



35TH ANNIVERSARY

# International Trade Update

FEBRUARY 27–28, 2014

GEORGETOWN UNIVERSITY LAW CENTER, WASHINGTON, DC  
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# AGENDA

## Update Summary

The 2014 International Trade Update will provide you with practical, timely, and critical information, whether you are a government lawyer, a private practitioner, or in-house counsel.

Our Advisory Board has created a new agenda, relying on evaluation data submitted by prior attendees and on guidance from top trade and customs lawyers. Our goal is to give you the most up-to-date knowledge you need in order to perform your job most effectively. As always, you will benefit from wisdom offered by senior government officials from the U.S. Department of Justice, the U.S. Department of Commerce, U.S. Customs and Border Protection, well-respected members of the trade and customs bars, and corporate counsel experts on trade and customs problems.

This year, you will benefit from a special roundtable of policy makers from antidumping authorities from around the world, and a dialogue between judges of the U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit. Our panels of experts will review the past year's developments, analyzing lessons learned and pitfalls avoided. They will predict what lies ahead in 2014 and how you can best prepare your clients, whether they are internal or external. To ensure that the program fits your needs, you can choose from concurrent workshops on customs and trade law subjects, allowing you to create your own educational experience. You will also benefit from new plenary sessions addressing subjects that are particularly relevant in 2014 and useful for your practice.

## Thursday, February 27

**8:15–8:45 am**

**Registration and Continental Breakfast**

**Sponsored by Covington & Burling LLP**

**8:45–9:00 am**

**Welcome and Overview**

**Lawrence J. Center, Assistant Dean,  
Georgetown Law**

**9:00–9:45 am**

**Keynote Presentation:**

**Perspectives on the Past and Future  
of the World Trading System**

**A Conversation with Professor  
John H. Jackson**

**Speaker**

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Professor John H. Jackson, Georgetown Law

**Discussant**

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Grant Aldonas, Principal Managing Director,  
Split Rock International, Inc.

**9:45–10:45 am**

**Customs Enforcement—  
or  
Nonenforcement—of Intellectual  
Property Rights at the Border**

Experts from CBP, the U.S. International Trade Commission, and intellectual property rights owners will examine the current and future state of CBP enforcement of IPR at the border, exploring (1) the U.S. Court of International Trade's decision in *Corning Gilbert v. United States*; (2) the *Microsoft v. United States* litigation challenging CBP's IPR enforcement; and (3) the policy debate initiated in 2013 concerning the relative roles of CBP and the ITC in enforcement of Section 337 exclusion orders.

**Moderator**

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Jeffrey M. Telep, King & Spalding

**Panelists**

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R. Brian Burke, Rode & Qualey

Richard F. DiNucci, Deputy Assistant Commissioner, U.S. Customs and Border Protection

Alexander Niejelow, Chief of Staff, U.S. Intellectual Property Enforcement (Invited)

Dean A. Pinkert, Commissioner, U.S. International Trade Commission

**10:45–11:00 am**

**Networking Break**

Sponsored by Mayer Brown LLP

**11:00 am–12:30 pm**

**Emerging Trade Remedy Issues Around the World**

Join us for an exceptional session, led by Jan Woznowski, former director of the WTO's Rules Division, as leading policy makers in the trade remedy authorities of Australia, Brazil, Canada, the EU, and the United States discuss their successes and frustrations in implementing trade remedies, recent domestic legal and regulatory developments, WTO cases and initiatives, nonmarket and transitional economies, and other key issues facing trade remedy authorities in 2014 and the years to come.

**Moderator**

Jan Woznowski, Former Director, Rules Division, GATT and WTO Secretariats

**Panelists**

Serge Fréchette, Vice-Chairperson, Canadian International Trade Tribunal

Felipe Hees, Director, Departamento de Defesa Comercial (DECOM)

Paul Piquado, Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce

Dale Seymour, Commissioner, Antidumping Commission

Gerhard Hannes Welge, Adviser, DG Trade – Trade Defence, European Commission

**12:30–1:30 pm**

**Lunch (on your own)**

**1:30–3:30 pm**

**The Ethical Three C's Can Be a Breeze: Candor, Conflicts, and Confidentiality**

Whether it's the challenge of being truthful when answering official questionnaires, the duty to keep client information confidential, or evaluating conflicts and understanding the differences for government lawyers, the three C's of Candor, Conflicts, and Confidentiality are all critical ethics topics facing international trade lawyers today. Learn the Fab 5 of Attorney Lies (Rule 8.1, 3.3, 4.1, 7.1, and 8.4). Gain an understanding of the conflicts rules, including 1.7 and 1.9, and explore how far we must go in protecting the confidentiality of client communications. Join Stuart Teicher as he explains how these key concepts rear their head in the international trade practice.

