

WORLD TRADE ORGANIZATION

RESTRICTED

TCA/M/9
1 May 2000

(00-1730)

Committee on Trade in Civil Aircraft

MINUTES OF THE MEETING HELD ON 17 DECEMBER 1999

Chairperson: Mr. Didier Chambovey (Switzerland)

1. The Committee on Trade in Civil Aircraft (the "Committee") held a meeting on 17 December 1999.
2. The Committee adopted the following agenda:
 - A. CONSIDERATION OF THE STATUS OF THE 1979 AGREEMENT ON TRADE IN CIVIL AIRCRAFT UNDER THE WTO 1
 - B. UPDATE OF HS HEADINGS IN THE PRODUCT COVERAGE ANNEX OF THE 1979 AGREEMENT ON TRADE IN CIVIL AIRCRAFT – REPORT OF THE TECHNICAL SUB-COMMITTEE 4
 - C. POSSIBLE EXTENSION OF PRODUCT COVERAGE OF THE AGREEMENT – REPORT OF THE TECHNICAL SUB-COMMITTEE 5
 - D. "END-USE" CUSTOMS ADMINISTRATION 6
 1. **Updating information regarding civil/military identification for customs purposes** 6
 2. **Military vs. non-military definition** 7
 - E. BELGIAN AIRCRAFT INDUSTRY SUPPORTS 9
 - F. OTHER BUSINESS 10
 1. **Matters arising under Article 4 of the 1979 Agreement on Trade in Civil Aircraft** 10
 2. **Matters arising under Article 3 of the 1979 Agreement on Trade in Civil Aircraft** 12
 - G. DATE OF NEXT REGULAR MEETING 13
 - H. ADOPTION OF ANNUAL REPORT 13
- A. CONSIDERATION OF THE STATUS OF THE 1979 AGREEMENT ON TRADE IN CIVIL AIRCRAFT UNDER THE WTO
3. The Chairperson noted that, as a result of the failure to introduce the Aircraft Agreement into the WTO framework, there remained significant uncertainty surrounding the legal status and operational effectiveness of the Aircraft Agreement. On 29 April 1999, he had sent Signatories a

draft Protocol concerning technical rectifications needed to bring the Aircraft Agreement into the WTO framework. Signatories had discussed the April 1999 draft Protocol at the informal meeting of the Aircraft Committee on 20 July 1999 and had agreed to give it further consideration. He had reported briefly on that discussion at the formal meeting of 21 July 1999 where he had also expressed the hope that such further consideration would result in all Signatories' support for the April 1999 draft Protocol so that, before the Committee's next regular session, the Committee would be in a position to adopt this draft Protocol. The Chairperson recalled that previous attempts at bringing the Aircraft Agreement into the WTO framework had failed. As he had pointed out previously, in large part, he believed that earlier proposals had failed because they went beyond mere technical rectification. In particular, such proposals had sought to address certain substantive matters including the relationship between the Aircraft Agreement and the WTO Agreement on Subsidies and Countervailing Measures. Although he acknowledged the importance of such substantive matters, the fact that various Signatories had mutually exclusive proposals for their resolution made him sceptical whether they could ever be resolved in this forum. In his view, difficulties concerning the resolution of such substantive matters should not block the basic technical rectification needed to bring the Aircraft Agreement technically into the WTO framework. For this reason, the April 1999 draft Protocol deliberately sought to avoid substantive changes to the Aircraft Agreement. The April 1999 draft Protocol focused on the minimum technical rectifications necessary to bring the Aircraft Agreement into the WTO framework. It simply replaced GATT-terminology with WTO-terminology and references to defunct GATT legal instruments with references to their WTO successors. The April 1999 draft Protocol did not change the structure of the Aircraft Agreement nor the relationship of the Aircraft Agreement with other WTO Agreements.

4. The Chairperson proposed that Signatories agree to adopt the April 1999 draft Protocol of technical rectifications to transpose the Agreement on Trade in Civil Aircraft into the WTO framework on the understanding that this was a neutral transposition that did not change the existing relationship of the Aircraft Agreement with the other WTO Agreements, including the Agreement on Subsidies and Countervailing Measures.

5. The delegate of the European Community stated that his delegation very much appreciated the efforts that the Chairperson had made in the past and again today to settle this longstanding issue. Certainly, his delegation would be the first to be happy if an appropriate solution could be found for the Committee to do what it should, that is, align the Agreement by rectifying it to be in conformity with the existing WTO rules. Signatories had a long discussion at the last meeting and one of the conclusions drawn last time was that delegations should go back and consider further these issues and also take up bilateral contacts with other interested delegations in order to make progress. They went away from that meeting with the best intentions to do so, but unfortunately in the course of events other matters took over. Delegations had all been concentrating on other things the last couple of months, so the plain truth is that they hadn't really done their homework. For the time being, his delegation still had problems with the two main points which were raised last time, amendments 26 and 37 of the draft Protocol, and his delegation unfortunately was not in a position now to agree to a full adoption of the Chairperson's April 1999 proposal. Having said this, they still wanted to keep the question open. His delegation needed more time to consider this issue again. For the time being, he asked the Chairperson to hold things where they were and give them more time to make some progress while things were somewhat quieter in the couple of months ahead.

