

KEVIN KENNEDY
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EMPLOYMENT

- 1987 to Present MICHIGAN STATE UNIV. COLLEGE OF LAW EAST LANSING, MI
Professor of Law and Director, Institute for Trade in the Americas. Courses taught: International Trade Regulation, International Trade Remedies, International Litigation & Arbitration, NAFTA, Conflict of Laws, Civil Procedure. Fulbright Senior Specialist. NAFTA Chapter 19 binational dispute settlement panelist.
- 2006-07 UNIV. OF DENVER, STURM COLLEGE OF LAW DENVER, CO
Sturm Distinguished International Visiting Professor. Courses taught: Public International Law, International Trade & Investment, International Business Transactions.
- Fall 1998 COLLEGE OF WILLIAM & MARY WILLIAMSBURG, VA
Visiting Professor of Law, Marshall-Whythe School of Law. Courses taught: International Trade Law, International Commercial Law.
- 1993-94 VERMONT LAW SCHOOL SOUTH ROYALTON, VT
Visiting Professor of Law. Courses taught: Civil Procedure, Public International Law, Conflict of Laws.
- 1985-87 ST. THOMAS UNIVERSITY SCHOOL OF LAW MIAMI, FL
Assistant Professor of Law. Courses taught: Civil Procedure, Contracts, Federal Courts, International Trade. Moot Court faculty adviser.
- 1984-85 U.S. DEPARTMENT OF JUSTICE WASHINGTON, D.C.
Trial Attorney, Civil Division, Commercial Litigation Branch. Duties: Defense of Department of Commerce and International Trade Commission determinations in antidumping and countervailing duty cases before the U.S. Court of International Trade and the Court of Appeals for the Federal Circuit; prosecution of customs civil fraud actions.
- 1982-84 U.S. COURT OF INTERNATIONAL TRADE NEW YORK, NY
Law clerk to Senior Judge Herbert N. Maletz. Duties: Research and preparation of draft opinions in antidumping and countervailing duty reviews and tariff classification actions.

GATT 1994, in THE WORLD TRADE ORGANIZATION: LEGAL, ECONOMIC AND POLITICAL ANALYSIS (Patrick Macrory, Arthur Appleton & Michael Plummer eds., Springer Publishing 2005)

Special and Differential Treatment of Developing Countries, in THE WORLD TRADE ORGANIZATION: LEGAL, ECONOMIC AND POLITICAL ANALYSIS (Patrick Macrory, Arthur Appleton & Michael Plummer eds., Springer Publishing 2005)

The World Trade Organization: Ultimate Arbiter of International Sanitary and Phytosanitary Standards? in AGRICULTURAL STANDARDS: THE SHAPE OF THE GLOBAL FOOD AND FIBER SYSTEM (Jim Bingen & Lawrence Busch eds., Springer Publishing 2006)

The North American Agreement on Environmental Cooperation, in INTERNATIONAL ENCYCLOPEDIA OF LAWS -- ENVIRONMENTAL LAW (Kluwer Law International 2006)

The Institutional Provisions of the North American Free Trade Agreement, in INTERNATIONAL ENCYCLOPEDIA OF LAWS - INTERGOVERNMENTAL ORGANIZATIONS (Kluwer Law International 2006)

LAW REVIEW ARTICLES

The Trade-Environment-Sustainable Development Triad in the Doha Round Negotiations and in Recent U.S. Trade Policy, 18 INDIANA INT'L & COMP. L. REV. (forthcoming 2008)

The Doha Round Negotiations on Agricultural Subsidies, 36 DENV. J. INT'L L. & POL'Y (forthcoming 2008)

Parallel Proceedings at the WTO and under NAFTA Chapter 19: Whither the Doctrine of Exhaustion of Local Remedies in DSU Reform? 39 GEO. WASH. INT'L L. REV. 47 (2007)

The 2005 TRIPS Extension for the Least-Developed Countries: A Failure of the Single Undertaking Approach? 40 INT'L LAW. 683 (Fall 2006)

The Incoherence of Agricultural, Trade, and Development Policy for Sub-Saharan Africa: Sowing the Seeds of False Hope for Sub-Saharan Africa's Cotton Farmers? XIV KANSAS J.L. & PUB. POL. 307 (2005)

