



---

# The Estey Centre Journal of **International Law and Trade Policy**

---

## **Exploring Aviation Rivalries within the Legal Context of the WTO**

Christina Fattore

*Assistant Professor of Political Science, West Virginia University, Morgantown, WV*

When states file complaints at the WTO's Dispute Settlement Body regarding another's trade behaviour, they may be motivated to strategically promote their own national interests rather than work towards a collectively beneficial resolution. Using two cases related to aviation, I explore the evolution of trade rivalries in the WTO environment. I derive a hypothesis from the endogenous protection literature, that states that produce the same goods in a small and competitive market will be more likely to file a significant number of WTO disputes in order to block access to their own and foreign markets. Using the principal rivalry approach, I find that both disputes involve a mutual recognition of rivalry over the aviation sector, as well as the use of heightened diplomatic language. I expect that as more states begin to utilize the DSB, other dyads involved in the trade of highly specialized goods will be more likely to engage in this type of strategic behaviour.

Keywords: aviation, World Trade Organization, protectionism, rivalries

## Introduction

Since the creation of the World Trade Organization, member states have engaged in formal trade dispute resolution through the organization's Dispute Settlement Body (DSB). States are able to file complaints against other members regarding what they perceive as trade practices that diverge from WTO rules and agreements. While there are some ways to get around the issue of cheating (Kucik and Reinhart, 2008), the DSB potentially provides another opportunity for states to use the system to promote their own national interests by filing complaints against those states that they see as their main economic rivals (Pelc, 2009). Such practices would be counterproductive to the very purpose of the DSB, as well as undermining the primary mission of the WTO itself, which is to provide a forum for freer international trade and to settle disputes among its members (WTO, 2011).

The DSB is illustrated to be a vehicle of harmonious relations between members. States are more likely to engage in dispute settlement behaviour within the WTO now that it is more structured and formally institutionalized than the previous iteration in the General Agreement on Tariffs and Trade (Zangl, 2008). This argument is based on the assumption that WTO member states seek cooperation, increased trade, and peaceful relations. However, the legal features of trade dispute settlement bodies do little to restrain the behaviour of their member states (Kono, 2007). Therefore, if it is assumed that states are rational actors, then they may not always seek cooperation as a primary goal. Even avoiding the Darwinian worldview of neorealists (Waltz, 1979), liberal institutionalists who promote the idea of cooperation in world politics point to states as self-interested actors and admit to situations where state interests are not always harmonious (Keohane and Nye, 1977). It is reasonable to assume that states could turn to the DSB as a means of achieving these singular, self-interested ends.

In this article, I explore this claim using the two aviation disputes that have been played out in the WTO context, one between the EU and the United States, as well as another involving Brazil and Canada. The motivation for these trade-related rivalries becomes clear as the governments experience the pulls of domestic and international groups that either support or are against freer trade, a circumstance that, in turn, affects state behaviour within the context of the WTO and the DSB. Member states are given the power to file formal complaints against each other. However, the complaint procedure can quickly evolve into an avenue for reacting against those states they identify as competitors in various trade sectors. This project will provide insight into the extent to which the strategic usefulness of the DSB as it relates to the WTO's goals (freer trade, economic growth) may actually be compromised by states relocating their economic competition under the guise of the institution's cooperative nature.

## Dispute Trends in the World Trade Organization

While the WTO is a democratic body with supposed equal access for all its members, there are some states that are unable to participate fully due to their lack of financial and physical resources. “Legal capacity” is the term that refers to a state’s ability “to monitor and enforce rights and obligations” within the WTO context (Busch et al., 2009: 560). The main focus of legal capacity is a state’s ability to support a full-time staff at WTO headquarters in Geneva, especially one that is highly trained in dealing with the legalistic institutions of the WTO. Legal capacity affects a state’s ability to file disputes and to build cases against other members’ trade behaviour. If states are unable to observe each other’s behaviour and collect evidence against any possible wrong-doing, then they will be unable to participate fully in the DSB.

Not surprisingly, there is a lower number of disputes being filed by or involving lesser developed countries (LDCs). Bown (2005, 2009) investigated an institutional bias that leaves these states self-selecting out of involvement in DSB complaints. Simmons and Guzman’s (2005) capacity hypothesis (which is closely related to Bown’s investigation) helps to explain the disengagement of LDCs in the DSB. LDCs lack the political and economic capacity to act as a “watchdog” over all states, and therefore, they are more selective about the complaints they choose to file. LDCs are more likely to file cases against more powerful states because they are more likely to win those disputes, as evidentiary support is more accessible. While technical assistance is provided by the WTO to these states in order to promote full participation (Shaffer, 2006), such assistance does not fill the knowledge and resource void that defines the developing world’s experience within the DSB (Lacarte-Muro and Gappah, 2000).

