



House of Commons  
Northern Ireland Affairs  
Committee

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**Bombardier**

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**First Report of Session 2017–19**





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to the report*

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## Northern Ireland Affairs Committee

The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

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### Publication

Committee reports are published on the Committee's website at [www.parliament.uk/niacom](http://www.parliament.uk/niacom) and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications](#) page of the Committee's website.

### Committee staff

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## Summary

Bombardier Belfast is Northern Ireland's largest manufacturer and has an estimated supply chain of 800 companies across the UK and Ireland. The wings for Bombardier's C-Series jets are made at Shorts Brothers in Belfast using technology that has been described as a tremendous innovation in the world of aerospace.

In April 2017, rival aerospace company Boeing issued a petition to the United States Department of Commerce, asking for duties to be imposed on the Bombardier C-Series aircraft in the United States. Following investigation, the Department of Commerce issued a determination on 20 December 2017, setting a final combined tariff of 292%.

Against expectations, on 26 January 2018, the International Trade Commission determined that a U.S. industry is not materially injured or threatened with material injury by the C-Series imports and that no antidumping or countervailing duty orders will be issued.

### Boeing's complaint

Boeing alleged that Bombardier sold its planes in the US at an unfairly low price, made possible by heavy and prohibited subsidies from the Canadian and UK Governments, thus harming Boeing. Evidence to this inquiry, however, suggested that Boeing does not build aircraft that are comparable with the C-Series and that Boeing has suffered no harm as a result of Bombardier's success in securing a deal with US airline Delta.

Boeing's complaint against Bombardier was not founded on a genuine threat of existing unfair competition; it was a cynical attempt to prevent an innovative rival with a competitive edge from entering into the US market. We welcome the determination by the International Trade Commission that C-Series imports do not harm, or threaten to harm, the US domestic industry. This is, in our view, the correct determination and vindicates the clear evidence we heard that Boeing has suffered no harm.

### Response by the UK Government

A coordinated effort was made on behalf of Bombardier by the UK and Canadian Governments, trade unions, local politicians and others. These efforts may have contributed, directly or indirectly, to the ITC determining in Bombardier's favour. It is possible, however, that Boeing will appeal the decision or raise further complaints against Bombardier in the future. Unless Boeing confirm that it respects the ITC's decision and will not appeal it, we recommend that the UK Government undertake a review of all contracts held with Boeing.

### Securing jobs in Belfast

In October 2017, it was announced that Airbus, a European aerospace company, intended to buy a controlling stake in the C-Series Aircraft Limited Partnership. The hope is that, with the threat of tariffs lifted, Bombardier will expand its operations and

thrive. In the absence of an Executive, we recommend that the UK Government work with Bombardier, Invest NI and the Department for the Economy to ensure the Airbus venture produces the best possible outcome for workers in Northern Ireland.

### **Planning for the future**

Some stakeholders have suggested that Boeing's complaint could provide the company, and the US Administration, with a dangerous precedent that could be a threat to other sectors. The Minister for Energy and Industry and others told us they believed Boeing's complaint was a test case.

The International Trade Commission has not published information on whether it considered subsidies from the UK and Canadian Governments to be prohibited or not. The Government should no longer assume that Repayable Launch Investments are low-risk and will always be considered as compliant. The Government should conduct an audit of all Repayable Investment Loan provisions or similar it has made to UK companies. Risk assessments should be then conducted particularly where companies have significant business in the US market.

# Bombardier

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1. Bombardier is a Canadian international corporation that designs, manufactures and markets transport and aerospace products. Its headquarters are in Montréal, Québec and it operates in 29 countries around the world.<sup>1</sup> Bombardier acquired four companies between 1986 and 1992, including Shorts Brothers in Belfast, and integrated them to form Bombardier Aerospace.<sup>2</sup> Bombardier Belfast is Northern Ireland's largest manufacturer and has an estimated supply chain of 800 companies across the UK and Ireland.<sup>3</sup> Around 300 of these companies are based in Northern Ireland.

2. The wings for Bombardier's C-Series jets are made at Shorts Brothers in Belfast. In October, the US Department of Commerce delivered a preliminary determination to impose tariffs of 300% on the C-Series, posing an existential threat to Bombardier Belfast's operation. Consequently, the Committee took evidence from trade unions, experts in the Northern Ireland economy and manufacturing, Boeing and the UK Government. We regret that Bombardier were unwilling to give evidence in person. We would like to thank everyone who engaged with this inquiry.

## **Bombardier in Belfast**

3. Bombardier Belfast plays a role in all families of Bombardier aircraft and the company employs around 4,200 skilled people in Northern Ireland.<sup>4</sup> Notably, around a quarter of Bombardier Belfast's workforce are directly employed in the manufacturing of the C-Series (CS) aircraft.<sup>5</sup> The Committee was told that the technology developed in Belfast for the C-Series was a "tremendous innovation in the world of aerospace".<sup>6</sup> The wing factory in East Belfast (known as the Shorts factory) has been described as "the only facility of its kind in the world", where the entire production of composite wings from raw material to a completed wing is achieved in one factory.<sup>7</sup> The Committee saw this facility first-hand, including the Resin Transfer Infusion (RTI) technology used to produce wing skins. Jeremy Fitch, Executive Director of Business and Sector Development at Invest NI, said

