

A Battle for the Skies: Boeing vs. Airbus

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ABSTRACT

The ‘2021 agreement’ ended a trade dispute between Boeing and Airbus; before that, the dispute had been on a free fall for over four decades with no resolution in sight. The question, therefore, becomes what could have caused parties to disagree for that long. What were the long-term effects of the dispute? Moreover, what about 2021, which made it possible to put out of commission a row between the US and the EU that had gone on for years? The point of departure in a bid to address all these questions would be in 1980 when the first distress call was sounded by Boeing, accusing Airbus of benefiting from illegal subsidies, upsetting the market, and giving Airbus a competitive advantage. Fast forward to the 1992 agreement, which momentarily resolved the dispute but was short-lived. In 2004, Airbus launched the A380 and A350, and accusations from Boeing resurfaced, leading to Boeing filing with the World Trade Organisation. The WTO made a ruling in 2011, which neither party was pleased with; thus, the 2011 agreement subsequently met the same fate as the 1992 agreement, with both parties, this time, imposing tariffs on the other worth billions of dollars. Therefore, this paper will analyse and trace the history of the dispute and explain the potential reasons why both parties failed to reach a compromise until 2021 and whether the 2021 agreement is conclusive in ending the row between Boeing and Airbus or whether it might meet the same fate of the 1992 agreement in the future?

Keywords: *Boeing, Airbus, World Trade Organisation, Large Civil Aircraft Industry, illegal subsidies, Commercial Aircraft Corporation of China (COMAC).*

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The Boeing v Airbus dispute is between the U.S. (Boeing) and the E.U. (Airbus) against the use of illegal subsidies to fund the manufacturing of the A320 (Airbus) and the 727 Max (Boeing). The culmination of the dispute was in 2004 when a complaint was filed to the W.T.O., which subsequently put in motion the 17-year Cold War between the U.S. and the E.U. that would follow with both sides imposing tariffs on the other until late 2022. Therefore, one would ask why, after 17 years, either party decided to end the war. What changed? Most importantly, why did the trade dispute last for 17 good years? The answer to one of the questions of why the dispute dragged on for so many years lies in the subject matter at hand, the Large Civil Aircraft industry, and its significance to either party as both the E.U. and the U.S. view the Large Civil Aircraft industry as a platform to show one's technological advancements if not dominance, it is an industry that contributes immensely to the economies of both parties and a show of prestige. Therefore, an unfair advantage due to illegal subsidies would be unfair competition practices and a valid reason for either party to feel aggrieved. Therefore, this paper will analyse the trade dispute between Boeing and Airbus regarding their governments' involvement through subsidies and how this affected the Large Civil Aircraft Industry (L.C.A.) and trace the legal basis or history of this dispute before the filings in 2004. This paper will also focus on the role played by the World Trade Organisation (W.T.O.) in its attempts to solve the dispute and provide scrutiny on how it failed and the implications for future trade disputes before the W.T.O. The paper will lastly cover how the draft agreement of 2021 put an end to the 17-year trade dispute and how it came about.

Before diving deep into the contents of the dispute, the point of departure must be an introduction to who the parties to the dispute are. What is Boeing? Moreover, what is Airbus? Boeing is an American aviation company based in Chicago that was founded in

1916, and as of 2010, the company employed 158000 people, 96% of whom were residents in the U.S.¹ Boeing has two business models, namely the Boeing Commercial Airplanes, which primarily focuses on manufacturing commercial aircraft, and the other model, Boeing Defence, which is responsible for manufacturing military-grade equipment and aircraft such as missiles, launch vehicles, and advanced communication systems. The massive portfolio of Boeing makes it by far the largest exporter by value in the U.S. and the most prominent global aircraft manufacturer by revenue, and this is primarily because of the massive orders and deliveries that Boeing gets, which surpass those of any other manufacturer (Airbus) Boeing receives a lot of defence-related contracts making it one of the largest aerospace and defence contractors in the world.²