6. The Chairperson underlined that what he had said in his introduction related primarily to previous attempts taken to transpose the Agreement to the WTO environment. At that time, it went beyond just a change of a technical nature. For that reason, in April 1999, he had submitted proposed rectifications that were basically of a technical nature, introducing certain terminological changes to the text to ensure that the Agreement was not a "foreign body" referring to instruments that no longer existed and to make it relevant to the context of the WTO as it existed today. At the time, that type of

minor rectification did not give rise to any major controversy. He had thought that the Committee would be able to accept that, but he saw that that was not the case at this stage.

7. The representative of the United States wanted to express appreciation for this extraordinary effort to make a neutral transposition of the Aircraft Agreement. They also had some process problems that mirrored those stated by the representative of the EC and wanted some more time. As far as substantive issues, his delegation believed that the transposition should not make ambiguous things that were not ambiguous in the current circumstance, or in the circumstance prior to the Marrakesh signing. They wanted to be very careful with regard to the later-in-time issue that had been raised previously. There was an economy of words used in this proposed draft Protocol to substitute only what was necessary. However, the context in which Signatories found themselves was a different context. Therefore, just referring to the new Agreements without changing some of the other words might create some new questions about the relationship among agreements that weren't there previously. His delegation noted, as they thought the Chairman had made clear at the last meeting, that the adoption of this draft Protocol would not automatically apply the Dispute Settlement Understanding to this Agreement, and that there would have to be a separate decision of the Committee. Therefore, under Recitation 37 of the draft Protocol, the Committee itself would act as the Dispute Settlement Body until such time as the Dispute Settlement Understanding would be adopted. As examples of some of the ambiguity of issues that could arise just by changing words, in Article 6, it said that the Agreement on Subsidies and Countervailing Measures applied to aircraft. That had been something essential to say back when this Agreement was written because they were separate Agreements and parties had the option to belong to various agreements. Currently, there was a single undertaking and so it was not clear at this point what it meant or what it added to say that this Agreement applied. Likewise, the last statement in Recitation 37, which in 1979 assured the separation of dispute settlement between independent agreements, might have some different implication in the current structure. But his delegation wanted to study these things further and to approach it with a positive attitude. He underlined that they would like to see the Agreement rectified. Some progress had been made in the Technical Sub-Committee in updating the Annex, which was an important part of the Committee's business. The work of the Committee could go on, but it certainly was awkward at the minimum to have an Agreement that referred to other bodies and agreements that were no longer in force.

8. The Chairperson concluded, on the basis of this brief discussion, that it did not seem to be possible for the Committee to agree to adopt the present draft Protocol. However, a certain amount of goodwill had been shown so that the Committee should continue with a consideration of the implications of his proposal. He had also heard that, due to the exceptional workload on delegations during this latter part of the year, it had been impossible to have requisite contacts so that positions could come closer together. He was, of course, disappointed that the Committee was not in a position to adopt an instrument which would make it possible to adapt the Agreement on Trade in Civil Aircraft, but in view of the statements made, he did not think he should conclude that this had been seen as a failure. Perhaps in the future this could be possible. However, this was his personal conclusion and, at this stage, he wished to have advice from Signatories as to the continuation of the process. More specifically, he wished to know what Signatories expected from the Chairperson, since he still perceived this desire to arrive at an agreement so that the Committee could come out from this unusual circumstance of references to the GATT Agreement which was no longer the valid framework.

9. The representative of the European Community said that the Chairperson was right to put the ball back into the Signatories' court. He thought the Chairperson should ask delegations to continue the efforts which they had promised to undertake the last time with a view to getting together bilaterally and individually to look for a solution. If the Chairperson thought about being more active, there was the question of whether there was any use in trying to rephrase the Chairperson's proposal, which he would leave entirely to the Chairperson after the last couple of discussions on this issue. But

his first preference would be that the Chairman urge delegations once more to make progress on this issue and point out once again that there was a real inconsistency in what existed right now.

10. The representative of the United States associated his views entirely with those stated by the representative from the European Community. This matter should be reverted to at the next meeting to record and discuss any progress Signatories were able to make bilaterally and with the efforts of the Chairperson informally between now and then.

11. The Committee took note of the statements made.

12. The Chairperson suggested that the Committee, or rather the Chairperson, carry on according to the proposal of the European Community seconded by the United States. He urged Signatories to do their utmost through bilateral encounters so that they could come up with a mutually satisfactory formula which could be embodied in a revision of his proposal.