It is mind blowing. What the team at Bombardier have achieved is fantastic in the time that they achieved it, with the expertise in developing a composite wing. The engineering excellence that they have delivered is just superb.<sup>8</sup>

## **Complaint by Boeing**

4. Boeing is world's largest aerospace company. In the single-aisle aircraft market, Boeing's order book stood at approximately 4,500 aeroplanes, as of November 2017. In

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1 Department for the Economy ([BOM0007](#))

2 Ibid. The other three companies are Canadair and de Havilland (Canada) and Learjet (US)

3 Q64 ([Eugene Rooney](#))

4 Department for the Economy ([BOM0007](#))

5 Department for Business, Energy & Industrial Strategy ([BOM0006](#))

6 Q64 ([Eugene Rooney](#))

7 Department for the Economy ([BOM0007](#))

8 [Q105](#) (Jeremy Fitch)

comparison, Bombardier's order book stood at 341 aeroplanes, as of September 2017.<sup>9</sup> Boeing employs 2,200 people in the UK and opened its first European factory in Sheffield last year.<sup>10</sup>

5. In April 2017, Boeing issued a petition to the United States Department of Commerce (DoC), asking for duties to be imposed on the Bombardier C-Series aircraft, and specifically on sales of CS 100 aircraft in the United States (details of the basis of the complaint are set in paragraphs 8 to 14).<sup>11</sup> In investigating such complaints, the US operates a bifurcated system: the US Department of Commerce takes one element of the complaint and the US International Trade Commission (ITC) takes another.<sup>12</sup> Other countries, for example Canada and Mexico, operate similar systems whilst many other countries operate a single system.

6. The Brazilian government has also raised a similar complaint to the World Trade Organisation (WTO), which established a dispute settlement panel on the issue in September 2017.<sup>13</sup> Giving evidence to the Committee, Paul Griffiths, Head of Civil Aerospace, Department for Business, Energy and Industrial Strategy, said that Brazil had not yet made a complaint against UK support for Bombardier. He added, however, that the UK government would be involved with the case as a third party.

7. In response to Boeing's complaint, the DoC instigated a countervailing duties investigation (CVD—where a company has received unfair Government subsidies) and an anti-dumping investigation (AD—where a company exports a product at less than fair value).<sup>14</sup> In September 2017, following the CVD investigation, the DoC imposed a preliminary tariff of 220% on imports of C-Series jets into the US. This was followed in October 2017 by an additional tariff of 80% based on its AD investigation. The DoC issued a final determination on 20 December 2017, setting the final combined tariff of 292%.<sup>15</sup>

8. In the final stage of the process, the International Trade Commission (ITC) met to determine whether the US domestic aerospace industry was materially injured or threatened with material injury by reason of the C-Series imports. Many stakeholders, including the UK Government, expected the ITC to find in favour of Boeing. Richard Harrington MP, Minister for Energy and Industry at the Department for Business, Energy and Industrial Strategy (the Minister), told the Committee:

I know the ITC is semi-independent, but I see no evidence at all that they are going to decide differently from the way that the Department of Commerce has done directly.<sup>16</sup>

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9 Boeing follow-up evidence ([BOM0010](#))

10 [Q195](#) (Sir Michael Arthur)

11 Department for Business, Energy & Industrial Strategy ([BOM0006](#))

12 [Q149](#) (Amanda Brooks)

13 See, [WTO opens panel on Canada's Bombardier subsidies: Brazil ministry](#), September 2017. Countries raise complaints via the World Trade Organisation, companies do not.

14 Dumping and subsidies are often referred to together and many countries handle the two under a single law. AD-CVD investigations are often conducted in parallel. There are fundamental differences, for example, dumping is an action by a company whereas subsidies are given by a Government. For more information see [World Trade Organisation, Anti-dumping, subsidies, safeguards: contingencies, etc](#)

15 Department of Commerce, [U.S. Department of Commerce Finds Dumping and Subsidization of Imports of 100- to 150-Seat Large Civil Aircraft from Canada](#), 20 December 2017

16 [Q415](#) (Minister Harrington)

Amanda Brooks, Director of Trade Remedies, Access and Controls at the Department for International Trade added:

The reason why the Minister is doubtful that the ITC might behave differently to the Department of Commerce is that if you look at their track record, it is the exception that the ITC takes a different position to the DoC, rather than the rule.<sup>17</sup>

Against expectations, on 26 January 2018, the ITC determined that “a U.S. industry is not materially injured or threatened with material injury” by the C-Series imports and “that no antidumping or countervailing duty orders will be issued”.<sup>18</sup>

### ***Basis of Boeing’s complaint***

9. Boeing’s petition to the DoC alleged that Bombardier sold its planes in the US at an unfairly low-price, made possible by heavy and “illegal”<sup>19</sup> subsidies from the Canadian and UK Governments, thus harming the US domestic aerospace sector, and principally Boeing:

Bombardier has blatantly and intentionally demonstrated its goal of muscling its way into the U.S. aviation market by offering its heavily subsidized planes at cut-rate pricing, to the serious detriment of American workers and The Boeing Company (“Boeing”), the only member of the domestic industry.<sup>20</sup>

The sale Boeing refers to is an order for 75 CS aircraft by US airline Delta. Boeing said that Bombardier could secure the Delta deal by offering an “astoundingly low price” and that there was “no doubt that subsidies enabled Bombardier to dump Aircraft in the Delta sale.”<sup>21</sup> We discuss the alleged subsidies in more detail in paragraphs 31 to 34.