On the other hand, Airbus came into existence 63 years after Boeing was founded. Airbus was initially a consortium between Frances Aerospatiale and Deutsche Airbus, with Spain's CASA joining shortly after British Aerospace joined in 1979. Up until 2001, all three firms that made Airbus operated independently. It was only after 2001 that Airbus fully integrated. Now 80% owned by the European Aeronautic Defence and Space Company (EADS), Airbus is considered a merger of the French, German, and Spanish and significantly employs fewer people in comparison to Boeing, that is 57,000 people across four European Union countries, the United Kingdom, Germany France, and Spain.³ Like its American counterparts, Airbus has expanded into military hardware, developing the A400, a military transport aircraft. Despite the noticeable strides by Airbus, Boeing is currently ahead 3 to 1 in terms of aircraft currently flying, which could have been a direct result of Airbus entering the aviation industry 63 years after Boeing

1 Boeing. "Boeing Facts." Accessed October 22, 2010, <http://www.boeing.com>.

2 S. Wittig, "Top 10 largest defense contractors in 2022," Executive Gov, September 5, 2023, <https://executivegov.com/articles/top-10-largest-defense-contractors-in-2022/>

3 Boeing (n 1).

had already asserted itself and created a de facto monopoly. However, in 2004, the tide changed in favour of Airbus; Airbus exceeded Boeing in the number of orders and deliveries taken, and coincidentally, in that same year, Boeing filed a complaint with the W.T.O.

Having established who the parties to the dispute are, it is only fair that we trace the history of the dispute to provide additional perspective into how the dispute came about up until its culmination in 2004. That leads one back to the late 70s when the U.S. enjoyed a de facto monopoly within the Large Civil Aircraft industry unchallenged. The Airbus consortium only became a worthy competitor sometime in the late 80s. This development agitated Boeing as it challenged Boeing's place within the L.C.A. sector, which subsequently led to tension and accusations by the U.S. of illegal subsidies from the E.U. to Airbus. Airbus, in a fashionable sense, retaliated with accusations of its own on how the US LCA benefited from subsidies by NASA and defence contracts. This tension and friction led to the bilateral agreement between the U.S. and the E.C., the EC-US Agreement on Large Civil Aircraft of 1992. The agreement covered the development of large aircraft and outlined several issues subject to disputation. The agreement limited production subsidies, the direct governmental support was capped at 33% of development costs (a term directed at the E.U.), and the loans were to be repaid within 17 years. The agreement established that indirect support was limited to 3% of the nation's L.C.A. industry turnover (a measure aimed at the U.S.).

With an agreement in place, one would assume that a dispute would be unlikely; for the most part, it was, that is, up until 2004. Thus, the question is, what changed? The answer is that history has a thing for repeating itself. Just like in the 80s, Airbus had become a worthy competitor again, and their American counterparts had something negative to say. In 2004, Airbus launched the A380 and A350 projects, and for the first

time in many years, Boeing was losing its leading position in the market for aeroplanes with more than 100 seats. Thus, a battle for the market ensued shortly thereafter. Predictions had been made that by 2028, the global airline traffic would double; this would mean demand of up to 25,000 passengers and freighter aircraft representing a market value of 3.1 trillion (significance of 100 seats). Thus, it is fair to assume that when the U.S. realized the margin to which it was behind (Airbus) The (U.S.) resorted to retaliatory antics by way of withdrawing from the 1992 agreement, arguing that Airbus had broken the W.T.O. Agreement on Subsidies and the General Agreements on Tariffs and Trade (GATT) 1994.⁴

From an aerial view, if one is to purely look at the dispute as an argument against illegal subsidies, the presumption would be that the dispute is solely about boosting jobs and exports and how subsidies violate the tenets of fair competition as was being alleged by both parties in their filings to the W.T.O. However, Spadafore argues that this dispute is, in fact, a collision course between two competing theories and ideologies on the role of the government. Thus transcending beyond a simplistic illegal subsidies dispute.⁵ If this is true, this effectively explains why the dispute took 17 years to resolve. It is one thing to solve a purely industrial dispute and another to try and reconcile two competing ideologies. What are these competing ideologies? The U.S. is anti-government involvement with private corporations, except in sporadic cases. Thus, the U.S. generally views any intrusion by the state as disruptive to the free market economy.