The FTAA Negotiations: A Melodrama in Five Acts, 1 LOYOLA U. CHICAGO INT'L L. REV. 121 (2004) (*republished in* RALPH FOLSOM, MICHAEL GORDON & DAVID GANTZ, NAFTA AND FREE TRADE IN THE AMERICAS, A PROBLEM-ORIENTED COURSEBOOK 816-24 (2005))

A WTO Agreement on Investment: A Solution in Search of a Problem? 24 U. PA. J. INT'L ECON. L. 77 (2003)

Reforming Farm Trade in the Next Round of Multilateral Trade Negotiations, 35 J. WORLD TRADE 1061 (2001)

International Trade in Agriculture: Where We've Been, Where We Are, and Where We're Headed, 10 MSU-DCL J. INT'L L. 1 (2001)

Why Multilateralism Matters in Resolving Trade-Environment Issues, VII WIDENER L. SYMP. J. 31 (2001)

Foreign Direct Investment and Competition Policy at the World Trade Organization, 33 GEO. WASH. UNIV. INT'L L. REV. 585 (2000)

Resolving International Sanitary and Phytosanitary Disputes in the WTO: Lessons and Future Directions, 55 FOOD & DRUG L.J. 81 (2000)

The First Twenty Years of the Headlee Amendment, 76 U. DETROIT-MERCY L. REV. 1031 (1999)

Market Openings in the Telecommunication Goods and Services Sectors, 33 INT'L LAW. 27 (1999)

The GATT-WTO System: Environmental Friend or Foe? 1 J. INT'L WILDLIFE L. & POL'Y 217 (1998)

The Illegality of Unilateral Trade Measures to Resolve Trade-Environment Disputes, 22 WM. & MARY ENVTL. L. & POL'Y REV. 375 (1998) (*excerpts republished in* INTERNATIONAL LAW TODAY, (Anthony D'Amato & Jennifer Abbassi eds. West Publishing 2006)

The GATT-WTO System at Fifty, 16 WIS. INT'L L.J. 421 (1998)

Equitable Remedies and Principled Discretion: The Michigan Experience, 74 U. DETROIT-MERCY L. REV. 624 (1997)

Conditional Approval of Treaties by the U.S. Senate, 19 LOYOLA L.A. J. INT'L & COMP. L. 89 (1996)

Reforming U.S. Trade Policy to Protect the Global Environment: A Multilateral Approach, 18 HARV. ENVTL. L. REV. 185 (1994)

The International Law and Politics of Agricultural Trade, 2 J. INT'L L. & PRAC. 307 (1993)

Twelfth Annual Survey of Sixth Circuit Law, Survey of Civil Procedure, 1991 DETROIT COLL. L. REV. 523

International Commercial Arbitration Legislation in the State of Michigan: A Proposal, 1990 DETROIT COLL. L. REV. 867

Congressional-Executive Tensions in Managing the Arms Control Agenda -- Who's in Charge? 16 N.C.J. INT'L L. & COM. REG. 15 (1991)

Sixth Circuit Survey of Civil Procedure, 1990 DETROIT COLL. L. REV. 305

Worker, Industry, and Government Adjustment Under the Canada-U.S. Free Trade Agreement, 1989 DETROIT COLL. L. REV. 805

The Canadian and U.S. Responses to the Subsidization of International Trade: Toward a Harmonized Countervailing Duty Legal Regime, 20 L. & POL'Y INT'L BUS. 683 (1989)

Binational Dispute Settlement Under the Canada-U.S. Free Trade Agreement, 13 MD. J. INT'L L. & TRADE 71 (1988)

The Constitution and On-Site Inspection, 14 BROOKLYN J. INT'L L. 1 (1988)

Zenith Radio Corp.: The Nadir of the U.S. Trade Relief Process, 13 N.C.J. INT'L L. & COM. REG. 227 (1988)

Abandoning the Deference Rule in ITC Interpretations of the Antidumping Duty Law, 13 SYRACUSE J. INT'L L. & COM. 21 (1987)

Voluntary Restraint Agreements: A Threat to Representative Democracy, 11 HASTINGS INT'L & COMP. L. REV. 1 (1987)

