

**20<sup>th</sup> JUDICIAL CONFERENCE  
OF THE  
UNITED STATES COURT OF INTERNATIONAL TRADE**

**November 18, 2019**

**The Mayflower Hotel  
Washington, DC**

**\* \* \* \* \***

**P R O G R A M**

***THE UNITED STATES  
COURT OF INTERNATIONAL TRADE AT 40:  
TRADE AND CUSTOMS LAW IN CHANGING TIMES***

8:00 a.m.

**BREAKFAST**

8:30 a.m.

**CONFERENCE OPENING REMARKS**

*Mario Toscano, Clerk of the Court*  
U.S. Court of International Trade

**WELCOME AND INTRODUCTION OF NEW JUDGE**

Chief Judge Timothy C. Stanceu  
U.S. Court of International Trade

9:00 a.m.

**MORNING PLENARY SESSIONS**

**PRIORITIES AND PERSPECTIVES FROM REVIEWED AGENCY LEADERSHIP**

Panelists: David S. Johanson, *Chairman*, U.S. International Trade Commission

Jeffrey I. Kessler, *Assistant Secretary of Commerce for Enforcement and Compliance*, U.S. Department of Commerce

Brenda B. Smith, *Executive Assistant Commissioner*, Office of Trade, U.S. Customs and Border Protection

*Description: Leaders from agencies reviewed by the Court will address current priorities related to their agency missions and offer their perspectives on the trade and customs laws that they administer.*

9:30 a.m.

**THE COLLATERAL EFFECTS OF SPECIAL TARIFFS ON TRADITIONAL TRADE AND CUSTOMS ISSUES**

Moderator: Kathleen W. Cannon, *Partner*, Kelley Drye & Warren LLP

Panelists: Elizabeth J. Drake, *Partner*, Schagrin Associates

Ambassador Jeffrey D. Gerrish, *Deputy United States Trade Representative*, Office of the United States Trade Representative

Deanna Tanner Okun, *Partner*, Adduci, Mastriani & Schaumberg LLP

Michael S. O'Rourke, *Of Counsel*, Sandler, Travis & Rosenberg

*Description: This panel will focus on legal issues arising from the imposition of Section 232/301 or other special tariffs on: the injury analysis in original investigations and sunset reviews, antidumping/countervailing duty calculations, customs issues such as classification and country of origin. The panelists will also discuss the effects of judicial decisions related to special tariffs.*

10:45 a.m.

**BREAK**

11:00 a.m.

**MORNING BREAK OUT SESSIONS**

**NAVIGATING RULES OF ORIGIN IN THE NEW TRADE ENVIRONMENT**

Moderator: Michael E. Roll, *Partner*, Roll & Harris LLP

Panelists: Monika Brenner, *Chief, Valuation and Special Programs Branch, Regulations & Rulings*, Office of Trade, U.S. Customs and Border Protection

Jason M. Kenner, *Trial Attorney*, U.S. Department of Justice

Jeremy Page, *Member*, Page-Fura PC

Jeffrey Whalen, *Senior Counsel*, Customs & International Trade, NIKE, Inc.

*Description: What is the origin of a good for “rate of duty” purposes? Origin determinations are not necessarily as simple as looking for changes in name, character, or use. At the same time, the stakes in origin questions have rarely been higher. This panel will examine the evolution of “substantial transformation” and how that test relates to other rules of origin for purposes of determining the “rate of duty” for imported goods.*

**SCOPE: ENDGAME**

Moderator: Courtney S. McNamara, *Attorney Advisor*, Office of the General Counsel, U.S. International Trade Commission

Panelists: Scott D. McBride, *Assistant Chief Counsel* for Trade Enforcement and Compliance, U.S. Department of Commerce

Matthew R. Nicely, *Partner*, Hughes Hubbard & Reed LLP

Lisa W. Wang, *Partner*, Picard Kentz & Rowe LLP

*Description: Defining the scope in antidumping and countervailing duty investigations is a critical first step that shapes the proceedings before the Department of Commerce and the International Trade Commission. Agency representatives as well as petitioners’ and respondents’ counsel will explore new developments in Commerce practice as well as discuss how the scope of the investigation affects the ITC’s investigations, particularly with respect to the ITC’s definition of the domestic like product. The panel will also discuss anti-circumvention/evasion developments and important judicial opinions on these topics.*

12:15 p.m.

**PRE-LUNCH RECEPTION**

12:45 p.m.

**LUNCHEON**

**UPDATE FROM THE ADVISORY COMMITTEE**

Nancy A. Noonan  
*Chair, Advisory Committee*  
*Partner, Arent Fox LLP*

**KEYNOTE SPEAKERS**

*Trade Talks* Podcast Co-Hosts:

Soumaya Keynes  
US Economics Editor for *The Economist*  
and  
Chad P. Bown  
Reginald Jones Senior Fellow at the  
Peterson Institute for International Economics

2:30 p.m.