B. UPDATE OF HS HEADINGS IN THE PRODUCT COVERAGE ANNEX OF THE 1979 AGREEMENT ON TRADE IN CIVIL AIRCRAFT – REPORT OF THE TECHNICAL SUB-COMMITTEE

13. The Chairperson noted that, as Signatories were aware, the Product Coverage Annex of the 1979 Agreement on Trade in Civil Aircraft identified products on the basis of Harmonized System (HS) headings. Many HS headings had been amended as of 1 January 1996. Pursuant to a request by the Committee at the November 1998 meeting, the Secretariat, on 23 April 1999, forwarded to delegations a list of changes to the HS headings enumerated in the Product Coverage Annex. However, it had not been immediately apparent how all of the changes should be transposed into the Product Coverage Annex. At its July 1999 meeting, the Committee had agreed, therefore, to refer this issue to the Technical Sub-Committee of the Committee on Trade in Civil Aircraft. The Technical Sub-Committee had considered this matter at its meeting on 16 December 1999. The discussions were constructive, and he thanked delegations for the very cooperative spirit in which they had worked. Each of the HS sub-headings that had been identified in his letter of 23 April 1999 had been discussed in considerable detail. While minor differences existed between certain Signatories with respect to specific items, there was a broad willingness among Signatories to approach the few problematic issues that arose in a spirit of compromise and cooperation. At the outset of the discussion, he had reminded Signatories that this was fundamentally a technical exercise dealing with transposing the changes to the revised 1996 HS into the Product Coverage Annex. He had also reminded Signatories that the overall product coverage of the Agreement was defined in Article 1 of the Agreement. Therefore, this transposition exercise by the Technical Sub-Committee was taking place within these parameters set by the current provisions of the Agreement. On the basis of the views expressed by Signatories at the meeting of the Technical Sub-Committee, the Technical Sub-Committee recommended that the Committee on Trade in Civil Aircraft instruct the Secretariat to produce a draft of a revised protocol concerning product coverage eventually to replace the existing (1986) Protocol currently annexed to the Agreement on Trade in Civil Aircraft. This draft of a revised Protocol would be circulated to Signatories well in advance of the Committee's next meeting. Signatories would then have a possibility to express their reactions to the draft document. Taking into account any reactions of Signatories to the draft document, the draft could be presented for adoption at the next regular meeting of the Committee in June 2000.

14. The Committee so agreed.

C. POSSIBLE EXTENSION OF PRODUCT COVERAGE OF THE AGREEMENT – REPORT OF THE TECHNICAL SUB-COMMITTEE

15. The Chairperson reminded Signatories that at the July 1999 meeting of the Committee, Canada had recalled its 1994 proposed amendment to clarify that ground maintenance simulators fall within the product coverage of the annex to the Agreement. This proposal had originally been made in document AIR/W/97, dated 13 October 1994. At its July 1999 meeting, the Committee had decided to refer this issue to the Technical Sub-Committee. The Technical Sub-Committee had considered this matter at its meeting the day before and Canada had provided the Technical Sub-Committee with additional information on the nature of the product involved. The reaction to the proposed amendment was largely favourable, although certain delegations needed more time to consider it. The Chairperson had stated in the meeting of the Technical Sub-Committee that if Signatories were able to agree on this matter by this meeting of the Committee, then ground maintenance simulators could be included as an item in the draft of the revised Protocol on Product Coverage that the Committee had just instructed the Secretariat to draft under the previous agenda item. Accordingly, the Chairperson asked whether Signatories were in a position to agree on this matter at this time?

16. The delegate of the European Community stated that his delegation would not oppose the inclusion of this item in the revised Annex.

17. The representative of the United States pointed out that his delegation was previously on record as supporting the addition of this item. His delegation also queried whether there was still an opportunity to communicate to the other Signatories through the Secretariat of other possible or additional items and, if there were sufficient interest, then these could be perhaps discussed at another meeting of the Technical Sub-Committee just before the regular meeting.

18. The Chairperson wished to limit this discussion to ground maintenance simulators and to revert to the issue raised by the delegate of the United States later on in the meeting.

19. The representative of Canada expressed her delegation's appreciation for the support that had been given to having the item included in the expanded list of product coverage. This was a momentous occasion, given the fact that this issue had been around since 1994. It gave cause to look positively on the fact that maybe the Committee could also move forward on the technical rectification issues in the same spirit.

20. The delegate of Japan stated, as he had in the meeting of the day before, that his delegation could go along with the consensus. However, for the record, he reiterated that since they had some procedures concerning the Diet or the Congress in Japan, they might have to consider the timing of adopting this as a matter of procedure.

21. The Chairperson proposed that the Committee agree to instruct the Secretariat to include ground maintenance simulators in the draft of the revised protocol that the Secretariat had already been instructed to prepare for review by Signatories.