While the works cited above assist in the understanding of the general trends of the WTO dispute body, I am focused on what causes repetitive disputes between certain dyads about the same product (or, in some cases, the same sets of products). Part of the answer lies in the idea of “aggressive multilateralism” (Bhagwati, 1991; Reinhardt, 2000), which is similar to explaining the actions of states as egoists. While states are committing to more multilateral agreements, each is also concerned about its unilateral well-being. States do not become less concerned with their individual benefit because of this multilateral movement, and the collective benefit being derived from the WTO is not their main priority. Thus, states have an incentive to use the WTO system for their individual benefit rather than the collective benefit.

This recognition reinforces the idea that states engage in the development of a new, dyadic interaction within the WTO: rivalries. The opportunity to behave in a self-

interested manner is too great to resist for states existing in anarchy. In fact, it is their nature. States with the capacity to act as watchdogs (which also seem to be those states that are able to recognize the opportunity to engage in successful self-serving behaviour) will start to engage other states with similar capacities in a type of reciprocal pattern of DSB complaint filing. In many of these WTO rivalries, we see that the product in question is produced by a small number of states and that they are interested in competing for market space. In the highly competitive global market, these rivals are hypersensitive to their competitors' behaviour and strategies. However, this type of relationship has not been conceptualized in the trade literature as a type of rivalry that manifests itself within the confines of an international organization. Borrowing concepts from the military rivalries literature, I argue that, as states are pressured internally to protect certain domestic products, they will begin to act aggressively towards their trade rivals in the legal realm of the WTO in order to maintain a certain level of self-preservation in the anarchic system that still exists.

### **The Evolution of Trade Rivalries in the WTO**

**T**he study of rivalries as an economic phenomenon is something new to international relations literature. Although non-military rivalries have been suggested, most attempts at dissecting economic and commercial rivalries have been confined to historic case studies (see Conybeare, 1987; Limbago, 2006; Thompson, 2006; Levy and Young, 2008). Instead, much of this literature has focused solely on militarized rivalries, which are defined by the occurrence of regularized militarized conflict between pairs of states (Diehl and Goertz, 2000).

The study of rivalries has been primarily influential in the conflict literature (see Valeriano, 2003 for a complete discussion). The rivalries approach allows scholars to explore repeated military interactions within a given dyad assuming that these disputes are connected across space and time. By considering the context of each of these disputes, scholars have gained a better understanding about dispute behaviour. Fighting over contentious issues and having repeated interactions (military or otherwise) defines a rivalry relationship. These repetitive interactions are usually high in intensity (Thompson, 1995). Rivalries are also built around some type of contentious issue (Hensel, 1996). It is the disagreement over a specific issue or territory that can provide the willingness states need to engage in a series of militarized disputes (Most and Starr, 1989).

Some scholars may be uncomfortable with the borrowing of this terminology from the study of military rivalries (especially since they usually result in extremely deadly conflicts) and using it in the context of a comparison of the behaviour of states

within an international organization, which implicitly suggests that member states are on friendly terms and therefore have a miniscule probability of engaging in a deadly conflict. Previous studies of international organizations support this suspicion. States join intergovernmental organizations (IGOs) with states similar to them, in order to institutionalize or formalize common norms among the group (Koremenos, Lipson, and Snidal, 2001; Hafner-Burton and Montgomery, 2006; Hansen, Mitchell, and Nemeth, 2008). A key question then focuses on the issue of how states that are “friendly” enough to form trading partnerships and join the same IGOs would come to find themselves in trade rivalries. This connection does not prevent the occurrence of trade wars that have large negative effects on not only the economic, but also the diplomatic relationship of the states involved in the dyad. If states are trading with their friends (Gowa and Mansfield, 1993; Bliss and Russett, 1998) and forming IGOs with similar states to formalize this activity, where do states find the motivation to engage in trade rivalries?

