

[Editorial]

## Boeing seeks protection in the guise of fairness

*Punitive US import tariffs on Bombardier aircraft are unreasonable*



It has been a few days now since a potential flashpoint for an international trade war made an appearance, so it was perhaps inevitable that the US Commerce Department should be on hand to fill the void.

On Tuesday the department made a **preliminary ruling to allow countervailing (antidumping) import duties of nearly 220 per cent on Bombardier's C series of smaller civil aircraft, to be made mainly in Canada.** If confirmed next year, the decision will be one of the more egregious applications of a trade law which enables companies to put rivals at a disadvantage

through judicial means when they cannot — or choose not to — compete with them in the free market.

Certainly, there is likely to be at least some merit in Boeing's argument that Canada's national and provincial governments are breaching trade rules in subsidising the production of the C series. Canada has lost several past cases in the World Trade Organization's dispute settlement system about support to Bombardier. (The same is, of course, true of the billions of American taxpayers' dollars doled out to Boeing over the decades.)

**But the idea that this is causing material injury to Boeing fails to stand up.** Boeing no longer makes a rival model the same size as the C series. The airline Delta, whose order from Bombardier provoked Boeing to bring the action, says it considered a larger and less suitable Boeing model but found the US company was in any case unable to deliver any aircraft until 2020. Essentially, Boeing is asking the US government to block the development of part of the market for civil aircraft in case it decides to make a model to compete with the C series at some point in the future. **Trade defence remedies such as anti-dumping and countervailing duties have their place in the world trading system, not least because they help build political support for cross-border commerce.** But they are supposed to deal with precisely defined incidents of harm to companies, not be used as a broader means of manipulating competition in a global market.

The case underlines the vital role of multilateral and bilateral agreements in constraining the use of trade defence instruments. In that context it could scarcely have popped up at a more sensitive time politically. Robert Lighthizer, the US trade representative, **has taken aim at the WTO for trying to constrain the US use of countervailing and antidumping duties.** Shamefully, the US is trying to starve the WTO's dispute settlement system into submission by refusing to appoint new judges to its arbitration appeals panels.

Meanwhile, at President Donald Trump's behest, the US is renegotiating the North American Free Trade Agreement with Canada and Mexico. One of its targets is the "Chapter 19" mechanism that similarly limits Washington's freedom to block imports, referring cases to a binding — and relatively speedy — arbitration process. When Nafta's predecessor was negotiated in the 1980s, Canada threatened to walk away from the entire deal unless Chapter 19 was included.

It was right to do so, and must press its case strongly again. **Other countries should rally round to try to dissuade the US from undermining the WTO and misusing trade defence.** The UK, for example, where wings and fuselages for Bombardier are made, will also be hurt by this decision. US law allows too much leeway to complainants trying to block low-cost imports rather than those with a genuine grievance about unfair competition. **The world trading system will be much the worse for it if the use of those instruments spreads unchecked.**