**Speaker**

Stuart I. Teicher, Law Offices of Stuart I. Teicher, Esq.

**3:30–3:45 pm**

**Networking Break**

Sidley Austin LLP

**3:45–5:00 pm**

**Judicial Discussion**

Participate in a discussion with the Chief Judges of the U.S. Court of Appeals for the Federal Circuit and the U.S. Court of International Trade, and two recently appointed judges of those courts, as they discuss expectations, reality, frustrations, and lessons learned in presiding over trade and customs cases in their respective courts and in interacting with each other.

**Moderator**

Jeanne Davidson, U.S. Department of Justice

**Speakers**

Hon. Claire R. Kelly, U.S. Court of International Trade

Hon. Donald C. Pogue, Chief Judge, U.S. Court of International Trade

Hon. Randall R. Rader, Chief Judge, U.S. Court of Appeals for the Federal Circuit (Invited)

Hon. Evan Wallach, Judge, U.S. Court of Appeals for the Federal Circuit

**5:00–6:00 pm**

**Networking Cocktail Reception**

Sponsored by Kelley, Drye & Warren, LLP

## Friday, February 28

**8:00–8:30 am**

**Continental Breakfast**

Sponsored by Wiley Rein

**8:30–10:00 am**

**What Customs and Trade Lawyers Need to Know about FCPA Compliance and Investigations: Risk Reduction, Practice Tips, and Traps for the Unwary**

In an era of increasing anticorruption initiatives around the world, our panel of experts will discuss how to incorporate anticorruption best practices into companies' global compliance programs. Panelists will address strategies for managing risks inherent in doing business abroad, particularly in emerging markets where growth is highest but corruption risks are significant. They will also address challenges commonly faced by international traders, customs brokers, freight forwarders, transportation companies, and other supply-chain participants. Topics will include the Foreign Corrupt Practices Act ("FCPA"); the DOJ and SEC Resource Guide, and the UK Bribery Act; FCPA investigations involving improper payments to customs officials; the future of the FCPA facilitation payment exception; and due diligence in the M&A context.

**Moderator**

Evelyn Suarez, Williams Mullen

**Panelists**

Kara Brockmeyer, Chief, Division of Enforcement, U.S. Securities and Exchange Commission (Invited)

Charles E. Duross, Deputy Chief, U.S. Department of Justice (Invited)

Frances McLeod, President and Founding Principal, Forensic Risk Alliance

Susan Ringler, Vice President and Chief Ethics and Compliance Officer, Alcoa Inc. (Invited)

Alexandra Wrage, President, TRACE International

**10:00–10:15 am**

**Networking Break**

Sponsored by Akin Gump, LLP

## About the Federal Circuit Bar Association

The Federal Circuit Bar Association is a national organization for the bar of the Court of Appeals for the Federal Circuit. Leadership of the Association comes from all areas of the country and represents all areas of the legal community of the Federal Circuit. The Association was organized to unite the different groups who practice within the legal community of the Federal Circuit. It seeks to strengthen and serve the Court through its Committees. The Association offers a forum for common concerns and dialogue between bar and court, government counsel and private practitioner, litigator, and corporate counsel.

# About the Customs and International Trade Bar Association

The Customs and International Trade Bar Association (CITBA) was founded in 1917 and incorporated in 1926. Its members are attorneys who are interested in the fields of customs law, international trade law, and related matters.

## WORKSHOP SESSIONS

**10:15–11:30 am**

### Customs I:

#### Year in Review in Customs

Seasoned experts from CBP and the private bar review notable events in customs practice during the last year.

#### Moderator

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

#### Panelists

Justin Miller, U.S. Department of Justice

Theresa M. Polino, Thompson Coburn LLP

Glen Vereb, Director, Border Security & Trade Compliance Division, U.S. Customs & Border Protection

### Trade I:

#### Helping Clients Overcome Market Access Problems

Trade and investment agreements provide legal frameworks for businesses to make decisions on where to invest, import and export, and how to respond to threats to market access. They also provide leverage and arguments for lawyers to help clients address tax, customs, standards and regulatory restrictions, failure to enforce IP rules, and other measures that impede the ability to market goods and services abroad. Our group of experts will provide tips and discuss best practices for identifying and resolving market access problems, including engaging with governments and the EU Commission, WTO options (dispute settlement and negotiations), and advocacy based on FTAs or bilateral investment treaties.