The endogenous protection literature illustrates a situation that could escalate into such trade rivalries (Magee, Brock, and Young, 1989; Trefler, 1993; Grossman and Helpman, 1994; Maggi and Rodriguez-Clare, 1998; Goldberg and Maggi, 1999; Mitra, 1999; Eicher and Osang, 2002). As the post-war period progressed, states began to liberalize their trade policies within the confines of the GATT system. In turn, domestic industries formed interest groups that pressured states to minimize liberalization in their given field (Goldstein, 1998). Politicians that were receptive to such pressures supported these protectionist policies in return for campaign contributions for future elections. As time progressed, the international trade regime became more stringent in enforcing liberalization policies and, in fact, became more supportive of the idea of formalizing the organization that governs such change (the WTO). States began to receive downward pressure from the WTO to follow its rules and agreements more closely, or they could be and would be pursued by other states within the confines of the DSB. Thus, officeholders find themselves in the precarious position of wanting to please two constituencies: the international community at large as well as their domestic interest groups (Putnam, 1988).

It has already been established that states act strategically with regard to the complaints they file (Goldstein and Martin, 2000). In terms of this type of rivalry behaviour, states use international organizations to cloak their more aggressive actions towards states they deem economic rivals and are supported in this venture by domestic business and interest groups. The state adopts the façade of “rule stickler” towards states that are engaging in competitive trade. Domestic interest groups are happy because the government is acting as an enforcer within the legal boundaries of

the WTO to keep their rivals at bay. In fact, Keohane, Moravcsik, and Slaughter (2000: 32) describe interest groups in democracies as having almost complete access to their state's DSB proceedings: "industry lawyers ... participate quite closely in the preparation of the [DSB] suit." This filing will please those domestic interest groups that want to see the state act aggressively towards "cheating" states that may be deriving more benefit illegally within the trade liberalization regime. Second, other states within the WTO can respect this dispute behaviour for the same reason: that any state has the right to block rule bending by other states within the DSB. However, rivalry formation is being driven mainly by domestic industries and interest groups identifying their main competitors in a highly specialized industry and pressuring the state to treat these "rivals" as such, even within the constructs of a cooperative IGO.

Within this highly interdependent world, it has become more likely that domestic groups will strongly support the adoption of protective policies that will promote their specialized products in the ever-growing international market. Endogenous protection can be extended past classic remedies such as tariff increases in that domestic industries and interest groups will also pressure the government to file complaints against other states in the WTO to keep competition at bay. Because they view freer trade as detrimental to their success, these groups will want the government to ensure that they are able to maintain protected status. They will lobby the government to file disputes against states they identify as their industry rivals in order to protect their status within the domestic market as well as their access to third markets. As states make their decisions regarding which disputes to pursue at the DSB, they will consider if other states pose a threat to domestic industry. Therefore, the competitive context surrounding a dyad with similar products will allow for the development of these states being more susceptible to filing complaints against each other and evolving as trade rivals.

### **The Identification of Trade Rivalries**

**T**he most controversial issue in the literature is the actual identification of rivalries. There are a variety of theoretical approaches to understanding military rivalries. The one most closely related to the method I am using in this article is Thompson's (1995) concept of principal rivalries. Principal rivalries are based on the mutual self-identification of a state recognizing another state as its rival as well as the recognition of a mutually contentious issue, which remains important in the identification of strategic rivalries (Colaresi, Rasler, and Thompson, 2007). Vasquez (1993: 76) explains that some "issues are approached and ultimately defined not in terms of one's own value satisfaction, but in terms of what the gaining or loss of a

stake will mean to one's competitor." Therefore, within a rivalry, states are more concerned about their relative gains rather than the absolute gains within the system. Thompson used historical accounts as well as diplomatic materials to identify principal rivals. He stresses the importance of the situational milieu surrounding the rivalry. Contexts such as geography, dyadic power structure, and economic strength are considered when defining and identifying these types of rivals.

Thompson (1995: 196) describes the importance of understanding rivalries for the study of international relations in this manner:

The basic idea underlying an interest in rivalries is that a few pairs of states are disproportionately associated with the disputes and wars that constitute some of the more dramatic aspects of international relations .... The recurring nature of these dyadic conflicts creates behavioral sequences with retrospective and prospective features. In other words, a number of the conflicts in world politics have pasts and futures because their participants repetitively clash with the same opponents and, frequently, over similar issues.

A similar argument could be made about trade rivalries in the WTO. Considering the cooperative milieu surrounding the rules of membership governing such an organization, it is an interesting trend to observe that not only are the same two states filing reciprocal disputes, but also they are more often than not fighting over the same contentious issue. I believe this framework can be used to understand what motivates states that are committed to the goal of freer trade but are engaging in behaviour worthy of another state filing repeated complaints against them, not just once, but multiple times over a given time period.