The Accession of the Soviet Union to GATT, 21 J. WORLD TRADE L. 23 (1987)

Presidential Authority Under Section 337, Section 301, and the Escape Clause: The Case for Less Discretion, 20 CORNELL INT'L L.J. 127 (1987)

Civil Penalty Proceedings Under Section 592 of the Tariff Act of 1930, 10 FORDHAM INT'L L.J. 147 (1987)

An Examination of Domestic Subsidies and the Standard for Imposing Countervailing Duties, 9 LOY. L.A. INT'L & COMP. L.J. 1 (1986)

Stretching the Long-Arm in *Asahi Metal Indust. Co. v. Superior Court*: Worldwide Jurisdiction After World-Wide Volkswagen? 4 B.U. INT'L L.J. 327 (1986)

Treaty Interpretation by the Executive Branch: The ABM Treaty and "Star Wars" Testing and Development, 80 AM. J. INT'L L. 854 (1986)

Jurisdictional Conflicts in Grey Market Goods Litigation: The Failure of the Customs Courts Act of 1980, 9 HOUSTON J. INT'L L. 1 (1986)

Misbranding and the Opportunity to Cure Under the Petroleum Marketing Practices Act, 7 J. ENERGY L. & POL'Y 241 (1986)

Judicial Review of Commerce Department Antidumping Duty Determinations: Deference or Abdication? 11 N.C.J. INT'L L. & COM. REG. 19 (1986)

A Proposal to Abolish the U.S. Court of International Trade, 4 DICK. J. INT'L L. 13 (1985)

Causation Under the Escape Clause: The Case for Retaining the "Substantial Cause" Standard, 3 DICK. J. INT'L L. 185 (1985)

A Critical Appraisal of Criminal Deterrence Theory, 88 DICK. L. REV. 1 (1983)

A Critique of United States Nuclear Deterrence Theory, 9 BROOKLYN J. INT'L L. 35 (1983)

BAR JOURNAL ARTICLES

Federal Labor Law Preemption and Hawaii's Work Injury Discharge Law, 16 HAW. B.J. 32 (1981)

The Model Law on International Commercial Arbitration: It's Time for Michigan to Adopt It, 72 MICH. B. J. 192 (1993)

PRACTITIONER GUIDES

Invalidity of Foreign Arbitration Agreement or Arbitral Award, 31 AM. JUR. PROOF OF FACTS 3D 495 (1995)

ESSAYS

There Is Much Work to Be Done, 1 J. INT'L L. & PRAC. 17 (1992)

We Need A Fresh Start: Repeal the Seventh Amendment, 1991 DETROIT COLL. L. REV. 1289

BOOK REVIEWS

Globalization and Its Discontents by Joseph Stiglitz, 35 GEO. WASH. INT'L L. REV. 251 (2003)

Fairness in International Law and Institutions, Thomas M. Franck (Oxford Univ. Press 1995), 560 ANNALS AM. ACAD. POL. & SOC. SCI. 202 (1998)

Down in the Dumps: Administration of the Unfair Trade Laws, Richard Boltuck & Robert Litan, eds. (Brookings 1991), 27 INT'L LAW. 233 (1993)

OTHER PROFESSIONAL PUBLICATIONS

A Legal History of the Softwood Lumber Dispute (in a Nutshell), 52 FOREST SCIENCE No. 4 (August 2006)

PROFESSIONAL AND SERVICE ACTIVITIES

Feb. 2008 Presentation: *The 2007 Bipartisan Agreement on Trade Policy: Old Wine in a New Bottle for Trade and the Environment?* Indiana University School of Law – Indianapolis. Symposium: “Assessing the Impact of Existing Bilateral and Multilateral U.S. Trade Agreements and Attempting Policy Recommendations for the Future.”

Nov. 2007 Presentation: *Making Environmental Protection and Sustainable Development an Integral Part of Bilateral Investment Agreements: The Recent Experience of the United States.* Asian Center for WTO and International Health Law and Policy, National Taiwan University College of Law. Conference: “2007 International Conference on Bilateral Investment Agreements: Protection, Promotion, and Development of International Investment.”