10. Boeing representatives told the Committee that the company’s complaint to the DoC was, “in the interests of a level playing field”.<sup>22</sup> Sir Michael Arthur, President of Boeing Europe and Managing Director UK and Ireland, said:

We see this as a trade issue in the United States where we have not done any wrong because we were the victim of a dumped sale that we had to challenge in the interests of a level playing field. We actually like competition; it makes us better, but we like it to be fair competition.<sup>23</sup>

11. The Committee heard evidence, however, that suggested that Boeing had suffered no harm at all and that it had no aircraft that compete with the C-Series. Boeing maintained that its 737-700 and 737-MAX 7 aircraft were: “direct competitors that have gone head-to-head with the C-Series in previous competitions.”<sup>24</sup> In evidence to us Boeing presented Figure 1.

17 Ibid (Amanda Brooks)

18 United States International Trade Commission, [100- to 150-Seat Large Civil Aircraft from Canada Do Not Injure U.S. Industry, Says USITC](#), 26 January

19 [Q196](#) (Sir Michael Arthur)

20 Boeing, [Petition-Cover Letter/Narrative](#), 27 April 2017 (DoC repository, public documents and versions available)

21 Ibid

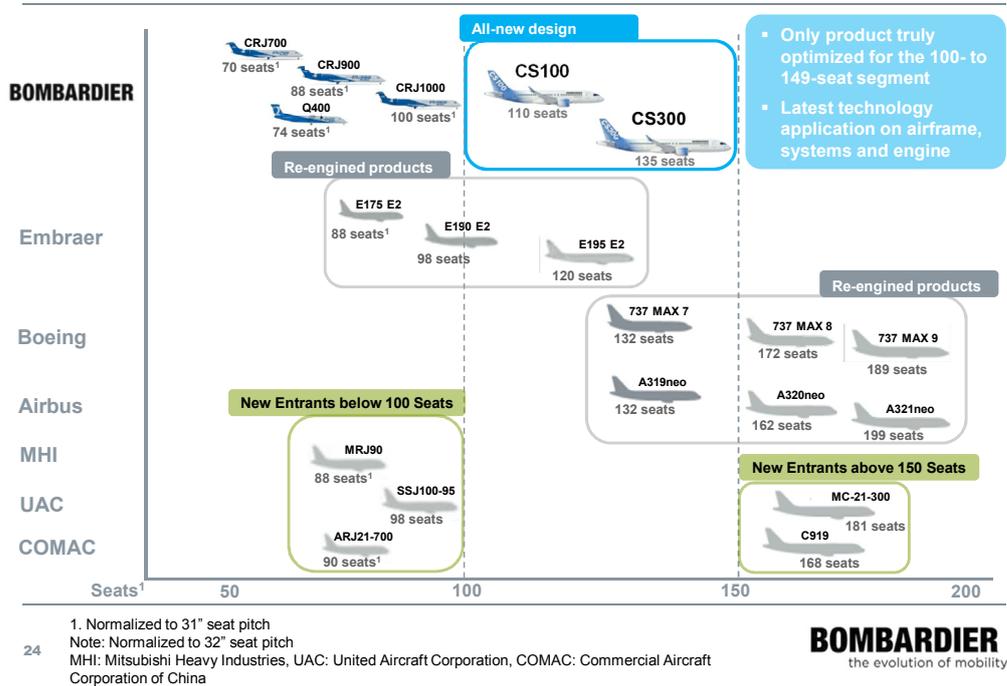
22 [\(Q195\)](#) Sir Michael Arthur

23 Ibid

24 Boeing ([BOM0002](#))

Figure 1: Bombardier marketing material

**We have the only truly optimized product for this otherwise under-served segment**



Bombardier Aerospace, *Driving the bottom Line up*, March 2014

12. In contrast, Spirit and jetBlue - US airlines which do not operate either Boeing or Bombardier aircraft - both said that Boeing does not make aircraft that are comparable to, or compete with, the C-Series.<sup>25</sup> Jeremy Fitch, Executive Director, Business and Sector Development, and Michael Polson, Client Manager, Advanced Materials at Invest NI, explained that the Boeing 737 could reduce its seat numbers to compare with the CS 100 but that it would not be efficient.<sup>26</sup>

By doing that the proportions are not as efficient as they would be if you have a plane that is built from scratch for that particular market segment. That is what Bombardier did right at the outset. They saw there was a segment that was not being met by Boeing and Airbus at the time, that is growing from a regional aircraft and a regional flight point of view, and that is what they aimed for.<sup>27</sup>

This appears to be supported by the rubric to Figure 1 which refers to the C-Series as: “the only truly optimized product for this otherwise under-served market”.

