



# The Bottom Line

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## NEXT PHASE OF THE AIRBUS–BOEING DISPUTE

### Summary

The World Trade Organization's arbitrator in the case against the United States' subsidies of Boeing has announced this week that the EU may proceed with levying tariffs on \$4 billion worth of U.S. goods.

### Background

On October 6, 2004, the United States requested consultations with the governments of Germany, France, the United Kingdom, and Spain, as well as the European Communities ("EC"), concerning measures affecting trade in large civil aircraft. According to the request, measures by the EC and the member States provided subsidies that were 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, to which they filed a petition with the World Trade Organization (WTO). The EC filed a counter-petition on the same day, alleging the same abuses by the United States on behalf of Boeing.

In October 2019, the World Trade Organization (WTO) ruled against subsidies provided by the EC to aircraft manufacturer Airbus. In response, the U.S. levied additional tariffs of up to 25% on more than 150 products from EU countries. The Appellate Body also ruled on April 11, 2019, that the U.S. had yet to take appropriate action to comply with the WTO rules on subsidies. The arbitrators were tasked in April 2020 with setting a dollar value on sanctions the EU could impose after the WTO found that Boeing had received at least \$5 billion in subsidies.

### Current Status

In March, in order to bring Boeing into compliance with WTO rules, Washington State eliminated its main tax incentive for the company. The U.S. Trade Representative (USTR) said that action removes the legal basis for Tuesday's ruling. The WTO panel rejected that argument in June, arguing that the harm to Airbus from that subsidy concerned the period 2013 to 2015, before the tax was eliminated.

The Airbus Member States announced in July they had completed modifications to the terms of the Repayable Launch Investment, putting them in full compliance with the WTO ruling which allowed for the United States to levy these tariffs in the first place. EU Commissioner for Trade Phil Hogan said: "Unjustified tariffs on European products are not acceptable and, arising from the compliance in the Airbus case, we insist that the United States lifts these unjustified tariffs immediately." The United States has not done so. In fact, the Office of the U.S. Trade Representative was considering modifying and expanding the list of EU goods subject to the Airbus ruling tariffs.

### Impact

European Commission Executive Vice President Valdis Dombrovskis said Tuesday's ruling will allow the EU to slap tariffs on American goods entering Europe, but "I would much prefer not to do so—additional duties are not in the economic interest of either side, particularly as we strive to recover from the COVID-19 recession." "It is my hope that the U.S. will now drop the tariffs imposed on EU exports last year," he added. "This would generate positive momentum both economically and politically, and help us to find common ground in other key areas." While it may require a change in administration, it seems that the United States has the next move. Should the tariffs against EU products be lifted, it's likely that they will respond in kind.

#### RESOURCE:

[EU Can Put Tariffs on U.S. Goods Over Boeing Aid](#) (EuroNews)