



## Commerce Department tags on additional 80% tariff on CS100

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The US Department of Commerce has landed another blow against Bombardier, ruling preliminarily that the company dumped CS100s in the US market and recommending a 79.8% tariff on CS100 imports.

Though not final, the tariff adds to another 220% import duty that the Commerce Department recommended last week in a related preliminary ruling.

Both decisions remain subject to final rulings and to findings of concurrent investigations conducted by the US International Trade Commission.

Bombardier did not immediately respond to a request for comment.

"The United States is committed to free, fair and reciprocal trade with Canada, but this is not our idea of a properly functioning trading relationship," says US commerce secretary Wilbur Ross in a media release. "We will continue to verify the accuracy of this decision, while [doing] everything in our power to stand up for American companies and their workers."

In a statement, Boeing says the ruling "confirms that, as Boeing alleged in its petition, Bombardier dumped its aircraft into the US market at absurdly low prices".

"This was an avoidable outcome within Bombardier's control... These duties are the consequence of a conscious decision by Bombardier to violate trade law and dump their CSeries aircraft to secure a sale," Boeing adds. "This dumping in our home market was not a situation Boeing could ignore, and we're now simply asking for laws already on the books to be enforced."

Delta Air Lines, a CS100 customer, reiterates that it remains confident the Trade Commission will eventually rule in Bombardier's favour. The airline has said Boeing suffers no harm from the 100-seat CS100s because Boeing does not make an aircraft in that size category.

"Boeing has no American-made product to offer because it cancelled production of its only aircraft in this size range – the 717 – more than 10 years ago," Delta says.

The Commerce Department's investigations stem from a petition filed by Boeing in April accusing Bombardier of receiving unfair government subsidies and then dumping CS100s into the US market with the sale of 75 aircraft to Delta.

Boeing estimated Bombardier sold those aircraft to Delta for \$23.3 million each – or \$19.6 million each, excluding ancillary items associated with the sale, such as warranties and support, according to the petition.

Boeing estimated each CS100 actually cost Bombardier \$33.2 million to produce. It calculated the dumping margin to be equal to 80.5% of the sale price – roughly the same figure as the Commerce Department calculated.

Sales of CS100s at such prices threaten Boeing's 737-700 and 737 Max 7, the company said. Boeing also estimated in its petition that Bombardier benefitted from more than \$4.5 billion in equity infusions, launch aid and other subsidies.

On 5 October, the Commerce Department preliminarily agreed with Boeing on the subsidy front, deciding on a 220% "countervailing" duty on CS100s imports to the USA.

The combined duties, if enforced, would apply a 300% import tax, paid by Bombardier, on the invoiced value of CS100s, says Daniel Ikenson, director of the trade policy center at the Cato Institute, which advocates free markets.

Although exact dollar amounts are unknown, the total duty would be \$60 million based on a sales price of \$20 million per aircraft.

The Commerce Department intends to issue the final determinations from both the subsidy and dumping investigations on 18 December, according to a timeline released by the agency. The agency now moves to verifying information submitted by the parties – an audit that could lead to changes to the proposed tariffs, says Ikenson.

"Generally, you don't see very big differences between the preliminary findings and the final [findings]", he says.

Whether the US government ultimately imposes tariffs on CS100s rests on concurrent subsidy and dumping investigations being conducted by the US International Trade Commission. The Commission will issue its final subsidy and dumping determinations on 1 February 2018, the timeline shows.

If the Commerce Department and Trade Commission issue final rulings in Boeing's favour, the Commerce Department will issue tariff orders on 8 February, according to the timeline.

The Commission in June preliminarily ruled to move forward with its investigation, saying it found "reasonable indication" that US industry faces harm, according to a media release. But "reasonable indication" is a relatively low bar – not the same as determining injury actually exists, Ikenson says.

"That is the minimum threshold for even letting a case go forward," he says. "Maybe they will find that there is no injury, and the case will be over."

However, if the Commission determines Boeing faces real harm, Bombardier could be in a pickle.

In that case, "there is no way that Bombardier can sell these planes to Delta", Ikenson says. The company could take the case to a North American Free Trade Agreement panel or the United States Court of International Trade, but the appeal process could be lengthy, Ikenson says.