Furthermore, traces of the American political-military ideology (the need to have a strong-armed force) can be found in the D.N.A. of Boeing in the form of massive defence

4 Stephen Wittig, "The Airbus-Boeing dispute: Implications of the WTO Boeing decision," *Interconomics*, vol. 45, no. 5 (2010): pp. 262-263.

5 A. Spadafore, *Excess Baggage: Weighing the Contribution of Political and Corporate Interests in the W.T.O. Cases Over Commercial Aircraft Subsidies* (Miami: Miami University, 2008).

contracts it benefits from.⁶ The aviation industry in America is directly influenced by the political philosophy that presumes subsidies to be harmful to trade; they distort resource allocations, influence international trade, and flout the law of comparative advantage by enabling the survival of otherwise uncompetitive industries.⁷ On the other hand, the E.U.'s political systems interact and interweave with the public and private sectors. The difference in ideology is evident in the wake of the destruction that followed WWII, where governmental support was integral in rebuilding Europe, her economy, and infrastructure. The E.U. views limitation on domestic remedies as an intervention in the duties and responsibilities of European governments.⁸ Therefore, the philosophical differences on how the state ought to interact with private corporations increased the complexity of the dispute within an already complicated industry, thus making it nearly impossible to solve, and this explains why the trade dispute dragged on for years without a resolution in sight until 2021.⁹

In 2004, having withdrawn from the 1992 agreement, Boeing filed a complaint against Airbus to the W.T.O. Boeing alleged that Airbus' success in launching the A320 was only successful because of the help it received from the E.U. in the form of illegal subsidies. The U.S. argued that the direct help by the E.U. to Airbus was a violation of the 1992 agreement and the 1994 GATT subsidy code. The main problem was whether Airbus would repay its loan within 17 years per the 1992 agreement.¹⁰ The U.S. contention with the subsidies Airbus benefited from was that they would only be paid back to the E.U.

6 V. Golich, "From Competition to Collaboration: The Challenge of Commercial-Class Aircraft Manufacturing," *International Organization* 46, no. 4 (1992): 899-934.

7 N. Meier-Kaienburg, "The W.T.O.'s Toughest Case: An Examination of the Effectiveness of the W.T.O. Dispute Resolution Procedure," *Journal of Air Law and Commerce*.

8 *Ibid.*

9 Spadafore (n 5).

10 K. Hayward, "Trade Disputes in the Commercial Aircraft Industry: A Background Note," *The Aeronautical Journal* 109 (2005): 157-166.

governments if the A320 was a commercial success; subsequently, Airbus faced a much-reduced risk. How? Since the repayments relied on the commercial success of the A320, this automatically meant that Airbus had no financial liability to European governments if it failed to sell an adequate number of the A320s. Thus, the U.S. argued that the aid given to Airbus violated the tenets of a free and competitive market where companies must bear risks for failures within the market. The continuous rise of Airbus's market share further infuriated the Americans and led them to refute any arguments put forward (infant industry) as justification for Airbus's position in the market. The increase of Airbus's market share against the market share of Boeing, which took a nosedive in 2004, was sufficient to prove to Boeing that Airbus's unfair trade practices by way of E.U. support were negatively affecting them. The U.S. maintained its stance on how the A320 was a direct result of investment by the E.U., which violated the principles of a competitive market where owners of a company must accept the risk of failure in the marketplace¹¹. Because of the illegal subsidies from the E.U., Airbus was able to build a product like that of the competition in a shorter time frame. Because of the launch aid Airbus received, they managed to evade US\$35 billion of commercial debt.¹²

Twenty-four hours after filing a complaint with the W.T.O., the E.U. retaliated with a counterclaim of their own, disapproving of Boeings' allegations that the launch aid they had received contravened the 1992 agreement and the 1994 subsidy code. The E.U. went into the counteroffensive, alleging that Boeing had committed the crime they were accused of. Boeing had, by large, benefited not only from the U.S. government's support but also from investments from the governments of Italy and Japan. In the pursuit of creating a commercial aircraft assembly, the state of Washington had been more than

¹¹ Ibid.

