

# A Tale of Two Aircraft: U.S. Wins Historic Award in Airbus Case While EU Awaits Ruling on Boeing

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On October 2, 2019, the World Trade Organization (“WTO”) awarded the U.S. the largest arbitration award in the WTO’s history, \$7.5 billion annually, in retaliation for the unlawful EU subsidization of Airbus. The award comes after nearly 15 years of litigation at the WTO where the U.S. successfully argued that the EU and four of its member states conferred more than \$18 billion to Airbus in subsidized financing.

As retaliation, the U.S. will impose an additional 10 percent duty on airplanes from France, Germany, Spain, and the United Kingdom, as well as an additional 25 percent duty on certain [goods](#) including single malt Irish and Scotch whiskies, coffee from Germany, cheeses from several countries, and certain garments from the United Kingdom. The retaliatory tariffs will likely take effect on October 18, 2019 and will be “continually re-evaluate{d}. . . based on {U.S.} discussions with the EU.” In selecting the goods that will be affected by the retaliatory tariffs, the Office of the U.S. Trade Representative explained that the tariffs are intended to most heavily impact imports from France, Germany, Spain, and the United Kingdom, the Member States that provided Airbus with the disputed subsidies.

Meanwhile, tariff threats also loom over the U.S. in a parallel WTO case regarding the illegal subsidization of Boeing in the U.S. The global trade regulator is expected within six-to-eight months to authorize the EU to impose its own retaliatory tariffs on U.S. goods. In April, the EU published a [preliminary list](#) of U.S. products to be considered for countermeasures. Ahead of the WTO’s ruling on its case regarding the subsidization of Boeing, the EU might choose to revoke prior settlements with the U.S. in other WTO cases, which would effectively create tariffs on approximately \$4 billion worth of U.S. imports into the EU.

Despite this, EU officials publicly claim to have little appetite for the mutual imposition of countermeasures, and emphasize that countermeasures strain transatlantic trade relations and inflict damage on citizens and businesses. The timing of the new tariffs is politically sensitive given the recent global imposition of national security tariffs by the U.S. on steel and aluminum, as well as the potential addition of global national security tariffs on automobiles and parts. Last June, the EU also imposed “rebalancing” tariffs on about \$3 billion worth of U.S. steel, agricultural, and other products.

While EU countermeasures remain a possibility, EU Trade Commissioner Cecilia Malmström, accompanied by several other EU leaders, and U.S. Trade Representative Lighthizer have voiced their intent to reach a negotiated settlement in the aircraft cases. Malmström’s soon-to-be successor, Phil Hogan, also stated during his confirmation hearing on Monday at the European

Parliament that he is committed to engage politically with the U.S. to resolve trade tensions.

While both the EU and the U.S. are open to negotiating a settlement of the long-standing aircraft disputes, the devil will likely be in the details. Malmström has voiced concern that the U.S. is unwilling to engage, and has not acted on a settlement proposed by the EU in July. Ambassador Lighthizer, however, is publicly open to “negotiations with the European Union aimed at resolving this issue in a way that will benefit American workers.”