I use two disputes to explore the formation of WTO trade rivalries using a technique similar to what Thompson (1995) used to study principal rivalries. This approach investigates the situational milieu surrounding the escalation of dyadic identification from "competitors" to "rivals." Specifically, I analyze the content of government interactions during these disputes through newspaper articles, looking for hostile language and the recognition of the other as a "rival." The EC-U.S. rivalry is focused on large-scale aircraft, where the Brazil-Canada rivalry revolves around commuter aircraft. In the global context of commercial airlines, these three states and the EU dominate production and sales. Due to their importance to national security as well as being competitive in the global commercial market, their respective home governments have consistently subsidized these aviation industries since the end of World War II. I explore the evolution and escalation of these rivalries in order to

illustrate that some states engage in supposed conflict resolution behaviour in order to protect their domestic goods in a global market with one main competitor.

### The Formation of Aviation Rivalries

While the EC is one of the United States' biggest trading partners (and vice versa), that does not imply that there is not some competition between them regarding their products in third-party markets. According to table 1, this dyad has filed a significantly high number of disputes on ten different product types but has only engaged in reciprocal filings (where both State A and State B have filed complaints against the other) regarding agriculture, aviation, and steel. Considering the EC's and United States' interdependence in each other's economies as well as others around the world, the extent of their rivalry is logical. The biggest global economies should be (and are) competitive with one another, even if such competition takes place on "friendly," non-military terms. However, the nonmilitary nature of their rivalries does not impede their diplomatic relationships from becoming heated.

**Table 1** EC/US Trade Rivalry: Dispute Cases by Topic, 1995-2010

Topic		
Agriculture	9	3
Aviation	3	2
Biotech equipment	1	0
Computer equipment	1	0
Copyright laws	2	0
Foreign sales corporations	0	1
Government procurement	0	1
Information technology	1	0
Steel	1	7
Textiles	0	2
General GATT/WTO rules/ domestic laws	1	15
<b>Total disputes</b>	<b>19</b>	<b>31</b>

Source: [http://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_status\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm)

While the United States and the EC have a history of resisting changes to their agriculture and steel tariff structures, their battle over aviation subsidies has been called the largest dispute in WTO history (Long, 2005). In the post 9/11 era, the U.S. *Estey Centre Journal of International Law and Trade Policy*

aviation sector suffered dramatically, and in order to assist with its revival, the United States not only provided a great amount of subsidies, but also began to examine the competition, namely Airbus, the largest and most profitable aircraft builder in the world. In 2004, the United States filed the first of two successive WTO complaints (DS 316 in 2004 and DS347 in 2006) against the EC and their provision of “launch aid” to Airbus. Launch aid includes low-cost, no-risk loans to business. Airbus was using these loans in order to build a plane that would rival Boeing’s new 787. The United States claimed that the EU launch aid was against WTO rules, giving Airbus an unfair advantage against global competition, specifically Boeing.

**Table 2** EC and US Aviation Rivalry Disputes, 1995-2010

Dispute number	Date	Complainant	Defendant
DS 316	10/6/2004	US	EC
DS 317	10/6/2004	EC	US
DS 347	1/31/2006	US	EC
DS 353	6/25/2005*	EC	US

\* This date is correct, although the numbering of the disputes implies that DS 353 was filed after DS 347.

Source: [http://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_status\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm)

The EC responded quickly by filing its own complaints (DS 317 in 2004 and DS 353 in 2005) against the United States for its preferential treatment of Boeing. The EU claimed that, while the United States did not offer Boeing any launch aid, they were subsidizing the company by providing free research and development support through the Department of Defense and NASA (Carney, 2005). Basically, the EU reciprocated these complaints in turn for the complaints against the Airbus subsidies.

For close to five years, mainly through the international press, the EC and the United States fought hard at portraying each other as being uncooperative and unwilling to negotiate a peaceful agreement. Peter Mandelson, the EU trade commissioner from 2004-2008, seemingly wanted to pursue a resolution to the aviation dispute, and complained to the International Herald Tribune that “taking cases to the WTO is ... not the appropriate way to deal with a dispute between two hugely successful companies” (in Bowley, 2005: 19). However, the EC proposal was to reduce, not eliminate, launch aid. Unhappy with this, the United States continued with its pursuit of a legal decision. In fact, the United States critiqued Mandelson’s prior comment that they were unwilling to negotiate an end to this dispute. Rich Mills, who was the spokesperson for the U.S. Trade Representative, defended the United

States by saying, “We’re [the US] extremely disappointed that they’ve [the EC] begun spinning to the press. This does not help our relations, or the management of the U.S.-EU relationship” (in Klinger and Duncan, 2005: 36).