¹² Ibid.

generous in granting Boeing tax incentives that made that pursuit a reality in the U.S. Therefore, the E.U. believed that the case by the U.S. was without merit because if anything they were just as guilty as they directly benefited from governmental support in developing their commercial fleet. Additionally, Japan had an invested interest in the Boeing 787 as it provided an opportunity for Japan to secure supplier contracts for manufacturing crucial components like the Dreamliner carbon fiber wings; in turn, Japan considered providing a repayable launch investment package for 35% working share.¹³ Boeing, in response, diverted from directly answering the staggering accusations by Airbus but inferred that if Airbus was concerned with the aid Japan provided, they ought to file a separate complaint with the W.T.O. In addition, the E.U. was repulsed by Boeing's reaction to the launch aid the A320 benefitted from because their failed fleet, the Sonic Cruiser, had benefited extensively from aid and expertise provided by NASA. They alleged that NASA's involvement with the Sonic Cruiser had allowed a deferral of technology, which meant the development of the Sonic Cruiser would have been substantially at a lower cost than if it had been in-house development. The commercial failure of the Sonic Cruiser led to the creation of the 787 Dreamliner, which was also a recipient of NASA's technology and Japan's aid. Therefore, in their (Airbus) estimation, out of a total of 7 billion in developmental costs for the Dreamliner, the U.S. accounted for over half of that amount, a staggering 4.2 billion. Airbus also claimed that 50% of the public investment in the 787 was actionable or prohibited under W.T.O. rules, and because of this, the competition (the E.U.) was affected negatively as European subcontractors lost business to airlines preferring Japanese subcontractors who were

¹³ Ibid.

supplying Boeing.¹⁴

An appellate court in 2011 ruled on the complaints brought before it in 2004, some seven years later. The outcomes could have been more straightforward in the direction of who won. However, they were not. Both sides claimed victory following the W.T.O.'s report. The findings of the W.T.O. were confidential; however, Boeing took charge in proclaiming that fault was found on the part of Airbus. Boeing stated that the launch aid Airbus had received for launching their A320 was prohibited under W.T.O. rules and that the low-cost loan money provided to Airbus was deemed illegal and negatively affected Boeing's sales. Moving forward, Airbus was required to refinance the loans it had received on commercial terms. Boeing's then Chairman Jim McNerney commented on the appellate court's Decision, saying,

"If it were not for the illegal subsidies Airbus received from the European governments, Airbus would not have the market share it currently enjoys. Therefore, these ruling balances the competitive landscape of the aviation industry as Airbus would be required to operate under the same terms as Boeing."¹⁵

At the time, Boeing's Executive Vice President, Mr Michael Luttig, added:

"Airbus was to reimburse all the monies it got as illegal launch aid for the A320 to the sum of \$4 billion. Furthermore, any launch aid from the government moving forward should align with proven commercial terms."¹⁶

Refusing to be painted as the principal violator of trade regulations, the E.U. punched back with its claims of victory. The E.U. alleged that the W.T.O. had rejected 70% of Boeing's allegations as unfounded and lacking merit and that Boeing's lost profits could not be directly attributed to Airbus (Clark, 2010). This notion is supported by Lutz

14 N. Pavcnik, *Trade Disputes in the Commercial Aircraft Industry* (Oxford: Blackwell Publishers Ltd, 2002).

15 A. Cohen, "Boeing and Airbus declare wins in W.T.O. ruling," June 30, 2010, accessed October 20, 2010, Seattle PI, <http://blog.seattlepi.com/aerospace/archives/213023.asp>

16 Ibid.

Güllner, a spokesman for the European trade commissioner at the time, who said,

"The W.T.O. panel could not link the loss of jobs or the loss of profits in the U.S. aircraft industry to be a direct result of European support. In essence, the W.T.O. refuted the allegation that material injury to the U.S. aircraft industry was caused by the support given to Airbus; instead, the panel found the use of Repayable Launch Investment as a financing model to be fully compatible with W.T.O. rules, as far as it complies with the market conditions."¹⁷

