

International Trade Group Of The Year: WilmerHale

By Kaitlyn Burton

Law360 (January 23, 2020, 3:38 PM EST) -- WilmerHale shepherded a big win this past year for Boeing in a long-running dispute over aircraft subsidies by helping to secure the largest-ever World Trade Organization arbitration award, earning the firm a spot among Law360's 2019 International Trade Groups of the Year.

The firm's trade group sets itself apart by being one of the few such groups worldwide with a practice covering every aspect of international trade, including export control and sanctions, domestic trade litigation in the U.S. and other countries, trade policy and WTO litigation, according to Naboth van den Broek, co-chair of WilmerHale's international group.

"There are very few places that are really at the top of the market in all of those," he said.

The trade group, which has about two dozen attorneys — not including the firm's committee on foreign investment in the United States located primarily in Washington, D.C., and Brussels — also takes a strategic approach to its work, firm leaders said.

"Rather than just litigating or just giving advice, a lot of the work we do is much more complex in nature," van den Broek said. "It requires working with other practice groups, requires a really global strategic view, as well."

In a standout moment this past year, the firm scored a victory for long-time client Boeing in October when a WTO arbitrator authorized duties on \$7.5 billion worth of European Union goods. The green light came after a number of WTO panels had previously ruled that the EU illegally subsidized Airbus.

Notably, the award is the largest arbitration award in WTO history.

"Until this point, the largest was around \$4 billion," van den Broek said. "That case, which is well over a decade ago now, that was for many, many years the largest trade award ever. This is almost double that size, and really for that reason alone, a very, very significant outcome."

Following the WTO's authorization, the Trump administration **imposed the tariffs** on a range of EU



goods, including European aircraft and items like cheese, whiskey and apparel.

The EU, which has launched a parallel case against U.S. subsidies to Boeing, is also awaiting authorization from the WTO to impose its own tariffs.

Both aircraft disputes stretch back more than 15 years.

"[The case] has been around for 15 years now," van den Broek said. "It's really been the most prominent case at the World Trade Organization for that entire period, and the fact that it now finally got to this ultimate stage and that there was this big victory for the U.S. and for Boeing is very significant."

In another notable WTO case, WilmerHale represented a WTO member, though firm leaders declined to name the country, in a dispute brought by Japan and the EU over tax breaks that Brazil gave its domestic producers.

The WTO's Appellate Body issued a report in December 2018 finding that tax breaks Brazil provided to its automotive, electronics and technology producers discriminated against foreign producers, and called on Brazil to change its laws or face retaliation.

The WTO adopted the report in January 2019.

Van den Broek said that following the report, the Brazilian government, under President Jair Bolsonaro, began taking steps to change its laws to come into compliance with the report.

"That's been another real success for our client," he said.

Also this past year, the firm has helped a U.S. trade association fight France's digital service tax, which was signed into law in July, the firm said.

WilmerHale has counseled the trade group on how to navigate a Section 301 investigation the Office of the United States Trade Representative launched into the tax and helped prepare submissions to the USTR as part of the investigation, according to the firm.

David Ross, a partner at the firm, said that they have been following the matter since the start.

"This is an issue that really first started to appear on the radar at the EU level probably now about two and half years ago," he said. "We've been following the issue all along and advising all along, and working with our client to try to have this issue on USTR's radar, on [the U.S. Department of the Treasury's] radar, and then to work with them to try to find a solution."

--Additional reporting from Alex Lawson. Editing by Nicole Bleier.