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U.S. Panel Says Bombardier Jet Sales Didn't Harm Boeing

The U.S. International Trade Commission rejected Boeing's claim that Montreal-based Bombardier unfairly won the U.S. sale of its new line of jets to Delta Air Lines



Doug Cameron,

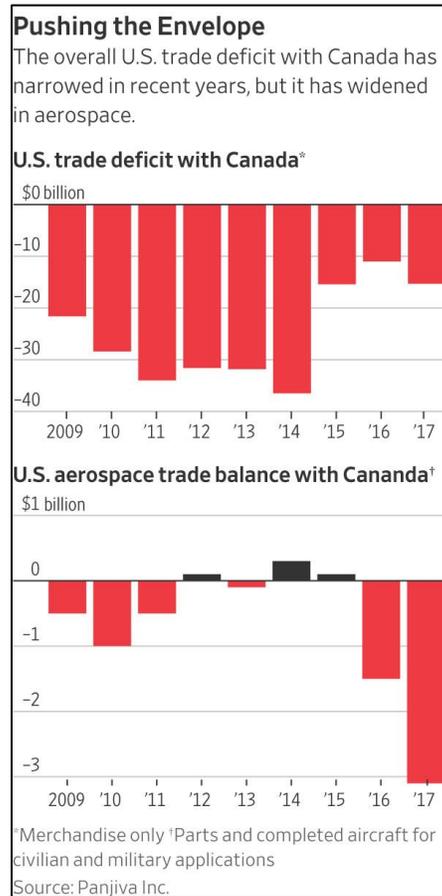
Boeing Co. suffered a bruising defeat after a U.S trade panel Friday rejected its complaint of being harmed by Bombardier Inc., effectively blocking a Trump administration proposal for steep tariffs against the Canadian jet maker.

The U.S. aerospace giant launched its challenge last year and had been expected by some trade lawyers to prevail despite sharp criticism of its case from overseas lawmakers and analysts over a pursuit that drove Bombardier, a smaller, weaker competitor, into a deal with Boeing's archrival, Airbus SE .

The U.S. International Trade Commission, an independent body, on Friday rejected Boeing’s claim that Montreal-based Bombardier had unfairly won a big sale of its new line of jets to Delta Air Lines Inc. DAL 0.82% with illegal support from the Canadian government.

Boeing executives said they had challenged Bombardier in an effort to maintain a level playing field in a global jetliner industry that has been beset for years by allegations of unfair government subsidies.

The U.S. company, however, has a huge backlog of orders and is generating record profits that have helped its shares more than double over the past year. Executives say they remain concerned about Boeing’s competitive position, particularly as Airbus expands its offering of planes through the planned tie with Bombardier. Boeing is pursuing its own deal with Embraer SA, the Brazilian maker of smaller jetliners.



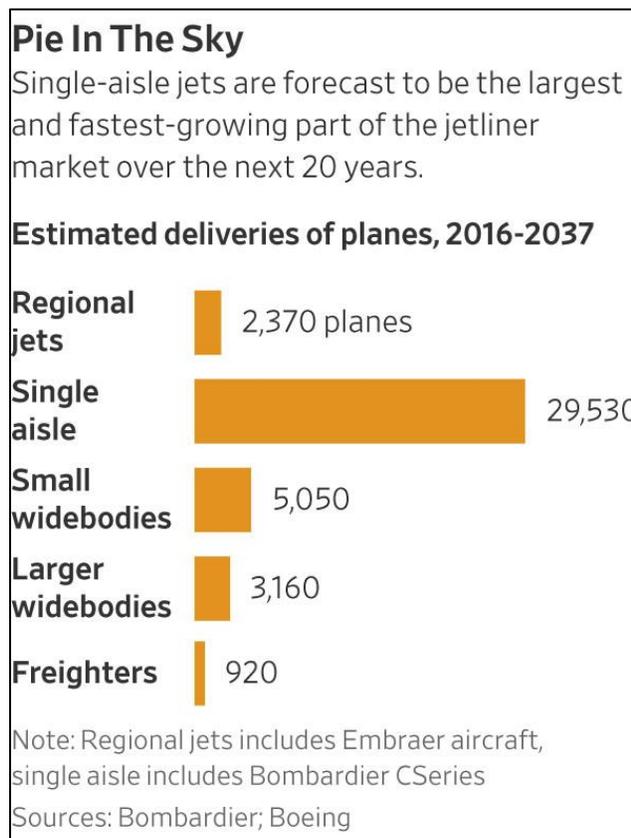
“While we disagree with the ITC’s conclusion today, we will review the Commission’s more detailed opinions in full as they are released in the coming days,” Boeing said. Shares in Boeing, which reports fourth-quarter earnings next week, initially dipped on the vote loss before recovering to close at \$343.22, up 0.03%.

