

Bombardier snared in U.S. trade fight as Boeing takes aim at C Series aircraft



A Bombardier CS300 C Series aircraft lands after a flying display on day two of the 51st International Paris Air Show in Paris, France, on Tuesday, June 16, 2015.

JASPER JUIVEN/BLOOMBERG

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Investors pushed down shares of Bombardier Inc. by as much as 5.5 per cent Friday as they weigh the potential impact from rival Boeing Inc.'s attempt to enlist the Trump administration in a trade fight against the Canadian plane maker's C Series aircraft.

International trade lawyers warned against taking Boeing's actions lightly. They said the Chicago-based jet maker will have a sympathetic ear among top U.S. regulatory officials in what is shaping up to be a quick and intense trade battle. "I believe there is reason to be nervous for Bombardier," said Cyndee Todgham Cherniak, of LexSage, a boutique international trade law firm in Toronto. "The Canadian government, they need to be talking to people very quickly to try to make it so that this case doesn't go forward."

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"This is a serious thing," said Neil Campbell, co-chair of the competition and international trade law groups at McMillan LLP in Toronto. "The U.S. anti-dumping and countervailing duty regime is designed in a way that gives the domestic industry some fairly significant opportunities to use those laws and those procedures to get relief."

Boeing on Thursday filed a formal complaint with the U.S. Department of Commerce and the U.S. International Trade Commission against Montreal-based Bombardier for selling its C Series airliner in the United States at what it calls "absurdly low" prices. Boeing is requesting an investigation of Bombardier's U.S. sales and the role that government subsidies have played in the pricing of the C Series, Bombardier's flagship commercial airliner.

"We believe U.S. officials will agree that Bombardier is guilty of illegally selling airplanes well below the cost of producing them, and at prices that are millions lower than the price they are charging for the aircraft in Canada," Boeing spokesman Daniel Curran said. Boeing wants the government to impose both anti-dumping and countervailing duties on Bombardier planes.

"Bombardier has blatantly and intentionally demonstrated its goal of muscling its way into the U.S. aviation market by offering its heavily subsidized planes at cut-rate pricing, to the serious detriment of American workers and the Boeing company," Boeing said in its complaint.

market at commercially unreasonable, cut-rate prices," Boeing said, insisting on the urgency of U.S. government intervention. "Aggressive action is needed here. Dumped and subsidized imports of C Series aircraft are distorting competition, taking good manufacturing jobs from American workers and harming the U.S. economy."

At the centre of Boeing's complaint is the April, 2016, sale of 75 C Series jets to Delta Air Lines. The contract, which Bombardier has called a crucial sale that cemented the aircraft program's viability, was aggressively priced as is customary for most big orders for all-new aircraft. Boeing alleges that the actual price was in fact \$19.6-million (U.S.) per plane, which is below the \$33.2-million manufacturing cost, and that the pricing established a new "low price ceiling" that will hurt Boeing's own future prices and profits.

Bombardier, Canada and Quebec reacted swiftly to Boeing's complaint.

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"It's wrong. It's materially wrong. It's off by millions," Bombardier spokesman Bryan Tucker said of the price cited by Boeing. He declined to give the actual number, citing confidentiality agreements. Boeing's allegations are "absurd," Mr. Tucker said.

The company said it structures its business to ensure it complies with laws in places it operates, including issues raised by Boeing. It noted it is deeply invested in the U.S. economy, spending some \$3-billion a year with U.S. suppliers across 48 states in addition the 7,000 employees it employs directly.

The Trudeau government, speaking through the office of the minister of innovation, Navdeep Bains, said it would mount a vigorous defence against the allegations and stand up for aerospace jobs on both sides of the border. It noted that the aerospace industries of Canada and the United States are highly integrated and that an estimated 50 per cent of C Series components, including the engine, are supplied by American-based firms.

Ms. Cherniak said she believes Boeing is bringing a case forward in order to capitalize on U.S. President Donald Trump's eagerness to confront Canada over trade. She noted that Wilbur Ross, Mr. Trump's hand-picked secretary of commerce, and Robert Lighthizer, the soon-to-be U.S. Trade Representative, will be sensitive to the arguments Boeing makes.

"You've got a group of people in these positions that would be sympathetic to see if this [complaint] will fly," Ms. Cherniak said. "There's a lot at stake and for that reason, I believe there will be a lot of lobbying done with respect to this political case."

Mr. Campbell said the U.S. legal regime Boeing is using to make its complaint delivers a much quicker decision than similar complaints at the World Trade Organization level. A decision that goes against Bombardier could be quite harmful to the plane maker, he said.

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"It has the potential to be quite significant," he said, triggering a range of possible outcomes like exit rights for customers who have placed aircraft orders or changing the dynamic of sales conversations if Bombardier is forced to hike the price of its planes.

Boeing's move is a strategic one designed to irritate a rival at a time industry sales are tepid, said Addison Schonland of airline consultancy Air Insight. "The only reason Boeing is complaining is because they're getting nowhere in their own sales campaigns," he said. "[It's a bit of] if I can't get orders, maybe I'll just go beat up on somebody else."

Richard Aboulafia, a Washington-based aerospace analyst and consultant, said it was hard to understand why Boeing would bother going after Bombardier, as its competing aircraft to the C Series is only a small part of the company's business. Given that Boeing is in talks with Ottawa about providing Super Hornet fighter jets to the Canadian air force, this seems a bad time to pick a fight with a Canadian company, he said.

"The risk-reward metric is all wrong here," he said. "Canada is a pretty important market for Boeing this year. This appears ill-advised."

Mr. Aboulafia said it is standard in the industry for plane programs, at the start, to receive subsidies. By the benchmark Boeing is setting, he said, virtually all planes at the start of a program "are effectively dumped."

Boeing's move comes at a time of heightened trade tension between Canada and the administration of Mr. Trump. Not only has Mr. Trump promised an overhaul of the North American free-trade agreement, but he has repeatedly accused Canada over the last week of treating the United States unfairly on trade.