The hostile language of government officials, the warnings of a deteriorating relationship, and the tit-for-tat dispute filings are all clear signs of a rivalry. Both sides recognized that their respective aviation companies were the top two in the world and that, in light of 9/11, the U.S. aviation industry was suffering more than it had in a decade. One strategy to give Boeing a stronger standing globally was to weaken Airbus, the current number one aviation producer. What the United States did not expect was for the EU to retaliate with its own complaint in order to protect its top spot. Currently, these disputes are considered to be ongoing by the WTO, although in March 2010 the WTO ruled on DS 316, close to five and a half years after its original filing. It agreed that EC launch aid was against WTO rules, and therefore, the EC was creating an unfair advantage for its aircraft over the Boeing. Similarly, a panel report for DS 353 was not circulated until late March 2011. The DSB panel supported some of the EU’s arguments against Boeing and rejected others. Both the EU and the United States plan to appeal those decisions, and the appeals will become protracted battles as well, considering the complexity of this case.

While the Airbus/Boeing rivalry involved the two most powerful aviation companies in the world, the tension surrounding the earlier disputes between commuter jet firms Bombardier (from Canada) and Embraer (from Brazil) matched, if not exceeded, the previous case. These two companies are the world’s main producers of commuter jets, as both China and Russia are currently trying to break into the market. The Bombardier/Embraer rivalry appeared in the WTO soon after its inception and continued on to be one of the most bitter fights ever fought in Geneva.

The central issue at stake in this rivalry is government subsidies. In 1996, Canada complained that Brazil was illegally subsidizing the sale of its Embraer jets through the ProEx interest rate (DS 46). This interest rate is much lower than the national interest rate in Brazil (which, at that time, was about 20 percent) and is subsidized by the government (Warwick, 1998; Hadekel, 2004). The issue with the ProEx program is that “it was a direct subsidy to the buyer of an Embraer jet .... [and] in judging subsidy cases, the WTO does not look at the cost to the government giving the subsidy, it looks at the benefit to the person on the receiving end” (Hadekel, 2004: 204 and 208). In 1997, Brazil accused Canada of giving Bombardier interest-free loans to launch a new 70-seat regional jet as well as giving purchasers low-interest loans through the federal Export Development Corporation (DS 70 and 71).

**Table 3** Brazil and Canada Aviation Rivalry Disputes, 1995-2010

<b>Dispute number</b>	<b>Date</b>	<b>Complainant</b>	<b>Defendant</b>
DS46	6/19/1996	Canada	Brazil
DS 70/71	3/10/1997	Brazil	Canada
DS 222	1/22/2001	Brazil	Canada

Source: [http://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_status\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm)

What makes this rivalry a bit different from the multi-sector EU-U.S. rivalry is that it has a strong tangible impact on the relationship between Brazil and Canada. In early 1998, while DS 46, 70, and 71 were still being reviewed by the DSB, Canada made a move to strengthen its trade ties to Brazil through a trade agreement with Mercosur. Canada sent an economic team to Brazil in January, headed by then-Prime Minister Jean Chretien, to secure stronger trade ties between the two countries. The Bombardier/Embraer disputes became the sticking point in these bilateral trade negotiations. A month earlier, Bombardier had blocked the inclusion of Embraer in an \$80 million NATO contract for training aircraft. Team Canada returned unsuccessful, being told that Brazil had to “pause for reflection” before moving forward with the bilateral and multilateral trade deals (MacDonald, 1998: E1). This was only the beginning of the deterioration of the trade relationship between these two states.

Throughout the first half of 1998, Canada and Brazil attempted to negotiate an end to this rivalry by proposing solutions to the various issues each had with the other’s government assistance. However, both Brazil and Canada continued to deny that the various types of government intervention were illegal in light of WTO rules, and even went so far as to deny that some of this government assistance was a subsidy. By July, talks had been cut off by the Canadian government, which accused Brazil and Embraer of influencing prospective Bombardier buyers by mudslinging (Leger and Morton, 1998).