22. The Committee so agreed.

23. The Chairperson recalled that at the Technical Sub-Committee meeting the day before, several delegations had expressed an interest in the possibility of considering other items in addition to ground maintenance simulators for inclusion in the Product Coverage Annex that might involve an extension of the coverage of the annex. One possible example mentioned in this context was sub-heading 8543.81 -- "proximity cards and tags", to the extent, of course, that these were aircraft-related. Therefore, it was suggested that, at the time that Signatories reacted to the draft of the revised

Protocol that the Secretariat had just been instructed to draw up, Signatories could also seize this opportunity to identify other such items for possible inclusion in the draft of the revised Protocol. Naturally, this matter would be kept separate from the technical transposition exercise as well as the issue of ground maintenance simulators. If necessary, there could be another meeting of the Technical Sub-Committee before the June meeting of the Committee to examine any issues that might arise in this context. The Chairperson asked whether Signatories agreed with this suggestion.

24. The delegate of the European Community thought this was a good idea, but that it might be useful to establish some deadlines for this exercise so that people would not come in at the June date for the meeting with their idea; perhaps six weeks before the meeting took place, so delegations would have time. There could be a fruitful discussion at the meeting itself, with everybody prepared and the necessary technical expertise having been consulted.

25. The Chairperson asked whether there were any reactions to this proposal.

26. The delegate of Canada believed that this was an excellent idea. If the Committee had a meeting without advance documentation, this would be unfortunate. It was always a good idea to be able to consider the issue in capitals and the European Community's suggestion seemed the best way.

27. The Chairperson believed that this was a very good suggestion. Of course, this would depend also on a time needed for preparation of the draft Protocol by the Secretariat, since the draft Protocol would be submitted to delegations as of a specific date, and from then on there would be a possible deadline for reactions. It appeared that the draft Protocol could be ready by mid-February 2000. It could then be provided to delegations. If the draft Protocol were provided to Signatories by mid-February 2000, then they could have until 1 May 2000 to consider this draft text. The Chairperson asked if this was acceptable.

28. The Committee so agreed.

29. The Chairperson stated that the correspondence that would be sent to delegations would indicate exactly what deadlines were involved, in order to remind delegations of these deadlines.

D. "END-USE" CUSTOMS ADMINISTRATION

1. Updating information regarding civil/military identification for customs purposes

30. The Chairperson recalled that at the November 1998 meeting, the Committee had accepted a proposal by the Chairperson that the factual information regarding civil/military identification for customs purposes contained in document AIR/TSC/W/49 should be updated. Signatories had agreed that the updated information should be sent to the Secretariat by 30 May 1999. Despite the circulation of a reminder by the Secretariat, the response to this initiative has not been encouraging. To date only Bulgaria¹, Canada² and the United States³ had provided the requisite information. Despite further encouragement to submit updated information to the Secretariat by 30 September 1999, no further updates had been received. He therefore again urged other Signatories to submit the updated information to the Secretariat by 31 March 2000 in order that it could be circulated in good time for discussion at the next meeting that was scheduled for 14 June 2000.

¹ Circulated as document TCA/TSC/W/4.

² See TCA/M/8, paras. 26-27.

³ Circulated as document TCA/TSC/W/5.

31. The delegate of the European Community pointed out that his delegation had just submitted its updating document⁴ in the meeting.

32. The Chairperson stated that he had not been aware of this. While the deadlines had not been strictly adhered to, he acknowledged the effort made by the European Communities.

33. The representative of Japan apologized for his delegation's slow response. The information transmitted in AIR/TSC/W/49 -- that "military" aircraft referred only to those aircraft procured by the Defence Agency for use by the Self-Defense Force -- had not changed. The situation was the same as it had been in 1983.

34. The Committee took note of the statements made.

2. Military vs. non-military definition

35. The Chairperson reminded Signatories that at the July 1999 meeting of the Committee, the delegate of Canada had recalled her delegation's 1993 proposal that consideration be given to designating as "civil" those aircraft that were certified by civil aviation authorities even if they were purchased by a designated military or quasi-military entity. Canada wished to have the views of other Signatories on this matter. He also recalled that at the July 1999 meeting of the Committee, Canada and the United States had indicated that they would provide written information to the Committee for its consideration at the next meeting.

36. The delegate of Canada indicated that her delegation had just made a paper available to Signatories that outlined the issue for consideration. While it was late to provide this information and her delegation did not expect to get very much discussion at this time, she wished to raise a few issues. Article 1.2 of the Agreement provided a definition of civil aircraft in a negative manner. It said that civil aircraft meant aircraft other than military aircraft. Apparently, to implement the 1979 Agreement, Signatories had submitted a list of military entities that were empowered to register aircraft as "military". Subsequent to that, all aircraft purchased by those entities were determined to be outside the scope of the Agreement. However, as a result, her delegation considered that there were legitimate civil aircraft that did not benefit from the provisions of the Agreement. To address this issue, Canada was suggesting instead a definition which focused on the characteristics of the aircraft. There should be a definition which distinguished between civil and military based on the initial certification rather than the registration or identity of the purchaser. Her delegation wondered if that was the right way of proceeding and sought the views of other Signatories in that respect.