13. In evidence to the Committee, Boeing referred to competitions for a contract with United Airlines<sup>28</sup> and the Delta competition<sup>29</sup> as evidence of competition between the CS 100 and its own aircraft. Bombardier, however, told us that the United contract was not evidence of direct competition, as United initially sought an even smaller aircraft than the CS 100:

25 See, [JetBlue Asks U.S. to Reject Boeing in Bombardier Trade Dispute](#), 25 September 2017, and Financial Post, [U.S. airlines throw support behind Bombardier in Boeing trade dispute](#), 8 September 2017

26 [Q123](#) and [124](#) (Jeremy Fitch and Michael Polson)

27 [Q124](#) (Jeremy Fitch)

28 [Q199](#) (Steven Gillard)

29 Boeing ([BOM0002](#))

Prompting Bombardier to propose a “CS100 Lite,” which would have been dramatically smaller than the smallest 737. Public reports indicate that Boeing offered heavily discounted 737–700 aircraft to United and, after securing that order, converted most of the orders to a larger 737 that does not overlap at all with the C Series, either on flight profile or seat count.<sup>30</sup>

Of the Delta competition, Delta itself told the DoC that: “Boeing did not offer its own products as an alternative in this transaction—Boeing did not compete for the sale.”<sup>31</sup> Boeing declined to give us firm details of when it withdrew from the Delta bid process.<sup>32</sup> Furthermore, Delta advised the DoC that the scope for its entire investigation needed to be altered:

Boeing has defined the scope as 100- to 150-seat aircraft to mask the reality that (1) Boeing does not produce an aircraft in the 100- to 125-seat range (where Delta has made a firm order for 75 aircraft with 109-seats); and (2) there are no sales for importation in the 126- to 150-seat range where Boeing does produce aircraft.<sup>33</sup>

14. In addition to not competing with comparable aircraft, stakeholders told us that Boeing was unable to prove it had suffered any economic harm as a result of the Delta deal. Boeing refers in its petition to the Delta deal and to wider factors, which it argues are specific to competition in the aircraft industry.<sup>34</sup> These include the limited number of aircraft customers globally and the often significant time-lag between order and delivery of aircraft. Boeing argues that these conditions: “make the domestic industry highly vulnerable to unfair trade practices”.<sup>35</sup> As noted in the US Federal Register, Boeing states that there are no other producers of aircraft in the US, and so, it asserts, its petition is supported by 100% of the domestic industry.<sup>36</sup>

15. Bombardier, however, said that Dennis Muilenburg, CEO of Boeing, had recently told its investors that the company was oversold on its production line and had a significant backlog of orders.<sup>37</sup> Giving evidence to the Committee, Sir Michael Arthur admitted the company had: “a very long backlog”.<sup>38</sup> Boeing later confirmed that, as of November 2017, the company’s entire order book stood at 5,697 aeroplanes.<sup>39</sup> The 737 specifically has a backlog amounting to approximately seven years of production for the program. Michael Polson told us that Boeing, and its rival Airbus, had enough orders for nine years of business, even if they did not sell another aircraft.<sup>40</sup> The Minister, told the Committee:

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30 Bombardier ([BOM0009](#))

31 Delta, [Scope Comments](#), June 2017

32 Boeing follow-up evidence ([BOM0010](#))

33 Delta, [Scope Comments](#), June 2017

34 For full list see pp.17–19 of Boeing, [Petition-Cover Letter/Narrative](#), 27 April 2017 (DoC repository, public documents and versions available)

35 Ibid

36 [Federal Register, Vol. 82, No. 101, Friday, May 26, 2017, Notices, 24294](#)

37 Bombardier evidence. See also, Huffington Post, [Boeing’s Illogical Attempt to Impose Import Taxes on Planes Made in the United States](#), December 2017

38 [Q210](#) (Sir Michael Arthur)

39 Boeing follow-up evidence

40 [Q137](#) (Michael Polson)

It cannot logically be that a small aircraft that does not really compete with them directly is of that much significance to a company the size of Boeing, with products all across the piece.<sup>41</sup>

### **Motivation for Boeing's complaint**

16. If it is the case that Boeing produces no competitor to the C-Series, and has not been harmed by the Delta sale, what was the motivation for its complaint against Bombardier? George Burnside, Senior Lay Representative at Unite the Union, suggested it was because Bombardier might produce competitor planes in the future:

When Bombardier was trying to break into the market, Boeing was near enough giving 737s away to keep Bombardier out of the market. [ ... ] I do not think they fear the C-Series 100 to 300. The plane, because of its wing capability, can go up to 500, and that is what their fear is. They said they made a mistake when they let Airbus in the market and they should have killed them at birth. They are not going to make the same mistake here with Bombardier.<sup>42</sup>

17. Bombardier told us that Boeing sought to use “trade litigation to manufacture a competitive advantage in the United States for Embraer”,<sup>43</sup> a Brazilian company that produces small regional aircraft, including those with less than 100 seats. There has been speculation of a Boeing-Embraer partnership.<sup>44</sup> Bombardier said:

Boeing's petition defined the market with an arbitrary limit on aircraft range that just happened to exclude all Embraer aircraft from the scope. Although that seemed strange at the time, it makes perfect sense in hindsight. If Boeing were to succeed in the trade case, the C-Series would have massive import tariffs while the Embraer aircraft, which Boeing is seeking to offer in the US market, would not.<sup>45</sup>

18. Stakeholders told us that the political climate in America may have also acted as motivation for the complaint. GMB, a trade union, said these comments demonstrated that the imposition of tariffs reflected the political priorities of the new US government.<sup>46</sup> A press release from the DoC confirming the imposition of tariffs on the C-Series stated that enforcement of US trade law was a priority for the Trump Administration. It added that, between January 20, 2017 through December 18, 2017, the DoC had initiated 79 AD and CVD investigations, “a 52 percent increase from 52 initiations in the previous year”.<sup>47</sup>

19. Minister Harrington, however, told us that he believed that Boeing would have brought the complaint to the DoC, even under a different US Administration. In his view,

