

Date: 29.3.2010

## THE BOEING AIRBUS DISPUTE

AUTHORS: Pierluigi CARISTI supervised by Roberto BENDINI

### 1 WTO RULES ON THE AIRBUS-BOEING 'DEFENSIVE' DISPUTE

On 23 March 2010, a WTO Panel delivered its report on the dispute between Boeing and Airbus over alleged illegal subsidies received by the European aircraft company.

The content of the ruling - a 1,000-page document - is still confidential, but leaks on its merits and the comments of the companies involved made it possible to partially reconstruct its main findings. However, it is hardly possible to tell which is the winning party in the dispute.

Boeing triumphantly welcomed the verdict as a clear sanction of the validity of their claims, reportedly "a powerful landmark judgment and good news for aerospace workers across America who for decades have had to compete against a heavily subsidized Airbus".

Airbus, on its side, declared that 70 percent of the US claims were rejected. According to the European company, the reimbursable loan mechanism that they have benefited from has been confirmed to be legal, and the US request for remedies has been rejected because no material injury to any US interest was demonstrated. Boeing has also specified that possible future funding for the A350 project would not be affected by the report. However, it admitted that a certain element of subsidy has been found to be inherent in past loans.

The Panel report is only the last act of a long-lasting saga.

Airbus-Boeing dispute started in 2004, when the United States challenged European loans granted to Airbus for the development of its aircrafts. This case marked the US' withdrawal from a bilateral agreement signed in 1992 with the EU (then, the EEC), that was designed to balance US non-repayable grants to Boeing with other forms of public funding.

Subsequently, the EU started a WTO proceeding against the US, challenging various alleged subsidies, and in particular a range of Research & Development programs and contracts with NASA and the Department of Defence to the benefit of Boeing. A first ruling on this dispute is expected for June 2010.

Attempts to settle the disputes have been made, but none has yet had a positive outcome. However, in their comments to the 23 March WTO Panel report, the representatives of the US and the EU have manifested their hope that the Boeing-Airbus dispute be solved in a negotiated way. Unlike the declarations of the companies involved, their reactions were cautious as to who can be considered as the winning party of the case.

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Mr. John Clancy, the spokesperson for the EU Trade Commissioner, has declared that times are not yet ripe for "[jumping] to conclusions or [being] too hasty in claiming any type of victory at this stage". Mr. Clancy mentioned the EU's counterclaim on US Research & Development grants to Boeing, and pointed out that only after the outcome of that dispute will the EU decide what moves to make. According to the EU Trade Commissioner, Mr. Karel de Gucht, there is still room for a negotiated settlement.

Likewise, the US Trade Representative, Mr. Ron Kirk, has manifested his preference for a negotiated solution of the dispute, to which the rulings on the two cases might provide a basis. "If the rulings create a more favourable environment for us to come to the table and negotiate such a settlement - he declared - I think that it is in the best interests of the United States and the European Union". Mr. Kirk, however, has rejected allegations that the US government's support of Boeing is to be regarded as protectionist.

Meanwhile, Airbus' parent company EADS has requested the Pentagon for a deadline extension in the bid on the US Air Force's aerial refuelling tanker contract, from which it had recently retired following its American partner Northrop Grumman's withdrawal. EADS might thus decide to submit its own bid for the contract. US Defence Secretary Robert Gates has declared that the Panel report on Airbus' subsidies will not affect the course of the bidding process.