In March 1999, the WTO decided that both Brazil and Canada were illegally subsidizing their respective aviation sectors. Canada quickly claimed victory, citing that ProEx had to be ended completely, while Canada’s system needed a bit of tweaking in order to fall in line with the WTO decision (*New York Times*, 1999). However, both Brazil and Canada appealed the WTO decisions. And while Canada was quick to illustrate the changes it made to its subsidy program in order to comply with the WTO decision, Brazil outright refused to adjust its ProEx loan scheme, as it felt it needed special treatment due to Brazil’s status as a developing country. In

response to Brazil's petulance, Canada appealed to the WTO for record-breaking penalties against their rival that would total over \$10 billion (Jack, 1999).

By late 1999, the economic rivalry carefully trod on the edge of a full-blown trade war. Brazil accused Canada of attempting to completely eliminate Embraer as a company. The Brazilian government chose to adopt this antagonistic manner rather than back down and appease Canada by paying out the penalties they demanded. In May 2000, Canada was granted permission by the WTO to use retaliatory methods against Brazil in order to push them towards adjusting or ending their illegal ProEx loans. Canada considered the imposition of tariffs of close to 100 percent on certain key Brazilian imports for close to seven years in order to recoup any losses it incurred due to Brazil's illegal subsidies, which would be close to \$700 million (Morton, 2000). Brazil went a step further in response to that move: in January 2001, it attempted to ban agricultural and chemical imports from Canada. Brazil was also granted permission from the WTO to impose sanctions against Canada when Brazil won DS 222 in December 2002. These hostile moves represent rivalry behaviour: not only were these two countries treading the path to a trade war, but retaliation was constantly escalating to the point where both sides risked immeasurable damage to their economies, where they could both end up as losers.

This animosity continued at high intensity levels for close to two years. While neither Brazil nor Canada imposed the legal WTO sanctions, they were in the position to cause close to \$3 billion in damages to each other's economies (Cordon, 2003). Encouraged by positive talks between their respective trade representatives at the World Economic Forum meeting the previous year, Canadian Prime Minister Paul Martin visited Brazil and, along with Brazilian president Luis Inacio Lula da Silva, ordered an end to the trade dispute in November 2004. While Brazil and Canada have moved away from their seemingly imminent trade war, they continue to be extremely vested in the current EC-U.S. dispute regarding launch aid.

## **Conclusion**

The cases examined in this article raise the question, are member states pursuing avenues for freer trade by filing complaints against other states that are breaking WTO rules, or are they pursuing a protectionist agenda under the guise of furthering cooperation? The cases reviewed in this article show that states are motivated by both strategies. In the case of both aviation rivalries, states are filing complaints against those that are conducting trade that goes against WTO rules. However, those same complainants are engaging in similarly unsavoury behaviour. For instance, while

Brazil's ProEx program was clearly illegal by WTO rules, Canada had already spent decades subsidizing Bombardier (MacDonald, 2001; Hadekel, 2004).

Knowing that states engage in behaviour that they know is not condoned by the various WTO agreements they have signed, it is not far-fetched to theorize that these same states try to bend trade rules in their favour by pursuing various trade rivalries within the same arena. Individual member states appear to watch over a few states that they deem to be trade rivals in the general sense (for instance, I expect to see similar rivalry behaviour between China and the United States in the coming years, as China joined the WTO in 2001) or those that engage in very specific rivalries in various sectors, such as those highlighted here. More often than not, they are receiving pressure from domestic industries and interest groups involved in the various economic sectors that are affected most by the bilateral trade competition. So, while a state is completely within its rights to file a complaint against a state that is acting outside of the WTO rules, the motivations for such an action have a substantial effect on international relations.

Similar to Thompson's explanation of his study of principal (militarized) rivals, this article emphasizes the milieu of rivalries within the rules of the WTO. Over the past 15 years, states have been encouraged to seek cooperative and legalistic avenues to solve their trade disputes. Once a decision is made by the DSB, a state is to adopt the decision and change its questionable policy or practice accordingly. However, with the accessibility of lengthy appeals and with states being unwilling to implement the sanctions allowed by the WTO, states will continue to engage each other in a type of passive aggressive manner: passive in that, unlike militarized rivalries, there is no actual materialization of their rivalry; aggressive, because not only does such behaviour minimize the effect of the WTO as a whole but also it has a large negative impact on bilateral trade and the diplomatic relationship of the disputing countries. If states continue to engage in this self-serving behaviour, the impact of the WTO on the goal of freer trade will diminish, as states will continue to be concerned with their own benefits derived from membership, risking the global economic benefits that can be gained by pursuing this shared goal.