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41 [Q381](#) (Minister Harrington)

42 [Q37](#) (George Burnside)

43 Bombardier ([BOM0009](#))

44 For example see, Financial Times, [Brazil happy to 'bless' Embraer-Boeing tie-up, but not a takeover](#), 5 January 2018

45 Bombardier ([BOM0009](#))

46 GMB ([BOM0003](#))

47 DoC, [U.S. Department of Commerce Finds Dumping and Subsidization of Imports of 100- to 150-Seat Large Civil Aircraft from Canada](#), 20 December

the complaint was: “a commercial dispute with political cover”.<sup>48</sup> He characterised the complaint as “spurious”,<sup>49</sup> and a reaction to Delta choosing a Bombardier product, when it had been an almost exclusive customer of Boeing:<sup>50</sup>

I feel that this is a complete try-on by Boeing, and it is for anticompetitive purposes, for their own purposes.<sup>51</sup>

In a speech to the World Economic Forum in Davos on 26 January, the same day as the ITC determination, President Trump said that America was open for business and that “America First does not mean America alone”.<sup>52</sup>

**20. Boeing used US trade procedures to make a serious complaint against a competitor. As a US company, it is within Boeing’s rights to use those procedures. We question, however, the motivation behind Boeing’s decision to petition the Department of Commerce. In our view Boeing’s complaint against Bombardier was not founded on a genuine threat of existing unfair competition; it was a cynical attempt to prevent an innovative rival with a competitive edge from entering into the US market.**

**21. We welcome the determination by the International Trade Commission that C-Series imports do not harm, or threaten to harm, the US domestic industry. This is, in our view, the correct determination and vindicates the clear evidence we heard that Boeing has suffered no harm and is consistent with Boeing’s unconvincing evidence to the contrary. The Government should, however, take careful note of the readiness of an American interest to take an aggressive stance. The Government should also note that the Brazilian Government’s complaint against Bombardier is ongoing in the World Trade Organisation. *The Government should work to ensure the result reached by the WTO is the same as the International Trade Commission’s determination.***

## Efforts to intervene

22. Over the course of the complaint process, both the UK and Canadian Governments tried to intervene on Bombardier’s behalf. The Minister told us that the Prime Minister had spoken personally with President Trump twice on the matter.<sup>53</sup> It was reported that she raised the matter again with President Trump on 25 January, the day before the ITC determination.<sup>54</sup> Minister Harrington said that the situation had been addressed by the Government at the highest levels and that the UK Ambassador in the US had “used every single connection”.<sup>55</sup> He added that the Government had made it clear that the complaint had “soured the relationship” between it and Boeing.<sup>56</sup>

23. In response to Boeing’s actions, the Canadian Government determined not to proceed with the purchase of 18 Boeing Super Hornet fighter jets. Carla Qualtrough, Canada’s Public Works Minister, said that any companies that bid for the contract to provide fighter

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48 [Q384](#) (Richard Harrington)

49 [Q415](#) (Richard Harrington)

50 [Q379](#) (Richard Harrington)

51 [Q415](#) (Richard Harrington)

52 BBC, [Trump Davos speech: ‘America First policy is not America alone’](#), 26 January

53 [Q389](#) (Minister Harrington)

54 BBC, [Bombardier: Theresa May holds talks with Trump](#), 25 January 2018

55 [Q308](#) and [Q402](#) (Minister Harrington)

56 [Q434](#) (Minister Harrington)

jets would be at a distinct disadvantage if they had caused economic harm to Canada.<sup>57</sup> Boeing holds a number of contracts with the UK for military products, such as the P-8A aircraft. Steven Gillard described Boeing's equipment for the UK Armed Forces as "proven to be battle-winning, life-saving and value for money".<sup>58</sup> Sir Michael Arthur said:

Our partnership with the Ministry of Defence has long been a very close one and I hope, going forward, that the British Government will choose what they decide is the best value for money and fit-for-purpose equipment and services for the Armed Forces.<sup>59</sup>

Some stakeholders suggested the UK Government should also have reviewed its contracts with Boeing.<sup>60</sup>

24. The Committee heard that there were also attempts to agree a settlement between Boeing and Bombardier. Both companies told us that they entered those discussions in good faith.<sup>61</sup> Unite the Union told us that they believed Boeing had "walked away"<sup>62</sup> from the discussions, a view corroborated by Bombardier:

Although the Government of Canada sought to encourage settlement discussions between Bombardier and Boeing, after Bombardier engaged in those discussions in good faith, Boeing abruptly suspended its participation and ceased all discussions many months ago. Boeing's decision to walk away from the negotiation table epitomizes its approach to this entire proceeding.<sup>63</sup>

25. Sir Michael Arthur, however, told us that it was not the case that Boeing had walked out of the talks<sup>64</sup> and that Boeing had tried to avoid going to court.<sup>65</sup> In evidence to the Committee, Boeing said that it: "continues to look for ways to engage."<sup>66</sup> Boeing declined to provide the Committee with any details of the timing or content of the discussions on a settlement, citing customer confidentiality.<sup>67</sup>

26. Following the ITC's determination, Boeing issued a statement suggesting that it did not view the matter as closed:

While we disagree with the ITC's conclusion today, we will review the Commission's more detailed opinions in full as they are released in the coming days.