Furthermore, the W.T.O. ruled that members ought to withdraw that subsidy without undue delay in cases where an illegal subsidy is found. Therefore, in the case of the E.U., where a prohibited subsidy was found, appropriate steps to remove it were to be taken within 90 days as per the W.T.O. ruling.¹⁸ When the ruling on the W.T.O.'s findings on the complaints by the E.U. was released some two months later, it ruled that Boeing had benefited from illegal subsidies provided by the U.S. to the disadvantage of Airbus. The E.U. believed the ruling by the W.T.O. was largely in their favour as it also ruled that the funding by NASA and the Department of Defence constituted actionable subsidies.¹⁹ The W.T.O. ruled that the U.S. subsidies, which totalled 16 billion-plus and 23.7 billion in defence contracts, had adverse effects on Airbus as it tilted the scales in favour of Boeing.²⁰ As expected, either side questioned the other's claims of victory. The spokeswoman for the U.S. Trade Representative said:

"Several notable misrepresentations are present for example, the alleged subsidies of Boeing are not anywhere close to the market-distorting effects of the launch aid that was

¹⁷ Ibid.

¹⁸ DS316 European Communities and Certain Member States.

¹⁹ J. Miller and D. Michaels, "Boeing received illegal aid, W.T.O. says," September 16, 2010, accessed October 20, 2023, The Wall Street Journal, <http://online.wsj.com/article/SB10001424052748704652104575493594258438602>.

²⁰ E.U. Business, "France, Airbus say W.T.O. rules against Boeing in subsidy row," September 15, 2010, accessed October 24, 2010, E.U. Business, <http://www.eubusiness.com/news-eu/wto-tradedispute.65y/>.

provided to Airbus by the E.U."²¹

Thus, it is more than clear that neither party was willing to concede fault. Therefore, on July 21, within the 90-day appeal period, the European Union appealed to W.T.O. about legal matters addressed in the panel report and issues on legal interpretations within the report. Twenty-nine days later, on August 19, the U.S. appealed the W.T.O. findings, citing similar concerns raised by the E.U. on matters of legal interpretations by the panel.

So clearly, there was no definite winner because all sides violated specific W.T.O. regulations at some points, and none of the parties seemed to be content with the W.T.O. in so far as it found them liable for violating any W.T.O. regulations. Boeing and Airbus only focused on outcomes that vilified the other party and denied all the outcomes that found them in the wrong, which led to both parties appealing. The U.S. requested to be granted leave and apply countermeasures on account of noncompliance on the part of the E.U. to the W.T.O. findings (hypocritical since they also appealed the W.T.O. findings, you cannot only respect the findings when they align with your political-economic aspirations and when they don't you disregard them), they were granted leave permitting the U.S. to levy some 7.5 billion dollars of tariffs on an annual basis. As expected, the E.U. retaliated by requesting leave to apply countermeasures of their own, which the W.T.O. agreed, and the E.U. was permitted to levy 4 billion tariffs on U.S. goods annually. At this point, it is fair to state that the appellate Decision did nothing to resolve the dispute of 2004 as parties to the dispute had total disregard for it when it did not align with their aspirations, and what makes this worse is that the W.T.O. signed off on Airbus and Boeing fighting outside the arena of the W.T.O. by allowing them to apply countermeasures. Thus, it begs the question, is it not the W.T.O.'s prerogative to solve

21 Miller and Michaels (n 18).

trade disputes? If it is, the Airbus v Boeing dispute shows a fundamental flaw of the W.T.O., as it cannot solve disputes between large political governments. Therefore, the lack of a definite resolution on the part of the W.T.O. or lack of an enforcing mechanism on the decisions of the W.T.O. undermines its legitimacy as the final arbiter of trade relations. Therefore, the noncompliance by Airbus and Boeing lost the W.T.O. its credibility in solving large-scale disputes.²²

