

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

AIR/M/27

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Special Distribution

Agreement on Trade in Civil Aircraft

MINUTES OF THE MEETING HELD IN THE CENTRE WILLIAM RAPPARD ON 18 OCTOBER 1989

Chairman: Mr. T. Koda (Japan)

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 1. <u>Election of officers</u>	
1. The Committee elected Mr. T. Koda (Japan) to continue as Chairman of the Committee and Mr. W. Frei (Switzerland) to serve as Vice-Chairman. It was noted again that there was no work for the Technical Sub-Committee at the present time; the election of a Chairman of the Technical Sub-Committee would be postponed until that body was reconvened.	
 2. <u>Status of Signatories - Ratification by Egypt</u>	
2. The <u>Chairman</u> recalled that Egypt had signed the Agreement on Trade in Civil Aircraft on 28 December 1981 and had deposited the instrument of ratification with the Depositor on 4 July 1989. He welcomed Egypt as a new full member of the Committee. As Egypt was not represented at the present meeting, he said that the secretariat would invite Egypt, in writing, to make the two notifications required of new Signatories: the first defining Egypt's entities operating military aircraft, and the second on their end-use system.	

3. He noted that Egypt's acceptance related to the Agreement and its Annex as it stood on 28 December 1981, i.e., without any of the amendments contained in the First, Second and Third Certifications of Modifications and Rectifications, and without the latest amendments to the Protocol (1986), which contained the Harmonized System and revised CCCN Annex as well as all previous amendments to the Annex. In this regard, he recalled that in December 1986, when the Committee had adopted the Protocol (1986), it had agreed on the interpretation proposed by the Chairman that acceptances or accessions to the Agreement on Trade in Civil Aircraft were understood to include any rectifications, modifications or amendments as may have become effective on the day the acceptances or accessions entered into force (AIR/M/19, paragraphs 14 and 15). In the spirit of this interpretation, the Committee urged Egypt to accept the Protocol (1986) without delay.

4. The Chairman also recalled that Romania had not yet accepted the Protocol (1986), and the Committee urged that country to do so.

5. The representative of the United States also welcomed Egypt as a party to the Agreement and urged Egypt, as well as other parties which had not yet accepted all the Protocols or ratified the Agreement, to do so.

3. Matters under Article 4 - Mandatory offsets

6. The Chairman recalled that this matter, concerning possible mandatory offsets in Spain and Greece, had first been raised at the November 1987 meeting and again at the October 1988 meeting. At the latter meeting, the representative of the EEC had said that he hoped to satisfy the United States' enquiry bilaterally and would report fully to the Committee at its next meeting.

7. The representative of the EEC recalled that at the most recent meeting of the Committee, the US delegation had reiterated its questions regarding mandatory offsets in Spain and Greece. The EEC would respond to these questions and would report to the Committee as soon as the study on the incriminations made was complete. He apologized for the delay which, he said, was due in part to the vague nature of the changes, and said that more details would further the advance of that study. He was confident that very soon, a good reply would come out of the study underway.

8. The representative of the United States said that the EEC's response to the US question was unfortunately not a factual one. The United States regretted that it was taking so long to respond to what was a straightforward question regarding, possibly, the nature of obligations under the Agreement. The United States had not raised this question as an incrimination but rather as a factual matter. It sought transparency and information on actions taken. While it might not be necessary to make incriminating charges, it was important to share information. The United States believed that the use of mandatory offsets would be a clear violation of Article 4 of the Agreement, which stated that aircraft

purchase decisions should be based on the commercial and technical merits of competing products. Signatories might not, therefore, require offset production or any other kinds of mandatory sub-contracts or counter-trade in conjunction with civil aircraft procurement and contract bids. He recalled that there was a small exception in the Agreement regarding the maintenance of qualified bidder lists, with which the United States agreed. The United States believed that government-mandated offsets were economically counterproductive to both seller and buyer. They raised the cost of the procurement and distorted both trade flows and domestic investment. Therefore, the United States was anxious to get agreement among the other parties on the interpretation that such government-mandated offsets were inconsistent with Article 4.

9. Regarding Spain and Greece, his Government was aware of specific allegations by some bidders on civil aircraft products that they were being requested to provide offsets, the nature of which would not be of benefit to the airlines procuring the aircraft. He wanted to clarify that there was something called "compensation" in a purchase agreement, whereby a civil aircraft equipment provider would also agree, as part of his provision of the aircraft, to offer a concession in terms of providing parts at a particular cost, making parts more readily available or providing training. This was not considered to be an offset, as it was considered to be a benefit to the procuring airline and a part of the total contractual package. However, to provide a benefit, in terms of production, to some other sector of the economy obviously had no evident benefit to the airline and, in the US view, would be prima facie evidence of government interference, as there would be no reason for the airline to request such a benefit.

10. The United States looked forward to having a more detailed response to its request for information and asked the EEC to indicate when this might be provided. As the Committee's meetings were infrequent, this response might be made in writing, and the item taken off the Committee's agenda. He welcomed the views of other Signatories on the general question of whether mandatory offsets were consistent with the Agreement, and reiterated that this was a separate matter from the United States' factual question.