37. The Chairperson noted that Canada's proposal was to identify whether an aircraft was "military" or "non-military" on the basis of the initial certification rather than the end-use, and opened the floor for comments.

38. The delegate of the United States believed his delegation had submitted its document⁵ at the last meeting, but that it had not yet been circulated.

39. The Chairperson indicated that the document referred to by the United States had been submitted under the previous agenda item, updating information regarding civil/military identification for customs purposes. He asked if it were also relevant to this agenda item.

40. The representative of the United States clarified that it was relevant. He could not recall clearly if the document had been circulated at the last meeting or was being held until there were other

⁴ Circulated as document TCA/TSC/W/6.

⁵ Circulated as document TCA/TSC/W/5.

submissions, and wanted to make sure that it was, in fact, circulated. If other parties had read it, they would note that their end-use certification in fact paralleled the proposal from the Government of Canada. In fact, the prior system had been as provided for by the Agreement -- if the end-user was a military end-user then the product, irrespective of the characteristics of the product, would be considered a military product and not covered by the Agreement. This raised certain anomalies in the United States where an aircraft, for example an executive jet, would normally be used for civil purposes and was imported and paid no duties or customs in accord with the annex of the Agreement and then if it would be later sold to a military entity in the United States it could be subject to duty. His delegation also had problems with parts that had to be segregated even though they were identical parts depending on whether they went to the military side or the civilian side. They had then decided to adopt a system, really very much described in the Canadian proposal, which in effect said (as detailed in the US paper) that if a US certification authority, the Federal Aviation Administration, or recognized civil aviation certification authority of another country, certified a product for civilian use then it would be considered as "civil" aircraft and receive duty free treatment. This, in effect, unilaterally expanded the coverage of the civil aircraft definition about how to identify for what use. Concerns had been raised by potential new Signatories to the Agreement about how they would classify something that looked virtually identical and the point his delegation had made was that for military imports, they normally waived the duties in any case. His delegation supported an expansive view of end-use certification to resolve this issue. He noted some other examples, he had done some research on this. In the early days of the Agreement, there were some helicopters purchased that were foreign-manufactured. They were purchased by the coast guard, which was sometimes looked at as a civilian agency and sometimes looked at as a military agency in its operations in the United States. This created some difficulty. The helicopters would normally be a civil operation. Other aircraft equipment that the military got that may not have been certified by a civil aviation authority may be specially modified for military purposes and lose its civil character by those modifications. This merited special attention. They were generally supportive of a proposal that would simplify end-use determination and were interested in the views of other parties.

41. The Chairperson thanked the delegate of the United States for the details and explanations. It was certainly very beneficial for all Signatories to realize the kind of problems which could be raised in identifying whether an aircraft is used for military or non-military purposes and whether or not it would be exempted from duties. He asked for the views of the other Signatories on this issue.

42. The delegate of the United States had a question for Canada. The United States extended the definition of civil aircraft in effect in Article 1 of the Aircraft Agreement to those parts, components engines and aircraft in the conventional sense, things that flew. He noted the Canadian proposal seemed to be limited only to things that actually flew, and not to parts and components. Was that a correct reading?

43. The delegate of Canada said she would have to double-check with her authorities, but her understanding was that it would cover the parts and components as well. Her delegation was concentrating on the definition issue in Article 1.2, which talked about the definition of civil aircraft. If one looked at Article 1.1(c) -- other parts, components or sub-assemblies of civil aircraft -- then the definition of what was civil aircraft would be the same throughout Article 1. She did not think that there was any reason why one would adopt an interpretation that those would be excluded.

44. The representative of the European Community stated that his delegation's view was not yet definite. They were grateful for the paper which had come forward and took note of the addition which had just been made in clarifying the scope of the proposal. They would certainly take time to discuss this internally with a view to giving some consolidated advice on this idea.

45. The delegate of Japan stated that they had anticipated some papers from Canada and the United States and they were not aware that the United States had already submitted a paper. Since

they had just received the Canadian proposal, they would study it in detail, but they were not in a position to give any definite answers at this time.

46. The Committee took note of the statements made.

47. The Chairperson stated that this appeared to be an issue that prompted considerable interest and suggested that Signatories take the time to study the documents circulated by Canada and the United States (the latter under another agenda item but which was entirely relevant to this discussion). He suggested that all delegations study these documents carefully and that this item be placed on the agenda of the next meeting.

