

8. With regard to other issues where further work was needed, one participant said that transitional arrangements should follow whatever GATT practice was on grandfathering, so that practices could be brought into line with the new disciplines. Another said that the DFA provisions in this area should apply, and suggested that not non-subsidy rules should also be covered. With regard to leasing, participants generally supported a provision to prevent a possible loophole in this area, and it was suggested that "walk-away" leases should also be covered. On the definition of "civil aircraft", participants differed as to whether and how the definition should be expanded. Regarding notification, one participant suggested that operating and maintenance procedures for civil aircraft should also be notified.

9. The next meeting of the Sub-Committee would be held in late November.