## References

- Bhagwati, Jagdish. (1991) *The World Trading System at Risk*. Princeton: Princeton University Press.
- Bliss, Harry, and Bruce Russett. (1998) Democratic Trading Partners: The Liberal Connection, 1962-1989. *Journal of Politics* 60(4): 1126-1147.
- Bowley, Graham. (2005) EU Offers Olive Branch to US on Trade. *The International Herald Tribune* 20 May.
- Bown, Chad P. (2005) Participation in WTO Dispute Settlement: Complainants, Interested Parties and Free Riders. *World Bank Economic Review* 19(2): 287-310.
- Bown, Chad P. (2009) *Self-Enforcing Trade: Developing Countries and WTO Dispute Settlement*. Washington, DC: Brookings Institution Press.
- Busch, Marc L., Eric Reinhardt, and Gregory Shaffer. (2009) Does Legal Capacity Matter? A Survey of WTO Members. *World Trade Review* 8(4): 559-577.
- Carney, Timothy. (2005) Subsidy Queens: The Boeing vs. Airbus Financing Dispute. *National Post* 15 July.
- Colaresi, Michael P., Karen Rasler, and William R. Thompson. (2007) *Strategic Rivalries in World Politics: Position, Space, and Conflict Escalation*. Cambridge: Cambridge University Press.
- Conybeare, John. (1987) *Trade Wars*. New York: Columbia University Press.
- Cordon, Sandra. (2003). Bombardier Nets \$1.2B in Loan Assistance. Canadian Press, 24 July.
- Diehl, Paul F., and Gary Goertz. (2000) *War and Peace in International Rivalry*. Ann Arbor: University of Michigan Press.
- Eicher, Theo, and Thomas Osang. (2002) Protection for Sale: An Empirical Investigation Comment. *The American Economic Review* 92(5): 1702-1710.
- Goldberg, Pinelopi K., and Giovanni Maggi. (1999) Protection for Sale: An Empirical Investigation. *The American Economic Review* 89(5): 1135-1155.
- Goldstein, Judith. (1998) International Institutions and Domestic Politics: GATT, WTO, and the Liberalization of International Trade. In *The WTO as an International Organization*, ed. A. O. Krueger. Chicago: University of Chicago Press.
- Goldstein, Judith, and Lisa L. Martin. (2000) Legalization, Trade Liberalization, and Domestic Politics: A Cautionary Note. *International Organization* 54(3): 603-632.
- Gowa, Joanne, and Edward D. Mansfield. Power Politics and International Trade. *American Political Science Review* 87(2): 408-420.
- Grossman, Gene M., and Elhanan Helpman. (1994) Protection for Sale. *The American Economic Review* 84(4): 833-850.

- Hadekel, Peter. (2004) *Silent Partners: Taxpayers and the Bankrolling of Bombardier*. Toronto: Key Porter Books.
- Hafner-Burton, Emilie, and Alexander Montgomery. (2006) Power Positions: International Organizations, Social Networks, and Conflict. *Journal of Conflict Resolution* 50(1): 3-27.
- Hansen, Holly, Sara M. Mitchell, and Stephen C. Nemeth. (2008) IO Mediation of Interstate Conflicts: Moving Beyond the Global vs. Regional Dichotomy. *Journal of Conflict Resolution* 52(2): 295-325.
- Hensel, Paul R. (1996) *The Evolution of Interstate Rivalry*. PhD dissertation, University of Illinois, Urbana-Champaign.
- Jack, Ian. (1999) Ottawa to Seek \$10B Trade Retaliation. *National Post* 23 November: C1.
- Keohane, Robert O., Andrew Moravcsik, and Anne-Marie Slaughter. (2000) Legalized Dispute Resolution: Interstate and Transnational. *International Organization* 54(3): 457-488.
- Keohane, Robert O., and Joseph S. Nye. (1977) *Power and Interdependence*. New York: Longman.
- Klinger, Peter, and Gary Duncan. (2005) Aircraft Spat Intensifies as US Takes Its Case Back to WTO. *The London Times* 31 May: 36.
- Kono, Daniel Y. (2007) Making Anarchy Work: International Legal Institutions and Trade Cooperation. *Journal of Politics* 69(3): 746-759.
- Koremenos, Barbara, Charles Lipson, and Duncan Snidal. (2001). The Rational Design of International Institutions. *International Organization* 55(4): 761-800.
- Kucik, Jeffrey, and Eric Reinhardt. (2008) Does Flexibility Promote Cooperation? An Application to the Global Trade Regime. *International Organization* 62(3): 477-505.
- Lacarte-Muro, Julio and Petina Gappah. 2000. Developing Countries and the WTO Legal and Dispute Settlement System: A View from the Bench. *Journal of International Economic Law*: 395-401.
- Leger, Kathryn, and Peter Morton. (1998) Ottawa, Bombardier Blast Report Fallout. *The Financial Post* 27 May: 1.
- Levy, Jack S., and Patricia T. Young. (2008) Domestic Politics and the Escalation of Commercial Rivalry: Explaining the War of Jenkins' Ear, 1739-48. Working Paper 8. New York: Saltzman.
- Limbago, Andrea L. (2006) Economic Rivalry in the Current Era of Globalization. Paper presented at the annual meeting of the American Political Science Association, Philadelphia, PA.
- Long, Heather. (2005) Trade War Fear as WTO Investigates Airbus and Boeing Subsidies. *The Guardian* (London) 21 July: 20.