**AFTERNOON BREAK OUT SESSIONS**

**PUTTING THE (i) IN CIT: THE CONTOURS OF THE COURT'S RESIDUAL JURISDICTION**

Moderator: Joshua E. Kurland, *Trial Attorney*, Civil Division, Commercial Litigation Branch, U.S. Department of Justice

Panelists: Daniel J. Calhoun, *Assistant Chief Counsel*, Office of the Chief Counsel for Trade Enforcement & Compliance, U.S. Department of Commerce

Patricia M. McCarthy, *Assistant Director*, Civil Division, Commercial Litigation Branch, U.S. Department of Justice

Russell A. Semmel, *Attorney*, Arent Fox LLP

Maureen E. Thorson, *Partner*, Wiley Rein LLP

*Description: Cases brought under the CIT's residual Section 1581(i) jurisdiction (as well as other less-commonly invoked jurisdictional provisions) present unique issues, while also including some of the most significant matters before the Court. This panel will explore and analyze these issues, ranging from the scope of review, to the available remedies, to discovery and proper procedure, to the diversity of claims that may arise in residual jurisdiction cases.*

## **CBP'S ENFORCEMENT EFFORTS IN COLLABORATION WITH OTHER AGENCIES**

Moderator: Lawrence M. Friedman, *Partner*, Barnes, Richardson & Colburn LLP

Panelists: Adam M. Blank, *Senior Attorney*, Enforcement and Operations, Office of Chief Counsel, U.S. Customs and Border Protection

James G. Hurst, *Partner*, Givens & Johnston PLLC

Alexandra (Sasha) Khrebtukova, *Attorney – Trade & Finance*,  
Office of Chief Counsel, U.S. Customs and Border Protection

Jeffrey M. Telep, *Partner*, King & Spalding LLP

Stephen C. Tosini, *Senior Trial Counsel*, U.S. Department of Justice  
Civil Division, Commercial Litigation Branch

*Description: The panel will address enforcement actions that involve U.S. Customs and Border Protection and another agency with the goal of illustrating how the agencies work together and how the involvement of another agency affects the matter for private counsel. Specifically, two actions, both cases involving environmental issues, will be discussed to illustrate the coordination among agencies. The first case is the Andritz Sundwig GmbH matter, which involved a U.S. Department of Agriculture Animal and Plant Health Inspection Service ("APHIS") Emergency Action Notification relating to the Plant Protection Act and raised CIT jurisdiction issues when the importer sought injunctive relief to prevent the emergency exportation of machinery in wood packaging. The other action that will be addressed is the Volkswagen Settlement, which related to the Clean Air Act and diesel emissions. That case involved the U.S. Environmental Protection Agency and CBP and resulted in the resolution of civil fraud claims relating to the importation of affected vehicles. Counsel will also discuss CBP/U.S. Department of Justice coordination with other agencies pertaining to enforcement and settlement.*

3:45 p.m.

**BREAK**

4:00 p.m.

### **AFTERNOON PLENARY SESSION**

#### **MEDIATION**

Moderator: Mario Toscano, *Clerk of the Court*, U.S. Court of International Trade

Panelists: Senior Judge Leo M. Gordon, U.S. Court of International Trade

Justin R. Miller, *Attorney-In-Charge*, International Trade Field  
Office, U.S. Department of Justice

John M. Peterson, *Partner*, Neville Peterson LLP

## **VIEWS FROM THE BENCH ON ADVOCACY**

Moderator: Alice A. Kipel, *Executive Director*, Regulations & Rulings, Office of Trade, U.S. Customs and Border Protection

Panel of Judges from the United States Court of International Trade

5:30 p.m.

### **CLOSING REMARKS**

Chief Judge Timothy C. Stanceu  
U.S. Court of International Trade

### **POST-CONFERENCE RECEPTION**

**UNITED STATES COURT OF INTERNATIONAL TRADE  
20TH JUDICIAL CONFERENCE PLANNING COMMITTEE**

Committee Chair:

Alice A. Kipel, *Executive Director*, Regulations & Rulings,  
Office of Trade, U.S. Customs and Border Protection

Committee Members:

Timothy C. Brightbill, *Partner*, Wiley Rein LLP

Kathleen W. Cannon, *Partner*, Kelley Drye & Warren LLP

Steve Charnovitz, *Associate Professor of Law* at The George  
Washington University Law School

Lawrence M. Friedman, *Partner*, Barnes, Richardson & Colburn LLP

Robert Heilferty, *Chief Counsel for Trade Enforcement &  
Compliance*, U.S. Department of Commerce

Joshua E. Kurland, *Trial Attorney*, Civil Division, Commercial  
Litigation Branch, U.S. Department of Justice

Courtney S. McNamara, *Attorney Advisor*, Office of the General  
Counsel, U.S. International Trade Commission

Nithya Nagarajan, *Partner*, Husch Blackwell

Nancy A. Noonan, *Partner*, Arent Fox LLP

Michael S. O'Rourke, *Of Counsel*, Sandler, Travis & Rosenberg

J. David Park, *Partner*, Arnold & Porter Kaye Scholer LLP

John M. Peterson, *Partner*, Neville Peterson LLP

Michael E. Roll, *Partner*, Roll & Harris LLP

*United States Court of International Trade:*

Mario Toscano, *Clerk of the Court*

Gus Coritsidis, *Legal Advisor*

Elizabeth Cognata, *Executive Assistant*

Judge Gary S. Katzmann