#### Moderator

David S. Christy Jr., Perkins Coie LLP

#### Panelists

Marinn Carlson, Sidley Austin

Ralph Ives, Executive Vice President, Advanced Medical Technology Association

Matthew R. Nicely, Hughes Hubbard & Reed LLP

Claire Reade, Assistant U.S. Trade Representative for China Affairs, Office of the U.S. Trade Representative

**11:30 am–12:00 pm**

#### Boxed Lunch Distribution

Sponsored by White & Case LLP

**12:00–12:40 pm**

#### Luncheon Address: A Conversation with Jan Woznowski on Trade Law, WTO Litigation, and the Future of Trade Remedies

As the longtime Director of the Rules Division in the GATT and WTO secretariats, Jan Woznowski had a ringside seat at the WTO and GATT negotiations on antidumping, subsidies and safeguards rules – and a unique window on the panel process for trade remedy disputes. Join us as he shares his insights on the future of negotiations in the WTO, in particular on trade remedy rules, and the WTO Appellate Body's jurisprudence in trade remedy disputes.

#### Speaker

Jan Woznowski, Former Director, Rules Division, GATT and WTO Secretariats

#### Discussant

Paul C. Rosenthal, Kelley Drye & Warren LLP

**12:45–2:00 pm**

### Customs II:

#### Valuation of Intangibles

In today's complex world of international trade, one area of increased interest and potential liability lies just below the surface in the valuation of intangibles. These can take many forms, including accounting for the payment of trademarks and royalties, licensing fees, and other indirect payments such as those associated with a myriad of agreements related to the importation of products. Recent rulings issued in the United States and by agencies abroad make for interesting planning opportunities and also create potential pitfalls. The panelists will address these from perspectives gleaned both within CBP and from private practice.

#### Moderator

William D. Outman II, Baker & McKenzie LLP

#### Panelists

Yuliya Gulis, U.S. Customs and Border Protection

William M. Methenitis, Global Director of Customs & International Trade, Ernst & Young

Damon V. Pike, President, The Pike Law Firm, P.C.

### Trade II:

#### Year in Review in Trade Remedies Law

Leading practitioners and agency staff will review the leading events and most relevant

cases of the past year, including: U.S. Department of Commerce's (DOC) change in methodology for analyzing targeted dumping, as announced in Xanthan Gum from China; DOC's new approach to analyzing counter-vailable subsidies, as seen in the seven-country shrimp case; and developments in antidumping administration.

#### Moderator

Valerie A. Slater, Akin Gump Strauss Hauer & Feld LLP

#### Panelists

Timothy C. Brightbill, Wiley Rein LLP

Meredith Broadbent, Commissioner, U.S. International Trade Commission (Invited)

James Durling, Curtis, Mallet-Prevost, Colt & Mosle LLP

Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, U.S. Department of Commerce

**2:00–2:15 pm**

#### Networking Break

Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP

**2:15–3:30 pm**

### Customs III:

#### Rules of Origin and FTAs

The Trans-Pacific Partnership Agreement – with its wide participation and global reach – will open markets for TPP exports, but bring procedures to certify compliance with the TPP rules of origin. How can TPP governments verify origin, but avoid raising compliance costs so that exporters, importers, and producers can afford to utilize TPP duty rates? Rules of origin will also be an issue in the ongoing EU-U.S. free-trade talks, where the two partners' existing FTAs sometimes have conflicting approaches to origin procedures. Our panel will discuss the outlook for origin enforcement; similarities and differences between rules of origin and origin procedures in the U.S. and other current and potential FTA partners; and best practices for compliance.

## To better serve you

All course materials will be provided to you by email prior to the program. Downloadable course materials are easily transportable, environmentally friendly, and tablet friendly.

# Advisory Board

## Program Co-Chairs

**Michael S. O'Rourke**, Rode & Qualey, New York, NY

**Amelia Porges**, Law Offices of Amelia Porges PLLC, Washington, DC

**Paul C. Rosenthal**, Kelley Drye & Warren LLP, Washington, DC

## Keynote Speaker

**Professor John H. Jackson**, Georgetown Law

## Luncheon Speaker

**Jan Woznowski**, Former Director, Rules Division, GATT and WTO Secretariats

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**David S. Christy Jr.**, Perkins Coie LLP, Washington, DC

**Peggy A. Clarke**, Law Offices of Peggy A. Clarke, Washington, DC

## Moderator

Jay L. Eizenstat, McDermott Will & Emery

## Panelists

Jason Bernstein, Director of Customs Affairs, Office of the U.S. Trade Representative

Myles Harmon, Director, Commercial & Trade Facilitation Division, U.S. Customs and Border Protection

Gilbert Lee Sandler, Founding Member, Sandler, Travis & Rosenberg, PA.