With no winner from the 2011 appellate decision, the dispute transformed and took the form of an all-out trade tariffs war between the U.S. and the E.U. up until 2021, when both parties decided to put an end to a dispute that had been dragging on for 17 years. In the new agreement, which subsequently 'ended' the 17-year dispute, both the E.U. and the U.S. were to 'suspend' the application of the harmful tariffs that incurred both sides combined an upside of 11.5 billion dollars; the suspension was to last for five years. The U.S. and the E.U. agreed on establishing a Working Group on Large Civil Aircraft, which would be led by a representative from both sides (Minister of Trade), provide funding on market terms to the L.C.A. producers and not provide funding that would harm the competition in the form of tax breaks as an example.²³ In response to the agreement, the European Commission Executive Vice-President Valdis Dombrovski said:

"The agreement puts an end to the Airbus-Boeing row. The agreement ends billions of dollars lost because of the conflict and creates a partnership with the U.S. through the Working Group Aircraft, a partnership that leads to finding long-lasting solutions."²⁴

This agreement is being praised as the nail to the coffin of the 17-year dispute, as the

22 Meier-Kaienburg (n 7)

23 S. Amaro and L. Josephs, "U.S. and EU resolve 17-year Boeing-Airbus trade dispute," CNBC, June 15, 2021, <https://www.cnbc.com/2021/06/15/us-and-eu-truce-boeing-airbus-dispute>.

24 Press corner, "European Commission - European Commission," n.d., https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3001.

words of the European Commission Executive Vice President show, but is it the end? Firstly, some of the terms agreed upon in the 2021 agreement closely resembled the ruling in 2011, for example, not imposing tax breaks that favour local manufacturers at the detriment of the other side. So why, ten years after the Decision in 2011, did the E.U. and U.S. decide to resolve the dispute in a fashion like its recommendations ten years ago? Also, the resolution is temporary; tariffs were suspended for five years and not banned, so why wait ten years later to simply put a band-aid on the dispute when that could have been done a decade ago?

The answer to that could lie within the agreement's time frame, 2021. 2021 was the heart of Covid 19 pandemic. With most countries on lockdown, international passenger numbers have fallen off a cliff in recent months. For example, Heathrow Airport in 2017 had about 6.7 million passengers coming through its gates; in 2018, it had 6.5 million; in 2019, it had 6.8 million; and in 2020, it was a measly 206000.²⁵ This was problematic because despite having few people travelling, which meant most planes were on the ground, airlines still had to pay rental costs and maintenance, and this was eating away at their reserve capital. Thus, airlines were most unlikely to stump up capital for new aircraft. Many airlines began to cancel or defer orders they had placed with Boeing or Airbus and miscued the manufacturers. Airbus stock price stood at 140 euros a share in February of 2020, but by the end of March, that figure was 49 euros. Boeing stood at 340 a share in February; at the end of March, that figure was 95. Therefore, the only explanation for the existence of the 2021 agreement is that amidst the financial crunch that both manufacturers were exposed to in 2021, furthering the dispute would have done

25 McKinsey & Company, "Taking stock of the pandemic's impact on global aviation," March 31, 2022, <https://www.mckinsey.com/industries/travel-logistics-and-infrastructure/our-insights/taking-stock-of-the-pandemics-impact-on-global-aviation>.

both parties more harm than good; thus, they resorted to coming to a somewhat compromise relieving the other of further financial losses from the tariffs they both had imposed on one another.

Furthermore, a case could be made that besides the pandemic's undeniable influence in forcing a compromise in the 2021 agreement. China's place in the aviation industry is a direct threat to the duopoly, and this could have forced foes to unite against a common enemy, China. The Chinese were at the time developing the C919 under Commercial Aircraft Corporation of China (Comac), a direct competitor with Airbus' A320 and Boeing's 737 Max. Therefore, the two parties should focus less on their previous skirmishes when faced with a familiar nemesis who poses a potential threat to the EU-US duopoly. The 2021 agreement is thus a mirror of more comprehensive EU-US relations when faced with a threat of China's ever-growing economic power. Thus, we can credit China for rekindling old allegiances between the E.U. and the U.S. However, the E.U. and U.S. are mistaken if they believe that their only worry is China, as other countries like Canada with the Bombardier are making strides within the aviation industry. Therefore, it was in the U.S. and E.U.'s best interest to put to bed their squabbles as other competitors were closing in.²⁶