48. The Committee so agreed.

E. BELGIAN AIRCRAFT INDUSTRY SUPPORTS

49. The Chairperson recalled that at the Committee's July 1999 meeting the Committee had agreed that this item would be placed on the agenda of this meeting. For the benefit of the Committee, he recalled that according to the United States, the Government of Belgium had maintained an aircraft industry support programme which relied on foreign exchange rate guarantees and dual exchange rates and was considering a successive programme. The United States sought detailed information on the working and status of the aircraft industry support programmes maintained by the Government of Belgium.

50. The delegate of the United States said that he had noted at previous meetings that his delegation would provide some written questions. These had been provided in the context of other WTO Agreements. At this meeting, his delegation simply wanted to know the current status of this exchange programme, because the representative of the European Community had indicated that this programme was in the process of being changed, being reviewed.

51. The delegate of the European Community stated that his delegation had updated the Committee at the last meeting and should do that again. As a preliminary observation, the existing programme contained some burden-sharing between not only the federal government but also the regional governments in Belgium and the industries. So, there were a big number of players involved in this. Another preliminary remark was that there had been elections in Belgium in July which had led to the formation of a new government. The former federal government had already decided to change the policy and they had got actually quite far in that attempt. They were going towards a programme that would be better-tailored to the needs of the enterprises concerned. They had already defined to a large extent the structure, mechanisms and details of the coordination of that policy with relevant institutes at federal and at regional level as well as the Commission because state aid was, of course, a matter for the Commission and the Community. They had reached an advanced stage, and had hoped to be able to unveil the whole thing at this meeting. But, as he had already said, in July 1999, a new government had been formed. They had undertaken a *status quo* review of what was in the pipeline of legislation and had come to the decision in November 1999 to keep this project on the rails. They had decided to uphold the policy that was newly projected, in particular with a determination to ensure that no distortions of international trade of civil aircraft would ensue. They had also actually tried to modify and strengthen the existing proposal in order to have an even better new programme. The desire was to ensure its cost recovery effects, and he thought this was something the Committee would probably be pleased to hear. From his first remark, it was clear that the modifications required at least a partial renegotiation of the various regional authorities in the country concerned, and that was now going on. So, for the time being, the Belgian authorities were in a new round of consultations with the concerned actors in this game. But he wished to make very clear that they had the full assurances of the Belgian federal government that they were committed to bring the new programme into force as soon as possible. Unfortunately, he could not say much more

because his delegation could not pre-empt what would happen in these internal negotiations within the Belgian government and regional authorities.

52. The delegate of the United States understood that the programme that had existed was still in effect and that a new programme was under discussion and negotiation. The old programme, as his delegation understood it, had a dual exchange rate or exchange rate insurance aspect to it. He asked whether this was correct and whether the new programme intended to have that kind of mechanism in it as well.

53. The delegate of the European Community stated that nothing had changed since the last time. He was not in a position to give any of this detailed information as to what exactly the various elements of the programme would be – he thought that was part of the package of elements of the new programme under discussion and he did not wish to pre-empt any outcome. At the last meeting, he had said that, as far as they knew, the programme was still in effect, and as far as he knew, subject to correction, the old programme was still in effect. If he heard otherwise, he would inform the Committee.

54. The delegate of the United States said that since the old programme was still in effect, his delegation reserved the right to submit some questions and to revert to this issue at the next meeting. They wished to do that to get an update on this status. They certainly had some concerns here, something that at least had the appearance of having more than one exchange rate raised some compatibility issues even with the unrectified agreement that referred to the Subsidies Agreement of 1979, which had on a prohibited list certain items that might relate to this kind of programme. He also noted obligations in one of the other agreements with the IMF as far as any dual exchange rates, and he presumed this could perhaps cause some problems with the common European currency. So they would appreciate an update and information as it became available on this programme. He thanked the delegate of the European Community for the answers his delegation had received.

55. The Committee took note of the statements made.

F. OTHER BUSINESS

1. Matters arising under Article 4 of the 1979 Agreement on Trade in Civil Aircraft

56. The delegate of the European Community raised an issue under Article 4 of the Aircraft Agreement. He did not think he had to recall in detail that Article 4 of the Agreement was very clear that civil aircraft purchasers should be free to select suppliers on the basis of commercial and technological factors and that no Signatory shall require airlines or other entities engaged in the purchase of civil aircraft, or exert unreasonable pressure on them, to procure civil aircraft from any particular source. His delegation had taken note that on 8 December 1999, in the context of a potential purchase of aircraft by Israel's airline El-Al, the US State Department's spokesman had announced to the press that "failing to buy Boeing would make it harder to get (3 Boeing dealers) foreign assistance". Along the same lines, the Secretary of State was credited by the press to have made similar statements to Israel. There was a confirmation which he also wished to quote from the US Middle East Special Envoy, Mr. Ross, who had told the press on 10 December that "she [Mrs Albright] had a discussion with Foreign Minister Mr. Levy, and talked about the importance to American jobs of buying from an American company". His delegation wished to state very clearly that these, and similar US Government declarations, discriminated against the other major suppliers of civil aircraft and they amounted to what his delegation saw as open political pressure. His delegation found this unacceptable and it undermined the rules of fair trade for civil aircraft. They believed that the provision which he had just quoted in Article 4 of the Agreement was violated by such expressions and they hoped that they would not see a repetition of this sort of language.