Boeing remains confident in the facts of our case and will continue to document any harm to Boeing and our extensive U.S. supply chain that

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57 See, BBC, [Canada snubs Boeing in fighter jet deal with Australia](#), 12 December 2017

58 [Q196](#) (Steven Gillard)

59 [Q196](#) (Sir Michael Arthur)

60 For example, see [Q2](#) (Jimmy Kelly) and [Q154](#) (Stephen Kelly)

61 See [Q219](#) (Sir Michael Arthur) and Bombardier evidence.

62 [Q30](#) (George Burnside)

63 Bombardier ([BOM0009](#))

64 [Q246](#) (Sir Michael Arthur)

65 [Q245](#) (Sir Michael Arthur)

66 Boeing ([BOM0002](#))

67 Boeing follow-up evidence ([BOM0010](#))

results from illegal subsidies and dumped pricing. We will not stand by as Bombardier's illegal business practices continue to harm American workers and the aerospace industry they support.<sup>68</sup>

The full report from the International Trade Commission will be published by 2 March and will "contain the views of the Commission and information developed during the investigations".<sup>69</sup>

**27. We welcome the efforts made by the UK Government and others to persuade Boeing to drop its complaint and to persuade the US Administration to intervene on Bombardier's behalf. Those efforts may have lead, directly or indirectly, to the ITC's decision to rightly throw out the tariffs. Those efforts did not, however, persuade Boeing to withdraw their complaint, despite the negative impact the tariffs would have had on Northern Ireland. It is possible that Boeing will appeal the decision or raise further complaints against Bombardier in the future. Unless Boeing confirm that it respects the ITC's decision and will not appeal it, we recommend that the UK Government undertake a review of all contracts held with Boeing. We further recommend that the Government follow the approach of the Canadian Government and stipulate that, in future contract bids, the past behaviour of companies in relation to economic harm to the UK will be considered.**

## Securing jobs in Belfast

28. The Government told us that Bombardier's employment base in Northern Ireland is by far the largest manufacturer in the region and of strategic importance to the local economy.<sup>70</sup> Bombardier Belfast has put a hold on its apprenticeship scheme for the past two years. Jonathan McAlpin, Chief Executive of East Belfast Enterprise, said that apprenticeships were important for a strong manufacturing sector and that he wanted to see more opportunities for young people.<sup>71</sup> Stakeholders suggested that both restructuring within Bombardier and the apprenticeship levy may have resulted in the pause on the scheme.<sup>72</sup> Noel Gibson, Senior Lay Representative at Unite the Union, said that in the UK, employers received the levy back but that in Northern Ireland the funding was distributed through the Barnett formula.<sup>73</sup>

29. In recent years, Northern Ireland has seen job losses at JTI Gallaher, which announced its closure in 2014, and Michelin, which announced closure in 2015. Jonathan McAlpin, Chief Executive at East Belfast Enterprise, told us that the impact of these job losses had been partly mitigated through planning for potential redundancies. He added, however, that there had been a negative impact on the local economy as workers had moved to find jobs. He said this would be a concern for any Bombardier job losses.<sup>74</sup> The planning

68 Boeing, [Boeing Statement on Final vote by ITC commissioners in Boeing's trade case against Bombardier](#), 26 January

69 United States International Trade Commission, [100- to 150-Seat Large Civil Aircraft from Canada Do Not Injure U.S. Industry, Says USITC](#), 26 January

70 Department for Business, Energy & Industrial Strategy ([BOM0006](#))

71 [Q160](#) (Jonathan McAlpin)

72 [Q146](#) (Stephen Kelly) The Apprenticeship Levy is a levy on UK employers to fund new apprenticeships.

73 [Q43](#) (Noel Gibson) for devolved nations levy funding is calculated using the Barnett formula. Due to population size, NI receives less than Scotland or Wales.

74 [Q145](#) (Jonathan McAlpin)

involved in supporting JTI Gallaher and Michelin workers included job searches; help with considering self-employment; skills matching; identifying whether additional training or reskilling was required; and delivering retraining.<sup>75</sup>

30. In October 2017, it was announced that Airbus, a European aerospace company, intended to buy a controlling stake in the C-Series Aircraft Limited Partnership.<sup>76</sup> The proposal is that Airbus will purchase a controlling stake (50.01%) of the programme. Jeremy Fitch said the deal had the potential to be beneficial to Bombardier and Belfast:

With the financial strength of Airbus, their market position, where the C Series complements their existing aircraft, the supply chain and the procurement benefits that Airbus can bring, there is the potential—and this has been stated publicly—that it could be a better outcome for the C Series overall. That could place Belfast in a better position overall.<sup>77</sup>

Bombardier told us that the Airbus venture could increase the size and scope of the C-Series programme and that Bombardier would benefit from Airbus’ “global reach”.<sup>78</sup>

**31. The determination by the US International Trade Commission should be celebrated. The hope is that, with the threat of tariffs lifted, Bombardier will expand its operations and thrive. In the absence of an Executive, we recommend that the UK Government work with Bombardier, Invest NI and the Department for the Economy to ensure the Airbus venture produces the best possible outcome for workers in Northern Ireland.**

## Future risks

32. Part of Boeing’s complaint rested on the allegation that Bombardier received financial support from the UK that falls outside the approved World Trade Organisation framework for government loans. The UK Government has provided a total of £135 million in financial support to Bombardier, £114m of which is a Repayable Launch Investment (RLI). RLIs are financial risk-sharing investments in the design and development of civil aerospace projects. The investment is repayable at a commercial rate. The funding breakdown for investment for Bombardier is as follows:

- £46m RLI from the Department of Business, Energy and Industrial Strategy;
- £68m RLI from the Northern Ireland Executive;
- A further £21m from a Selective Financial Assistance programme.