Margaret Solinger, Corporate Counsel, Dupont

## Trade III:

### Circumvention of AD/CVD Orders—What Is and What Is Not Circumvention, and Enforcement Against It

With the recent increase in concern about circumvention of antidumping and countervailing

**Frank J. Desiderio**, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt, New York, NY

**Beverly A. Farrell**, U.S. Department of Justice, New York, NY

**Lawrence M. Friedman**, Barnes, Richardson & Colburn, Chicago, IL

**Hon. Leo M. Gordon**, U.S. Court of International Trade, New York, NY

**Myles B. Harmon**, U.S. Customs and Border Protection, Washington, DC

**Mark D. Herlach**, Sutherland Asbill & Brennan LLP, Washington, DC

**Gary N. Horlick**, Law Offices of Gary N. Horlick, Washington, DC

**John H. Jackson**, Georgetown Law, Washington, DC

**Andrew W. Kentz**, Picard Kentz & Rowe LLP, Washington, DC

**Duane Layton**, Mayer Brown LLP, Washington, DC

**Warren H. Maruyama**, Hogan Lovells, Washington, DC

**John D. McNemey**, U.S. Department of Commerce, Washington, DC

**Ronald Meltzer**, Wilmer Cutler Pickering Hale and Dorr LLP, Washington, DC

duty (AD/CVD) orders, counsel to domestic producers, importers, and foreign producers must be able to advise their clients about what does or does not constitute circumvention and how to identify whether it is occurring. This panel will explore recent cases involving circumvention, including allegations of transshipment and minor alteration, and the extent to which they have been resolved by the DOC. The panel will also discuss how circumvention is discovered and how well the agencies responsible for policing such activity — including CBP, and Immigration and Customs Enforcement (ICE) — are working together to enforce AD/CVD orders, whether proactively or in response to court order or congressional mandate.

## Moderator

John D. Greenwald, Cassidy Levy Kent LLP

**Julie C. Mendoza**, Morris, Manning & Martin, LLP, Washington, DC

**Sandy Merber**, General Electric Company, Washington, DC

**William M. Methenitis**, Ernst & Young, Dallas, TX

**Kristin Heim Mowry**, Mowry & Grimson PLLC, Washington, DC

**Matthew R. Nicely**, Hughes Hubbard & Reed LLP, Washington, DC

**William D. Outman II**, Baker & McKenzie LLP, Washington, DC

**Damon V. Pike**, The Pike Law Firm, P.C., Decatur, GA

**Daniel L. Porter**, Curtis, Mallet-Prevost, Colt & Mosle LLP, Washington, DC

**Eric P. Salonen**, Law Offices of Stewart and Stewart, Washington, DC

**Lawrence A. Schneider**, Arnold & Porter LLP, Washington, DC

**William C. Sjoberg**, Adduci, Mastriani & Schaumberg, LLP, Washington, DC

**Valerie A. Slater**, Akin Gump Strauss Hauer & Feld LLP, Washington, DC

**Eric M. Solovy**, Sidley Austin LLP, Washington, DC

## Panelists

Lynn Fischer Fox, Deputy Assistant Secretary for Policy and Negotiations, U.S. Department of Commerce

Andrew W. Kentz, Picard Kentz & Rowe LLP

Gregory J. Spak, White & Case LLP  
Michael B. Walsh, U.S. Department of Homeland Security (Invited)

## 3:35–4:50 pm Congress and Trade Policy in 2014

Our panel of seasoned Hill staffers will provide their perspectives on the critical issues facing Congress in 2014, including trade agreement implementation and negotiating authority — and provide their predictions for developments this year.

