

Canada may take Bombardier-Boeing dispute to WTO but no quick fix seen

Leah Schnurr

OTTAWA, Dec 19 (Reuters) - Canada may ask the World Trade Organization to intervene in the dispute over a proposed 300 percent duty on U.S. sales of Bombardier's CSeries jets, but any resolution of the trade spat could still take years, experts said on Tuesday.

The U.S. Commerce Department is due this week to announce a final determination in the dispute between Boeing Co and Bombardier Inc, which faces the massive duty on sales of the fuel efficient, narrowbody CSeries on the U.S. market.

Boeing says the Canadian company benefited from government subsidies and dumped the planes at below cost. The proposed duties would not take effect unless affirmed by the U.S. International Trade Commission (ITC) in February.

The case has heightened trade tensions between Canada and the United States at a time when the two countries, together with Mexico, have been struggling to renegotiate the North American Free Trade Agreement (NAFTA).

U.S. President Donald Trump, known for his so-called America First strategy to boost U.S. manufacturing, has threatened to withdraw from NAFTA unless he can rework it in favor of the United States.

A spokesman for Foreign Affairs Minister Chrystia Freeland did not immediately respond to questions about what Canada would do next in the Boeing dispute. But it scrapped plans to buy 18 Boeing fighter jets just last week, in a sign of escalating tensions.

Experts said a trade challenge under the WTO or NAFTA's arbitration system known as Chapter 19 are both good options for Canada, even as the United States seeks to eliminate the latter.

U.S. trade envoy Robert Lighthizer has also called the WTO dispute settlement "deficient."

"I would recommend Canada use all its options," said international trade strategist Peter Clark.

Canada's ambassador to the United States, David MacNaughton, made a compelling argument before the ITC on Monday when he said a finding of material harm to Boeing by Bombardier could represent a possible violation of WTO agreements, the experts said.

VARIOUS TOOLS

The WTO already opened a separate dispute settlement panel in September to rule on Brazil's complaint that Canada has hurt its commercial jet industry by subsidizing Bombardier's CSeries jets.

"If (the ITC) were to find injury, I think it would be hard at a WTO level to sustain that, because it doesn't look like the CSeries is really a competitor" to Boeing's aircraft, said Canadian and U.S. trade lawyer Mark Warner.

Given how quickly the Canadian government filed challenges in a separate trade dispute with the United States over softwood lumber, it would likely take the Bombardier case to the WTO shortly after any adverse ruling by the ITC, said Warner.

"My judgment of the Canadian government is they seem to have a very aggressive approach to both trade negotiations and trade dispute settlements," said Warner.

Canada opened challenges under both the WTO and NAFTA last month over a recent U.S. Commerce Department decision to impose duties on Canadian lumber exports.

The real purpose of a challenge at the WTO would likely be to gain some leverage in order to come to a negotiated settlement with the United States, said Ian Lee, professor of business at Carleton University.

“If we do go to the WTO, it’s not to get finality and resolution, it’s only to push the Americans back to the negotiating table,” Lee said. “You use whatever tools are in your tool kit.”

But trade challenges can drag on for years, which could pose a problem for Bombardier as it tries to find U.S. buyers for the CSeries.

“The real threat to Bombardier is are they going to be able to sign new contracts with people,” said Warner. “That’s the chilling effect the decision has on Bombardier.”
(Reporting by Leah Schnurr; Editing by Tom Brown)