Furthermore, President Biden commented on the 2021 agreement;

"the U.S. and E.U. will work together to counter the Chinese non-market practices that give them an unfair advantage within the aviation sector. Furthermore, this partnership reflects highly on the standards of the E.U. and the U.S."²⁷

26 E.U. Business, "France, Airbus say W.T.O. rules against Boeing in subsidy row," September 15, 2010, accessed October 24, 2010, E.U. Business, <http://www.eubusiness.com/news-eu/wto-tradedispute.65y/>

27 B.B.C. News, "Boeing-Airbus trade row set to end after 17 years," June 15, 2021, <https://www.bbc.com/news/business-57484209>.

His comments reflect that the Americans are not pleased with China's place in the aviation industry, and they would rather forge alliances with an old foe to maintain their stronghold within the industry than be overtaken by China. Kathrine Tai, the U.S. Trade Representative, echoed the same sentiments as President Biden when giving commentary on the 2021 agreement; "*We are strongest when we work together as allies and suspending the trade conflicts diverts the attention to the Chinese and their state-driven economic model.*"²⁸ Therefore, one believes that the Chinese threat of dominance in the aviation industry and other factors like the pandemic eventually forced a ceasefire between the E.U. and the U.S.

In conclusion, the dispute between the U.S. and the E.U. predates the 17-year mark of 2004 and goes as far back as some 40 years. To the credit of both sides, they have done a great job of accusing the other of manipulating the aviation sector through illegal subsidies with the full backing of their governments. According to Michaels, the length of the dispute and the economies of the parties involved make it the most expensive dispute in the W.T.O.'s history.²⁹ The nature of the industry made the dispute more complex because it involved an industry of massive technological developments and whose employment benefits from either party were astronomical, not to mention that both the U.S. and the E.U. form two of the largest trading economic blocs in the world; thus, whatever Decision the W.T.O. came to would inevitably affect many (understatement) people, and it is undeniable that both Boeing and Airbus provide massive spill-over benefits to the global economy as both manufacturers outsource to different suppliers around the world, thus, further complicating the case, this case not only affected Airbus and Boeing but companies and nations around the world. The Airbus/Boeing dispute

²⁸ Ibid.

²⁹ Miller and Michaels (n 18).

highlighted a clash of ideologies over the appropriateness of state intervention in high-value exports. The differences in trade philosophies made reconciliation between the U.S. and the E.U. difficult. The U.S. hypocrisy was evident in that equity demands that he who wants equity must come with clean hands. The U.S. had dirtied hands the entirety of the dispute despite it seeking redress from the crime it was itself guilty of. Furthermore, the panel decision of 2011 and the reaction shortly after that paint a blurry picture of how to resolve disputes at the W.T.O. in that both parties were found to have violated W.T.O. agreements on subsidies; however, neither party complied with the panel's Decision, leading to unilateral actions by both parties that had them deadlocked for 17 years in a trade tariff war. This dispute shows unequivocally the weaknesses of the W.T.O. in its failure to resolve trade disputes amongst politically dominant economies; if the 2011 Decision fell off because of noncompliance, what guarantee is there that the E.U. and the U.S. will not walk away from the W.T.O. if they feel that their economic security is threatened? Thus, is the W.T.O. even a suitable arena to solve trade disputes? Or should states negotiate themselves? The 2021 agreement temporarily halted the dispute that had been dragging on for a while since 2004 when the U.S. filed to the W.T.O. the agreement's contents are arguably a replica of the Decision and recommendations of the 2011 W.T.O. Decision and thus, why now, after ten years from the 2011 Decision? The answer to that would be COVID-19 and the threat of Chinese dominance in the aviation industry; these combined are arguably responsible for forcing a compromise between the U.S. and the E.U., ultimately putting to rest the long-drawn dispute. However, doubt still lingers on, on whether the 2021 agreement is a permanent solution or whether after five years it will meet the same fate as the resolutions before it.

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