- MacDonald, Don. (1998) Aircraft-makers' Fight Spoils Mercosur Pact. *The Gazette* (Montreal) 16 January: E1.
- MacDonald, Larry. (2001) *The Bombardier Story: Planes, Trains, and Snowmobiles*. Toronto: John Wiley and Sons.
- Magee, Stephen P., William A. Brock, and Leslie Young. (1989) *Black Hole Tariffs and Endogenous Policy Theory: Political Economy in General Equilibrium*. Cambridge: Cambridge University Press.
- Maggi, Giovanni, and Andres Rodriguez-Clare. (1998) The Value of Trade Agreements in the Presence of Political Pressures. *The Journal of Political Economy* 106(3): 574-601.
- Mitra, Devashish. (1999) Endogenous Lobby Formation and Endogenous Protection: A Long-Run Model of Trade Policy Determination. *The American Economic Review* 89(5): 1116-1134.
- Morton, Peter. (2000) Canada Free to Retaliate Against Brazil. *National Post* 3 May: C6.
- Most, Benjamin A., and Harvey Starr. (1989) *Inquiry, Logic, and International Politics*. Columbia, SC: University of South Carolina Press.
- New York Times*. (1999) Trade Body Calls Aerospace Subsidy Unfair. 13 March: C2.
- Pelc, Krzysztof J. (2009) Seeking Escape: The Use of Escape Clauses in International Trade Agreements. *International Studies Quarterly* 53: 349-368.
- Putnam, Robert D. (1988) Diplomacy and Domestic Politics: The Logic of Two-Level Games. *International Organization* 42: 427-460.
- Reinhardt, Eric. (2000) Aggressive Multilateralism: The Determinants of GATT/WTO Dispute Initiation, 1948-1998. Unpublished manuscript, Emory University, Atlanta, GA.
- Shaffer, Gregory C. 2006. The Challenges of WTO Law: Strategies for Developing Country Adaptation. *World Trade Review* 5(2): 177-198.
- Simmons, Beth, and Andrew Guzman. (2005) Power Plays and Capacity Restraints: the Selection of Defendants in WTO Disputes. *Journal of Legal Studies* 34(2): 557-98.
- Thompson, William R. (1995) Principal Rivalries. *Journal of Conflict Resolution* 39(2): 195-223.
- Thompson, William R. (2006) Transitional Challenges and Economic Rivalry. Prepared for presentation to the annual meeting of the American Political Science Association, Philadelphia, PA.
- Trefler, Daniel. (1993) Trade Liberalization and the Theory of Endogenous Protection: An Econometric Study of US Import Policy. *The Journal of Political Economy* 101(1): 138-160.
- Valeriano, Brandon. (2003). Steps to Rivalry: Power Politics and Rivalry Formation. PhD dissertation, Vanderbilt University.

- Vasquez, John A. (1993) *The War Puzzle*. Cambridge: Cambridge University Press.
- Waltz, Kenneth J. (1979) *Theory of International Politics*. New York: McGraw-Hill.
- Warwick, Graham. (1998). Regional Brinkmanship. *Flight International* 4 February.
- World Trade Organization. (2011) Chronological List of Dispute Cases.  
[http://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_status\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm)
- Zangl, Bernhard. (2008) Judicialization Matters! A Comparison of Dispute Settlement under GATT and the WTO. *International Studies Quarterly* 52: 825-854.