57. The delegate of the United States noted that the delegate of the European Community had just been reading out quotations from newspaper articles and queried whether the delegate of the European Community had any other evidence of other activity or whether he wished to establish that the newspaper articles were evidence of activities inconsistent with this and other WTO Agreements.

58. The delegate of the European Community stated that, first, he had not seen any contradiction of these statements, which had been quoted widely in European and American press, so he believed that there was no question about the factual part of these statements, or that these statements had been made. Second, he thought this fell in the realm of Article 4 of the Agreement, which just talked about unreasonable pressure and not requiring to procure, etc. It did not give any indication of how this should be done. He was not taking the view that everything which was in the press was correct, but he had the very strong impression that there was a lot of smoke here, and thought that there was some fire.

59. The delegate of the United States had also followed developments in Israel on aircraft procurement through the press, but first wanted to give an assurance that the United States believed that all parties should live up to their obligations under the Aircraft Agreement, including those of Article 4 not to use unreasonable pressures. It was their policy to urge purchasers of civil aircraft, whether in the United States or elsewhere, to make their decisions on commercial and technical grounds. He also wished to quote from a few newspaper articles to balance the ledger here. Here was one: "...behind the scenes European ambassadors and American cabinet members were buttonholing Israeli officials promoting the purported advantages of Airbus 340 over Boeing 747 and *vice versa* and heading diplomatic consequences". This seemed to point at both. Here was another one: "Last week the French, German and British European Union Ambassadors to Israel trooped into the office of the Ministry of Trade Minister to make their own pitch for Airbus after expressing hope that the sale would be independent of political considerations. The Ambassadors promised that the Airbus order would 'undoubtedly lead' to more extensive Israeli/European cooperation in the sphere of aeronautics". There were another one or two. One talked about: "...Israel to participate in the A3XX programme" and his delegation queried the EC if they understood that there were requests to member States for state aid for the A3XX programme to launch that programme. If there was state aid and the participation in their programme was passed on to some purchasers of Airbus, that constituted an inducement offered by governments when connected with the purchase of aircraft.

60. The delegate of the European Community wished to make one last observation. The facts were not disputed and he noted the points that the US delegate had made. The first thing that he wanted to note was that the quotes that they had brought forward were at least not disputed. The second observation was that the link which was being brought forward, and which he had quoted, to the concrete foreign aid which was in the pipeline was, in his view, a different category than the usual lobbying which was going on and which he would not deny to get procurement from foreign purchasers. He was not in a position to say anything very specific on the A3XX programme which everyone knew was a rather embryonic thing for the time being. He believed that the other point which had been made about the space and aeronautics programme was so completely different a ballgame than leaping from vital foreign aid which was due to be delivered to a specific purchaser.

61. The delegate of the United States wished to clarify on the record that his delegation did not dispute that there were reports in the press of the type that the EC delegate had read on the record, because he had read those reports. His delegation did question, however, whether those were accurate reports or what happened when those linkages were made and he restated that the United States had lived up to its obligations under the Agreement. It was almost ludicrous as a general observation here that they would link support to these economies in the Middle East of billions of dollars in order to win really small aircraft orders. He believed that Airbus had sold, delivered, at least 500 aircraft or more in the United States. There had been no similar allegations made of pressure in the United States on domestic airlines. It seemed a bit far-fetched that they would exert extraordinary

pressure in a third country for, or on behalf of, two or three aircraft. He noted that there seemed to have been maybe one or two competitions here, there was an initial competition, reading again from press articles for the replacement for some ageing 747 size aircraft. El Al announced from their press reports -- and he would not bother to read them on the record -- that they decided a 777 was the best aircraft for that, and made that purchase decision. That took place in October, well before these stories appeared, which seemed to be about some ongoing evaluation of additional aircraft that they might purchase. He thought there were also some allegations that the officials from the United States went to Israel strictly to pursue this issue and that some events in the last day or two showed that the real purpose of the trip was for very important diplomatic purposes, and not for purposes of selling commercial aircraft.

62. The Committee took note of the statements made.

63. The Chairperson underlined that all Signatories had agreed to live up to their obligations under Article 4 and, of course, this was the least that could be expected from Signatories.

2. Matters arising under Article 3 of the 1979 Agreement on Trade in Civil Aircraft

64. The delegate of the United States wished to raise two items again briefly here. One had to do with the question that his delegation had raised before about the status of certification of certain 737 aircraft by the Government of France at their full seating capacity. He queried whether there had been any change in this certification status.