July 2007 Presentations: (1) *The Doctrine of Exhaustion of Local Remedies in DSU Reform*; (2) *The Doha Round Negotiations on Cotton Subsidies.* Sri Lanka Law College, Colombo, Sri Lanka. Conference: “The Doha Round Negotiations and the Future of the Multilateral Trading System.”

March 2007 Legal Consultant to USAID-funded RAISE SPS Project-Vietnam (Rural and Agricultural Incomes with a Sustainable Environment, Sanitary and

- Phytosanitary Measures). Two-week, in-country, technical assistance project. Reviewed Vietnam's food safety and animal and plant health laws for consistency with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, met with Vietnamese government officials, and prepared report and recommendations to U.S. AID mission in Hanoi.
- March 2007 Presentation: *The WTO Doha Round Negotiations on Cotton Subsidies*. University of Denver Sturm College of Law. Conference: "Lawyering in an Age of Globalization: International Trade, Business, Investment, and Dispute Settlement"
- Dec. 2006 Presentation: *WTO Negotiations on Agricultural Trade*. Southwest University of Political Science and Law, Chongqing, China. Conference, "WTO Dislocations and Solutions"
- May 2006 Presentation: *Agricultural Subsidies and U.S. Development Policy for Sub-Saharan Africa: Working at Cross-Purposes?* Federal University of Santa Catarina, Florianopolis, Brazil. Conference, "Biennial Conference on International Trade and Development"
- April 2006 Presentation: *Is the Multilateral Trade System Failing the Least-Developed Countries?* Michigan State University College of Law. Conference, "The International Intellectual Property Regime Complex."
- Oct. 2005 Conference organizer, 1st Annual Conference on Trade in the Americas, *Trade and Foreign Investment in the Americas: The Impact on Indigenous Peoples and the Environment*. Sponsored by Michigan State University College of Law.
- June 2005 Presentation: *Recognition and Enforcement of Judgments in the United States*. University of Windsor Faculty of Law, Canadian-American Research Centre for Law and Policy, Conference, "Business Law at the Border."
- March 2005 Presentation: *A Legal History of the Softwood Lumber Dispute (in a Nutshell)*. Michigan State University, Department of Forestry. Conference, "US-Canada Forest Products Trade in Eastern North America."
- Jan. 2005 Presentation: *Exhaustion of Local Remedies*. Association of American Law Schools Annual Meeting, Section on North American Cooperation.
- 1995-2004 Executive Secretary, Michigan Law Revision Commission. Prepared legal studies and an annual report to the Michigan Legislature recommending revisions and reforms of Michigan statutes.
- Nov. 2004 Presentation: WTO Dispute Settlement Decision in *United States – Upland Cotton*. Dean Rusk Center, University of Georgia School of Law. Conference, "WTO Agriculture Negotiations: Subsidies in the Cross-Hairs."
- Nov. 2004 Presentation: *NAFTA and E-Commerce*. Universidad Panamericana Faculty of Law, Guadalajara, Mexico. Symposium, "Services Trade and the First Decade of NAFTA."

