



The Bottom Line

October 2019 | VOL. 9

SECTION 301 DUTIES LEVIED ON PRODUCTS FROM EUROPE IN RESPONSE TO WTO DECISION

Summary

The World Trade Organization (WTO) has backed a U.S. request to impose tariffs on \$7.5 billion of European goods, potentially sparking a new trade war across the Atlantic. The ruling reflects a long-battled decision regarding subsidies provided to Airbus from the European Community.

Background

On 6 October 2004, the United States requested consultations with the Governments of Germany, France, the United Kingdom, and Spain (the “member states”), and with the European Communities (“EC”) concerning measures affecting trade in large civil aircraft. According to the request for consultations from the United States, measures by the EC and the member States provide subsidies that are inconsistent with their obligations under the SCM (Subsidies and Countervailing Measures) Agreement and GATT 1994. According to the SCM Agreement, a subsidy exists if there is a financial contribution by a government or any public body that involves either a direct transfer of funds or revenue that is otherwise due, but not collected (e.g. tax credit). The United States alleged that more than 300 separate instances over a period of almost forty years by the four member States constituted institutional subsidies of Airbus SAS and caused adverse effects to U.S. interests. The WTO panel found that numerous measures, including “Launch Aid,” loans from the European Investment Bank, infrastructure grants, corporate restructuring measures, and research and technological

development funding did constitute subsidies and resulted in the displacement of sales from U.S. manufacturers.

Current Status

Just as with China, the Trade Act of 1974 (Section 301) authorizes the President of the United States to take all appropriate action, including retaliation, to obtain the removal of any act, policy or practice of a foreign government that violates an international trade agreement or is unjustified, unreasonable, or discriminatory, and burdens or restricts U.S. commerce. In April, the United States Trade Representative published a list of products that would be subjected to additional tariffs. The European Commissioner for Trade, Cecilia Malmstrom, said in a statement that any fresh tariffs levied by the United States would be “short-sighted and counterproductive.”

Impact

The U.S. has announced that it will impose additional tariffs of 25% on more than 150 goods imported from European Union (EU) countries, as well as an additional 10% tariff on new aircraft from France, Germany, Spain, and the United Kingdom, effective October 18. The EU is threatening to respond with higher tariffs on its own and is reportedly considering ways to impose them outside its corresponding WTO case against U.S. subsidies of Boeing, where a final decision is not expected until sometime in 2020.

RESOURCES:

[Measures Affecting Trade in Large Civil Aircraft](#) (WTO)
[Federal Register—Vol. 84, No. 71](#) (USTR)