65. The delegate of the European Community concurred that this item had been raised before. All he could say was that, to his knowledge, the contacts between the company and the French authorities were continuing and had taken place as recently as last month.

66. The delegate of the United States thought he recalled that it had been almost two years that the EC joint airworthiness authorities -- with participation by experts from the Government of France -- had recommended that these aircraft be certified at their full seating capacity, certain models of the 737 aircraft, and special modifications were made to those aircraft. Certain technologies had been inserted to allow for a quick exiting that did not exist on any other aircraft and time was money in the commercial sector. Two years had gone by and though this question did not need to be answered at this meeting, his delegation would certainly, at some point, expect the European Community or the Government of France to answer as to the reason for this delay in certification. Did the Government of France believe that the standards of the JAA? Were the standards of the Joint Airworthiness Authorities of European are not high enough, or were there other factors -- other than safety -- that were involved in holding up the certification. This did not need to be addressed here and maybe this issue would resolve itself before the next meeting. If not, he wished to revert to it at the next meeting.

67. The Committee took note of the statements made.

68. The delegate of the United States said that he had one more matter to raise under Article 3 of the Agreement and that this matter had been previously raised in the Committee. It concerned the EC regulation restricting aircraft modified with hush-kits or certain re-engined aircraft. At the last meeting he believed his delegation had reported to the other members of the Committee their continuing concern about this regulation which was enacted, he believed, on 4 May of last year but suspended for one year. They had pointed out that this matter was under bilateral discussion. It remained under bilateral discussion. He believed it would come up in Washington today at meetings between the EC and the US. He reiterated his delegation's concern about this regulation which, it appeared to them, did not reduce aircraft noise and would permit the continued operation of aircraft that were noisier than those were to be restricted. Therefore, it was not an effective regulation and it raised certain warning signs that it was a design rather than a performance standard. It appeared to

affect only imported products and did not appear to be consistent with international obligations in the International Civil Aviation Organisation for aircraft noise. Since it was under bilateral discussion, his delegation did not desire to take it up further in this Committee today and hoped that it could be resolved favourably bilaterally.

69. The delegate of the European Community took note of the statement and was in full agreement with the US that they were both committed to finding a solution to this elsewhere and maybe at this very moment. Their views on some of the side-comments which had been made were also well-known and did not need repeating (about the relationship to existing rules, etc.). His delegation really did hope that there would be a solution in place by the next meeting, so delegates could all keep their statements even shorter.

70. The Committee took note of the statements made.

G. DATE OF NEXT REGULAR MEETING

71. The Chairperson stated that the date of the next regular meeting had been tentatively scheduled for Wednesday, 14 June 2000. If necessary, the Technical Sub-Committee could meet the day before, Tuesday, 13 June 2000.

H. ADOPTION OF ANNUAL REPORT

72. The Chairperson recalled for the benefit for Signatories that Article 8.2 of the Agreement on Trade in Civil Aircraft provided that "the Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof. The Committee shall annually inform the CONTRACTING PARTIES to the GATT of developments during the period covered by such review." Despite the termination of GATT 1947, Article IV.8 of the Agreement Establishing the WTO required the Committees on Plurilateral Trade Agreements, including this Committee, to "keep the General Council informed of their activities on a regular basis". Item 3 of the procedures adopted by the General Council in November 1995 for an annual review of WTO activities and for reporting under the WTO stated that "the Committees on the Plurilateral Trade Agreements referred to in Article IV.8 of the WTO Agreement shall be invited to report annually to the General Council."

73. This year, because the General Council met in early November, before the regular full meeting of the Committee, he had submitted a brief report to the General Council on his own responsibility. That brief report, a copy of which had been circulated to Signatories by fax on 14 October 1999, contained information concerning the activities of the Committee since the adoption of its 1998 Annual Report. The brief report did not replace the Annual Report of the Committee. This was the reason why a preliminary draft of the Annual Report had been made available to Signatories earlier. However, because the Report should also reflect the events that had taken place at this meeting, these events would be incorporated in the amended version of the Report that would be considered for adoption later today.

74. The Chairperson introduced the preliminary draft annual report prepared by the Secretariat. Before adjourning the meeting pending preparation of a subsequent draft of the annual report, the Chairperson asked whether there were any comments on the preliminary draft of the annual report.

75. The delegate of the United States commented on paragraph 2 of the draft annual report.

76. The Committee adjourned.

77. Following the adjournment, the Chairperson introduced the revised draft annual report prepared by the Secretariat. A number of changes to paragraph 6 of the draft report were proposed by the European Community, Canada, and the United States.

78. In response to the intervention by the delegate of Canada, the Chairperson clarified his understanding that the Committee had agreed at this meeting to add ground maintenance simulators to the Product Coverage Annex and that when the draft revised protocol was circulated, this issue would not be revisited.

79. The Committee adopted the Annual Report as amended.

80. The meeting was adjourned.
