EU Trade Sanctions Against U.S. Unclear After Latest WTO Aircraft Subsidy Ruling

April 3, 2019
Sandler, Travis & Rosenberg Trade Report

The World Trade Organization has upheld a September 2017 compliance panel decision that rejected nearly all claims by the European Union that U.S. subsidies to Boeing harmed Airbus’s ability to sell large civil aircraft. The decision could limit the amount of retaliatory sanctions the EU may seek to impose on U.S. goods. In the meantime, the WTO is considering a U.S. request for $11.2 billion in sanctions over EU subsidies to Airbus.

The EU had challenged 29 U.S. state and federal programs that allegedly conferred $10.4 billion in subsidies to Boeing over six years, but a WTO compliance panel found that 28 of the 29 programs were consistent with WTO rules. The one state-level program found to be inconsistent with WTO rules had an average value of approximately $100 million from 2013 to 2015.

According to the Office of the U.S. Trade Representative, the EU filed an appeal arguing that the compliance panel should have found against the U.S. on more of its claims. However, USTR states, the appellate report confirmed that the only WTO-inconsistent program still in place is the state tax measure.

While the EU said it “expects the United States to promptly comply with this final ruling,” it gave no indication of whether it intends to pursue retaliatory sanctions and, if so, how much. A Deutsche Welle article said the decision “opens the way for the EU to claim billions in damages,” which it said “are estimated based on the negative impact of the subsidies and not the subsidy itself.”

According to USTR, the most recent findings in this 15-year-long dispute are “in sharp contrast” to a May 2018 WTO Appellate Body report concerning the subsidies to Airbus. While the EU claimed to have removed the $17 billion in subsidized financing to Airbus that was found to be WTO-inconsistent, the Appellate Body confirmed that “billions of dollars in launch aid to the [Airbus] A350 XWB is causing significant lost sales of Boeing 787 aircraft” and that “subsidies to the [Airbus] A380 continue to cause significant lost sales of Boeing 747 aircraft, as well as impedance of exports of Boeing very large aircraft to the EU, Australia, China, Korea, Singapore, and UAE markets.”

At the same time, the EU said that the Appellate Body “significantly downgraded the assessment of the economic damage that the remaining EU support has allegedly caused.” This could lower the amount of any retaliatory sanctions the WTO may ultimately authorize the U.S. to take against the EU below the $11.2 billion the U.S. is currently seeking and that a WTO arbitrator is currently evaluating. While the Trump administration said following the Appellate Body ruling that it would “move forward with countermeasures” if the EU did not end the offending subsidies, no such action has yet been taken.
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