The DoC determined that the RLI was an interest-free loan and therefore contravened international trade laws.<sup>79</sup> In the DoC’s tariff calculation, the UK RLI accounts for around

75 [Q164](#) (Jonathan McAlpin)

76 Airbus, [Airbus and Bombardier Announce C Series Partnership](#), October 2017

77 [Q88](#) (Jeremy Fitch)

78 Bombardier ([BOM0009](#))

79 Department of Commerce, [Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of 100- to 150-Seat Large Civil Aircraft from Canada](#), December 2017 (DoC repository, public documents and versions available)

17% of the total 292% tariff. By comparison, Launch aid from the Canadian Federal Government and from the Quebec Provincial Government amounts to 38% of the tariffs. Equity infusion from Investissement Quebec accounts for 147%.

33. The UK Government contends that it has done nothing wrong in providing the RLI. The Minister told the Committee:

Each of these loans has very clear legal advice and very clear legal documentation to show that these are commercial loans with a commercial rate of interest.<sup>80</sup>

Jeremy Fitch explained that RLI was compliant with WTO rules, and that securing European Union approval to provide the loan took over a year.<sup>81</sup> The EU Commission has also made it clear that the RLI is compliant with WTO rules:

The repayable launch investment cannot be considered as an interest-free loan. The RLI actually takes the form of a loan that is repayable to the UK Government via a levy linked to future aircraft deliveries to the final customer. Repayment of the loan over forecasted deliveries foresees a return to the UK Government consistent with what would be required by a market lender. Like a market lender, the UK Government demands not just repayment of the principal but also the payment of interest in the form of a return that properly compensates it for the risks involved.<sup>82</sup>

34. The DoC, however, disagreed with the EU Commission and with UK Government's position. Its interpretation of the RLI was that, during the period of investigation (POI), the loan was an interest-free contingent liability. Repayment of the loan was tied to future aircraft deliveries. The DoC maintained that:

Bombardier/Shorts did not make payments of any interest, or principal, on the RLI during the POI because the contingency for payments did not occur.<sup>83</sup>

Furthermore, the DoC determined that there was “no record evidence” that a commercial lender would have provided similar financial aid under similar repayment terms to Bombardier, or evidence of other commercial (or similar) financing available to the C-series in that timeframe.<sup>84</sup>

35. Amanda Brooks told the Committee that the issue of Government subsidies and alleged dumping is one of the most disputed areas of trade policy.<sup>85</sup> She admitted that, whilst the Government was clear that the support provided to Bombardier was within WTO rules, and so the risk to any company should be low, “this case shows that there is a different risk there”.<sup>86</sup>

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80 [Q381](#) (Minister Harrington)

81 [Q108](#) and [Q114](#) (Jeremy Fitch)

82 [Q109](#) (Jeremy Fitch)

83 Department of Commerce, [Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of 100- to 150-Seat Large Civil Aircraft from Canada](#), December (DoC repository, public documents and versions available)

84 Ibid

85 [Q419](#) (Amanda Brooks)

86 [Q382](#) (Amanda Brooks)

36. Some stakeholders have suggested that Boeing’s complaint could provide the company, and the US Administration, with a dangerous precedent that could be a threat to other sectors. Noel Gibson from Unite the Union expressed concerns that Bombardier was viewed by the US Administration as a test case, and that other sectors could be targeted in the future.<sup>87</sup> The Minister admitted that, in his view, it was a test case:

This is not just about the merits of this one particular case. I cannot say I have been told directly that by Boeing but I have sensed that. You could say it was a sprat to catch a mackerel.<sup>88</sup>

37. The Minister told us that, in the aerospace sector, Airbus and Rolls-Royce have received the launch investments. The Minister was not able to say whether other Ministers or departments were aware of companies within their areas receiving RLI or similar financial aid. He admitted that he was not aware of any audit across Government to assess this but that he was “almost certain that every other sector is very competent to deal with this”.<sup>89</sup>

**38. The International Trade Commission has not published information on whether it considered subsidies from the UK and Canadian Governments to be prohibited or not. This information may be available in due course. It is possible that the ITC found the subsidies to be prohibited but that they did not result in imports that were harmful to the US domestic industry. The Government should no longer assume that RLIs are low-risk and will always be considered as compliant. *The Government should conduct an audit of all Repayable Investment Loan provisions or similar it has made to UK companies. Risk assessments should be then conducted particularly where companies have significant business in the US market. Any audit and risk assessment should also consider companies where funding has come from other Governments but where punitive measures such as tariffs could have a significant impact on UK workers.***

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87 [Q45](#) (Noel Gibson)

88 [Q381](#) (Minister Harrington)

89 [Q383](#) (Richard Harrington)