The ITC’s members serve staggered nine-year terms. None of the current members was appointed by President Donald Trump. That the four-member ITC voted to turn down Boeing’s claim is an upset for the U.S. manufacturer, but the business implications weren’t immediately clear. The ITC supports about 70% of the petitions it hears, according to trade lawyers.

Ever since Boeing filed a petition with the U.S. government in April seeking relief, the case has raised hackles in Canada and across the Atlantic, as the U.K. government fretted over the potential fallout for a Bombardier supplier factory in Northern Ireland. British Prime Minister Theresa May protested directly to President Trump. Canadian Prime Minister Justin Trudeau publicly blasted the Boeing complaint and retaliated by cancelling \$5.2 billion in Boeing fighter orders.

“The U.S. values its relationships with Canada, but even our closest allies must play by the rules,” Commerce Secretary Wilbur Ross said in announcing in September his plans to seek triple-digit duties in the case.

Boeing may have faced a big challenge in winning the case, which some trade experts said relied on an unusually broad interpretation of rules that allow U.S. producers to accuse foreign rivals of unfair selling practices, and to claim damage from those sales.



Boeing's assertion that it had suffered harm from the Bombardier Delta deal for 75 C Series jets drew skepticism from some trade lawyers, and protests from both the buyer and seller over what they see as unusual aspects of the claim.

Boeing doesn't make aircraft at the 100-to-150-seat range that Delta was seeking, and Boeing tried to compete for the contract by offering jets it had acquired from Brazilian aircraft maker Embraer S.A.

"Boeing has built its case around a single sale it did not lose, for an aircraft it does not produce," Delta wrote in a legal brief submitted in the case.

Boeing was widely criticized by much of the global aerospace industry after it launched the complaint against Bombardier last year, as **it also receives government subsidies and has discounted prices of its own aircraft to secure sales.**

Boeing has said the cheap pricing in the Delta deal cascaded through the broader market, damaging its sales. The company said it brought the case to maintain a competitive, level playing field in the jetliner market. It maintains that Bombardier's planned deal with Delta spoiled pricing in the market for smaller jets, even though it has a limited offering at that end of the market.

Delta has fought the tariffs and said last October it wouldn't pay them. On Friday, Delta said it was "pleased" with the vote, noting Boeing offers "no viable alternative" jet.

Bombardier's victory before the ITC Friday offers a boost for Bombardier's C Series program, which has been plagued with delays and cost overruns. Concerns about the Montreal company's financial health scared off potential buyers for most of last year.

Bombardier agreed in October to hand majority control of its C Series program to Boeing's archrival, Airbus SE. Bombardier officials said the deal allows the company to avoid tariffs on U.S. sales by building an assembly line for the jets at a Mobile, Ala., facility owned by Airbus.

Delta on Friday didn't comment on when it might take first deliveries, or change plans and delay deliveries until planes are available from the planned new Alabama facility. On Friday, Bombardier said it was moving ahead to finalize its partnership with Airbus so it can soon deliver jets to Delta but didn't detail timing of the delivery of the aircraft.

Delta is Bombardier's flagship customer for the C Series, with an order to buy 75 jets and an option for another 50. The company currently has 372 orders for the aircraft.

Boeing has since announced plans to buy all or part of Bombardier's biggest rival, Brazil's Embraer SA, continuing a major reshaping of the global aircraft-making industry.