11. The representative of the EEC said that he could not, at present, give a precise date for the EEC's response. At the request of the member States to whom the United States' question had been addressed, he asked again that the United States provide, as far as possible, more specific information about its question. This would expedite the EEC's reply.

12. The Chairman said that the matter would be kept on the agenda for the next meeting pending the satisfactory resolution of this matter in the interim.

4. Bilateral consultations on the review of Articles 4 and 6

13. The representative of the EEC said that the bilateral consultations on the review of Articles 4 and 6 had not, in the EEC's view, produced any results which could be reported to the Committee. As soon as any progress was achieved, the EEC would not fail to inform the Committee. He noted that a consultation with the United States scheduled for the first week in October had not, for technical reasons, taken place, but that another meeting would be scheduled for the end of November.

14. The representative of Canada asked the EEC whether the fact that the consultations had not produced a result worth reporting meant that no progress at all had been made on this issue.

15. The representative of the EEC said it could not be said that there had been no progress. The consultations were continuing and it was hoped that rapid progress could be made in the future.

16. The representative of the United States said that his delegation wanted to supplement the EEC's report in the belief that while only limited progress had been achieved, and with no concrete results, the Committee should be kept apprised of the situation. This process of consultation had been initiated by the Committee's Chairman some two years earlier as a process both outside and within the Committee. The United States wanted to aid that process by providing more transparency and information to some of the Committee's discussions, as well as to invite continuing discussion and questions on these issues with other Signatories. As he had reported one year earlier, the consultations had been at an impasse, with substantial progress on Article 4 issues but very little on Article 6. There had been a suspension of discussions from July 1988 until May 1989. At the May meeting, it was agreed that there was perhaps a basis for making progress, particularly on the Article 6 issues where it seemed that both parties might be in a position to agree to substantial disciplines on subsidies to civil aircraft production. There was a follow-up meeting in July which, in the US view, had not shown as much progress as had been hoped. As the EEC had reported, the meeting scheduled for early October had been postponed in order to allow the parties to take a hard look at their respective positions. On substance, the United States still felt that the existing disciplines in the Aircraft Agreement on developmental supports, and particularly on production supports, were not being adequately observed by all parties. Also, with what could be called "hot markets" for large transport civil aircraft, the United States felt that this was the opportune time for governments to re-evaluate their positions in regard to providing these subsidies and supports, and to undertake a process that would lead to greater discipline. The United States planned to pursue this diligently with the EEC and other Signatories, and hoped to make progress within the next six months.

17. On Article 4 issues, the United States believed that there was a growing meeting of the minds, particularly in the present strong buyer's market which precluded the necessity of government involvement in

marketing or in exerting pressure on or inducements to foreign governments or buyers. In this environment, almost any government pressure would seem to be unwarranted, if not unreasonable. The United States welcomed any questions on the bilateral consultations and suggested that at the next meeting it might be useful to have a detailed and positive discussion by all parties of, at least, Article 4 issues.

18. As a separate matter, the United States had noticed reports of the European Economic Commission approving state aids in the civil aircraft sector by the Federal Republic of Germany in connection with the merger of Daimler Benz and MBB and the privatization of the German Airbus partner. The only public written report from the EEC that he had seen on this matter said that the effects of this merger on intra-Community competition had been examined and had been found to be minimal, since these aircraft were largely exported and there were no other domestic producers. His Government felt that it would be useful, in the tradition of informing the Committee of important developments in the civil aircraft sector - and not in the sense of any incrimination - for the EEC and the Federal Republic of Germany to give a report on what action they had taken with regard to this matter, as well as their own assessment of its effects on international and on intra-Community competition.

19. The representative of Canada said that his delegation supported any proposal to improve transparency. As this seemed to be what the United States was trying to obtain, Canada supported that effort.

20. The representative of the EEC affirmed that the United States' recounting of the chronology of bilateral consultations was correct.

21. The representative of Japan said that in the light of the principles of transparency and frank discussion in the Committee, Japan asked the parties involved in these bilateral consultations to inform the Committee as much as possible of developments. Japan thus expected a further report by the parties at the Committee's next meeting.

5. Report to the CONTRACTING PARTIES

22. The Chairman recalled that Signatories had an obligation under Article 8.2 to inform the CONTRACTING PARTIES of developments under the Agreement during the year. To facilitate this work, the secretariat had prepared a draft report which could be used as a basis of work.

23. The Committee adopted its ninth report to the CONTRACTING PARTIES, contained in document L/6587.

6. Procedural matters

24. The representative of the United States asked the secretariat whether plans were underway to revise the 1985 version of the "red book" containing the text of the Agreement and the third certification of modifications and rectifications to the Annex to the Agreement, so as to incorporate the transposition to the Harmonized System nomenclature as a new Annex.

25. Mr. Kautzor-Schröder (secretariat) said that the secretariat would be putting out, as soon as possible, a revision of the "red book" with the Annex in the Harmonized System nomenclature.

7. Dates of next meetings

26. The dates for the next meetings were tentatively set for 14 March 1990 and for the week starting 15 October 1990.