**Gregory J. Spak**, White & Case LLP, Washington, DC

**Evelyn M. Suarez**, Williams Mullen, Washington, DC

**Jeffrey M. Telep**, King & Spalding, Washington, DC

**Marguerite E. Trossevin**, Jochum Shore & Trossevin PC, Washington, DC

**Franklin E. White Jr.**, U.S. Department of Justice, Washington, DC

**Thomas B. Wilner**, Shearman & Sterling LLP, Washington, DC

## 2014 Planning Committee

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**David S. Christy Jr.**

**Matthew R. Nicely**

**Eric P. Salonen**

**Will Sjoberg**

**Eric Solovy**

**Evelyn M. Suarez**

**Jeffrey M. Telep**

## Moderator

William A. Reinsch, President, National Foreign Trade Council

## Panelists

Everett Eissenstat, Chief International Trade Counsel (Minority Staff), Committee on Finance, U.S. Senate

Angela Ellard, Chief Trade Counsel (Majority Staff), Committee on Ways & Means, U.S. House of Representatives

Bruce Hirsch, Chief International Trade Counsel (Majority Staff), Committee on Finance, U.S. Senate

Jason Kearns, International Trade Counsel (Minority Staff), Committee on Ways & Means, U.S. House of Representatives

## 4:50 pm Adjournment



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## Program Details

### Hotel Reservations

Please take advantage of Georgetown Law's corporate rate at three nearby hotels. Use the information below to make your reservation.

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415 New Jersey Avenue NW, Washington, DC 20001  
(202) 638-1616

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#### The Hotel George

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### Disclaimer

Speakers are subject to change.

### Special Needs or Dietary Restrictions

Call (202) 662-9890 or email [cle@law.georgetown.edu](mailto:cle@law.georgetown.edu).

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### Cancellations/Rain Checks/Substitutions

Please fax your cancellation notice to (202) 662-9891 or email to **cle@law.georgetown.edu** by 5:00 pm ET on Thursday, February 20, 2014 for a refund (less \$100 administrative fee). Rain checks for a future program will be granted for cancellations received after February 20, and prior to the start of the program. Substitutions are accepted at any time prior to the program.

### Course Materials

As part of Georgetown Law's efforts to go green, all course materials will be provided to you by email prior to the program. Please note you will not receive a hard-copy book or CD-ROM including the materials. Additionally, there will not be a printer available on-site for printing. We encourage you to download the course materials and preprint any materials you would like to reference during the program. Please consider the environment before printing your materials.

### Satisfaction Guarantee

We are confident that you will leave this conference with more than enough ideas and insights to make your investment pay off. However, if you feel you have not received your money's worth by the end of the program, please contact a member of our registration team before leaving the conference. All refund requests will be carefully reviewed and are subject to approval by the Assistant Dean.

### CLE Credits

Accreditation has been or will be requested for this program from various states with mandatory continuing legal education requirements for 12.25 CLE credits (based on a 60-minute hour) including 2.0 ethics, and 14.7 CLE credits (based on a 50-minute hour) including 2.4 ethics. Georgetown University Law Center is an accredited CLE provider in most MCLE states. Georgetown Law CLE is a State Bar of California-approved MCLE provider. Some states require nominal accreditation fees. You will be asked to submit payment at the program's conclusion.

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## 35th Anniversary International Trade Update (February 27–28, 2014)

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# 35th Anniversary International Trade Update

## 10 Reasons Why You Should Attend



**1. Receive** tips from leading policy makers of trade remedy agencies in the U.S., Australia, Brazil, Canada, and the EU as they discuss their priorities and outlooks in the year ahead.

**2. Obtain** insights from Professor John H. Jackson and Grant Aldonas on challenges to the international trading system and trade practice in 2014 and the years to come – and hear insiders analyze how the WTO is faring on adjudicating appeals of trade remedy cases.

**3. Gain** perspective on must-know points for practitioners on issues that matter to the bench, from judges of the U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit.

**4. Explore** customs enforcement of intellectual property rights at the border, including the latest policy developments and practical tips for use when counseling clients.

**5. Review** the most important regulatory and practice developments at the U.S. Department of Commerce, the U.S. International Trade Commission, and U.S. Customs and Border Protection (“CBP”).

**6. Assess** emerging legal developments in CBP valuation and rules of origin around the world, and their effect on clients’ planning for trade transactions.

**7. Examine** the most important developments, cases, rulings, and decisions coming from the U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit.

**8. Gain** insights on the Congressional trade agenda from Capitol Hill insiders.

**9. Assess** emerging trends in ethics issues for CBP and trade practitioners from Stuart Teicher, who received “perfect” ratings on participant evaluations last year.

**10. Learn** what you need to know about the Foreign Corrupt Practices Act and other anticorruption regimes to counsel clients and successfully avoid traps for the unwary.