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Bombardier turns tables on Boeing with Airbus deal it says avoids CSeries duties

Bombardier says duties resolved by Airbus deal

Ross Marowitz The Canadian Press

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MONTREAL - Bombardier Inc. believes its partnership with Airbus puts it on a strong legal footing to avoid import duties for its CSeries commercial jets while turning the tables on Boeing.

The Montreal-based company has a legal opinion that no duties can apply because the final assembly of the plane for U.S. customers will be done at Airbus's plant in Alabama, said a source.

"The assembly in the U.S. can resolve the issue because then it becomes a domestic product and therefore a domestic product would not have the import tariff apply to this," Bombardier CEO Alain Bellemare said Tuesday in Toulouse, France, after announcing a partnership with Airbus.

He told reporters that the company will continue to fight Boeing's "unfair and unjustified" petition.

Boeing said it will maintain its effort to have aircraft manufacturers compete on a level playing field even though it is by far the No. 1 recipient of U.S. government subsidies, drawing US\$14.4 billion in various forms of assistance since the 1990s according to the website Subsidy Tracker.

"The announced deal has no impact or effect on the pending proceedings at all," said J. Michael Luttig, general counsel for Boeing, in an email. "Any duties finally levied against the CSeries (which are now expected to be 300 per cent) will have to be paid on any imported CSeries airplane or part, or it will not be permitted into the country."

European aircraft giant Airbus said it will buy a majority stake in Bombardier's CSeries program for no financial payment, with Bombardier (TSX:BBD.B) holding a 31 per cent stake and the Quebec government 19 per cent. The deal is expected to close in mid-2018 following regulatory approvals in several countries including Canada.

The Airbus-Bombardier partnership promises to reshape the global aircraft industry by putting pressure on Boeing to compete and calling into question its trade complaint.

Preliminary duties of nearly 300 per cent were imposed but a final duty rate is scheduled to be announced in mid-December. The case can be thrown out altogether in early February if the U.S. International Trade Commission determines that Boeing wasn't harmed by the CSeries.

"[Boeing's] strategy to damage Bombardier through the trade sanctions basically backfired and drove Bombardier into their competitor's arms giving their company a state-of-the-art program," said Ernie Arvai,

partner in commercial aviation consultancy Air Insight.

He said Boeing's misjudgment will cost it dearly by risking military orders from Canada and Britain while being forced to potentially speed up the timing of its new smaller aircraft to replace the 737 Max.

"I don't think it was their finest hour and their strategy backfired because now with the second assembly line in Mobile (Alabama), the CSeries will be U.S.-produced and the whole process of a foreign-produced aircraft is out the window."

The two North American manufacturers held talks to reach a truce but Boeing walked away in anticipation of high preliminary duties on CSeries imports by the Department of Commerce, sources said.

"They were not open to finding any kind of solution," said a person who spoke without being named because he's not authorized to speak.

Economic Development Minister Navdeep Bains said the federal government will hold firm against buying Super Hornet fighter jets as long as Boeing pursues the trade case against Bombardier.

"From our point of view it was always about defending the aerospace sector, standing up for the aerospace sector and standing up for the workers in Canada," he said in an interview from Ottawa.

Bains said the government's review of the transaction under the Investment Canada Act will make sure that intellectual property remains in Canada and production and final assembly for CSeries sold outside the U.S. will be completed at Mirabel, Que.

Now that Bombardier has partnered with Airbus, industry analysts say Bombardier has the legal edge in a political skirmish.

"With the aircraft now having a U.S. domestic production line, the issue around the Boeing trade complaint will be moot as the CSeries will no longer be imported into the United States for U.S. customers," said Cameron Doerksen of National Bank Financial.

Richard Aboulafia of the Teal Group said the big loser is Boeing.

"The new deal destroys Boeing's trade case. They (and Commerce) can try to persist, but the new Alabama CSeries line makes that futile," he said in a report.

Aboulafia said the Commerce Department will rule that it has no authority on jetliners exported from Alabama to Delta Air Lines headquarters in Georgia.

He also believes the result will be a stronger alliance between Boeing and Brazil's Embraer.

Ultimately, he expects the politicized trade complaint will be undercut by the very politicians Boeing appealed to most — the protectionist wing of the Republican party.

While the CSeries, Airbus and Bombardier are the winners, Aboulafia adds U.S. President Donald Trump's name to the list.

"I predict an official Trump tweet taking credit for bringing Airbus factory jobs to Alabama. If Boeing leadership expected loyalty from Trump, they were mistaken."

Bombardier investors warmly received the Airbus partnership, driving up the Montreal-based company's shares to a nearly three-year high on Tuesday.

Shares reached \$2.97 in early trading and closed up 15.7 per cent to \$2.73 Tuesday on the Toronto Stock Exchange.

Analysts say the partnership will at least double the value of the CSeries to more than US\$4 billion at lower risk even though Bombardier's stake will be cut in half.



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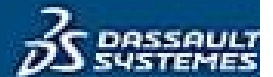
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