# Conclusions and recommendations

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## Complaint by Boeing

1. Boeing used US trade procedures to make a serious complaint against a competitor. As a US company, it is within Boeing's rights to use those procedures. We question, however, the motivation behind Boeing's decision to petition the Department of Commerce. In our view Boeing's complaint against Bombardier was not founded on a genuine threat of existing unfair competition; it was a cynical attempt to prevent an innovative rival with a competitive edge from entering into the US market. (Paragraph 20)
2. We welcome the determination by the International Trade Commission that C-Series imports do not harm, or threaten to harm, the US domestic industry. This is, in our view, the correct determination and vindicates the clear evidence we heard that Boeing has suffered no harm and is consistent with Boeing's unconvincing evidence to the contrary. The Government should, however, take careful note of the readiness of an American interest to take an aggressive stance. The Government should also note that the Brazilian Government's complaint against Bombardier is ongoing in the World Trade Organisation. *The Government should work to ensure the result reached by the WTO is the same as the International Trade Commission's determination* (Paragraph 21)

## Efforts to intervene

3. We welcome the efforts made by the UK Government and others to persuade Boeing to drop its complaint and to persuade the US Administration to intervene on Bombardier's behalf. Those efforts may have lead, directly or indirectly, to the ITC's decision to rightly throw out the tariffs. Those efforts did not, however, persuade Boeing to withdraw their complaint, despite the negative impact the tariffs would have had on Northern Ireland. It is possible that Boeing will appeal the decision or raise further complaints against Bombardier in the future. *Unless Boeing confirm that it respects the ITC's decision and will not appeal it, we recommend that the UK Government undertake a review of all contracts held with Boeing. We further recommend that the Government follow the approach of the Canadian Government and stipulate that, in future contract bids, the past behaviour of companies in relation to economic harm to the UK will be considered.* (Paragraph 27)

## Securing jobs in Belfast

4. The determination by the US International Trade Commission should be celebrated. The hope is that, with the threat of tariffs lifted, Bombardier will expand its operations and thrive. *In the absence of an Executive, we recommend that the UK Government work with Bombardier, Invest NI and the Department for the Economy to ensure the Airbus venture produces the best possible outcome for workers in Northern Ireland.* (Paragraph 31)

### Future risks

5. The International Trade Commission has not published information on whether it considered subsidies from the UK and Canadian Governments to be prohibited or not. This information may be available in due course. It is possible that the ITC found the subsidies to be prohibited but that they did not result in imports that were harmful to the US domestic industry. The Government should no longer assume that RLIs are low-risk and will always be considered as compliant. *The Government should conduct an audit of all Repayable Investment Loan provisions or similar it has made to UK companies. Risk assessments should be then conducted particularly where companies have significant business in the US market. Any audit and risk assessment should also consider companies where funding has come from other Governments but where punitive measures such as tariffs could have a significant impact on UK workers.* (Paragraph 38)

# Formal minutes

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**Tuesday 6 February 2018**

Members present:

Dr Andrew Murrison, in the Chair

Kate Hoey    Ian Paisley

Nigel Mills    Jim Shannon

Draft Report (*Bombardier*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 38 read and agreed to.

*Resolved*, That the Report be the First Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 7 February 2018 at 9.30am

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Wednesday 22 November 2017

**Susan Fitzgerald**, Regional Industrial Officer, Unite the Union, **Jimmy Kelly**, Irish Regional Secretary, Unite the Union, **George Burnside**, Senior Lay Representative, Unite the Union, **Noel Gibson**, Senior Lay Representative, Unite the Union

[Q1-63](#)

### Thursday 30 November 2017

**Eugene Rooney**, Director, Skills and Business Development Group, Department for the Economy, **Jeremy Fitch**, Executive Director, Business and Sector Development, Invest NI, **Michael Polson**, Client Manager, Advanced Materials, Invest NI

[Q64-144](#)

### Wednesday 6 December 2017

**Jonathan McAlpin**, Chief Executive, East Belfast Enterprise, **Stephen Kelly**, Chief Executive, Manufacturing NI, **Richard Hogg**, Board Member, Manufacturing NI

[Q145-194](#)

### Wednesday 13 December 2017

**Sir Michael Arthur**, President Boeing Europe and Managing Director UK and Ireland, Boeing, **Steven Gillard**, Head of Government Affairs, UK and Ireland, Boeing, **Matthew Knowles**, Communications Director, UK and Ireland, Boeing

[Q195-378](#)

### Wednesday 10 January 2018

**Richard Harrington MP**, **Amanda Brooks**, Director, Trade Remedies, Access and Controls, Department for International Trade, **Paul Griffiths**, Head of Civil Aerospace, Department for Business, Energy and Industrial Strategy

[Q379-439](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

BOM numbers are generated by the evidence processing system and so may not be complete.

- 1 Boeing ([BOM0002](#))
- 2 Boeing ([BOM0010](#))
- 3 Bombardier ([BOM0009](#))
- 4 Department for Business, Energy and Industrial Strategy ([BOM0006](#))
- 5 Department for the Economy ([BOM0007](#))
- 6 GMB ([BOM0003](#))
- 7 Manufacturing NI ([BOM0008](#))
- 8 Mr Harrington Jack ([BOM0001](#))
- 9 Unite the Union ([BOM0004](#))
- 10 Unite the Union Belfast Shorts & NI Technical Branch NI/B0026 ([BOM0005](#))

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2017–19

First Special Report	HM Government support for UK victims of IRA attacks that used Gaddafi-supplied Semtex and weapons: Government Response to the Committee's Fourth Report of	HC 331
Second Special Report	Electricity sector in Northern Ireland: Government Response to the Committee's Third Report of Session 2016–17	HC 51