- Oct. 2004 Presentation: *U.S. Trade, Agriculture, and Development Policies for Sub-Saharan Africa*. University of Kansas School of Law. Symposium on International Trade, Agriculture, and Global Development.
- Aug. 2004 Appointment to NAFTA Chapter 19 binational dispute settlement panel and panel chairperson, *Hard Red Spring Wheat from Canada* (panel review of U.S. International Trade Commission's final injury determination)
- June 2004 Faculty, Whittier Law School, China Summer Law Program, Zhuhai, Guangdong Province, PRC. Course: *International Trade and the WTO*.
- May 2004 International Law Institute-Egypt, *WTO: Rights and Obligations*. Taught four-day course in Cairo on the World Trade Organization, attended by mid-level civil servants from the Ministries of Trade and Finance of various Middle East and Gulf region countries.
- April 2004 Appointment to NAFTA Chapter 19 binational dispute settlement panel, *Gray Portland Cement and Clinker from Mexico* (panel review of International Trade Commission's five-year sunset review)
- Feb. 2004 Keynote Speaker, *The Free Trade Area of the Americas: A Melodrama in Five Acts*. Loyola University Chicago School of Law, Symposium, "Free Trade Area of the Americas: The Implications of a Hemispheric Marketplace."
- Dec. 2003 Appointment to NAFTA Chapter 19 binational dispute settlement panel, *Certain Alloy Steel from Canada* (review of International Trade Commission's final injury determination)
- Oct. 2003 Conference organizer, *The First Decade of NAFTA: The Future of Free Trade in North America*. Sponsored by Michigan State University College of Law.
- Feb. 2003 Lawyers' Training Program, "Legal Application of China's Accession to the WTO -- Rules and Legal Application of the Nondiscrimination Principle," Ministry of Justice, People's Republic of China. Presentation on national treatment of trade in goods at East China University of Politics and Law, Shanghai; Zhongnan University of Politics and Law, Wuhan; and Southwest China University of Political Science and Law, Chongqing.
- 2002-03 Director, Mexico Summer Law Program, Michigan State University College of Law, Guadalajara, Mexico.
- Sept. 2002 Presentation: *The Globalization of U.S. Legal Education*. National Autonomous University of Mexico, Mexico City, Conference on Post-Graduate Legal Education.
- May 2002 Economic Community of West African States, Abuja, Nigeria. Two-day presentation to ECOWAS Secretariat staff on customs law and related WTO Agreements, funded by U.S. Agency for International Development through a grant to Michigan State University.
- Feb. 2002 Appointment to NAFTA Chapter 19 binational dispute settlement panel, *Gray Portland Cement and Clinker from Mexico* (Department of Commerce's 7th administrative review of antidumping duty determination).

- Feb. 2002 Amsterdam Center for International Law (University of Amsterdam) and the T.M.C. Asser Instituut, The Hague, Netherlands. Legal Platform for Consumer Concerns and International Trade in Food and Agriculture. Participant (by invitation only) in two-day, interdisciplinary meeting of 60 lawyers, economists, government officials, scientists, ethicists, and WTO Secretariat staff to discuss food safety, biotechnology, and international trade.
- Jan. 2002 Presentation: *Global E-Commerce at the WTO*. Universidad Panamericana Faculty of Law, Guadalajara, Mexico, International Trade Symposium.
- Jan. 2002 Presentation: *Introduction to the U.S. Legal System*. Michigan State University, Visiting International Professional Program, attended by 25 mid-level government officials from Liaoning province, PRC.
- Dec. 2001 International Law Institute, African Center for Legal Excellence, Kampala, Uganda. Taught the second week of a two-week seminar in Kampala, Uganda, *WTO Participation: Rights and Obligations*. Attended by mid-level civil servants from the Ministries of Trade and Finance of various East African countries.
- July 2001 Presentation: *Global E-Commerce at the WTO*. Michigan State University, Visiting International Professional Program, attended by professors of international trade from Korea.
- Nov. 2000 Appointment to NAFTA Chapter 19 binational dispute settlement panel, *Certain Cut-to-Length Carbon Steel Plate from Canada* (final results of antidumping duty determination).
- Oct. 2000 Presentation: *What China's Accession to the WTO Means for the Chinese Judiciary*. China Judges Association, National Conference on China's Accession to the WTO, Guangzhou, China.
- Oct. 2000 Presentation: *Why Multilateralism Matters in Resolving Trade-Environment Issues*. Widener University Law School, Symposium on the WTO.
- Sept. 2000 Presentation: *Foreign Direct Investment and Competition Policy at the World Trade Organization*. George Washington University Law School, Symposium on the WTO.
- Oct. 1999 Presentation: *Resolving International Sanitary and Phytosanitary Disputes in the WTO: Lessons and Future Directions*. Michigan State University, Institute for Food and Agricultural Standards, International Workshop, Markets, Rights and Equity: Food and Agricultural Standards in a Shrinking World.
- Feb. 1999 Appointment to NAFTA Chapter 19 binational dispute settlement panel, *Certain Prepared Baby Foods Originating in or Exported from the United States* (review of Canadian International Trade Tribunal's injury determination).
- March 1998 Appointment to NAFTA Chapter 19 binational dispute settlement panel roster. Duties: Issue final and binding decisions in trade remedy disputes between Canada and the United States and between Mexico and the United States.
- March 1993 Guest Speaker, *Due Process* (weekly public service program sponsored by the

- Oakland County Bar Ass'n, broadcast on WDIV). Topic: The North American Free Trade Agreement.
- Oct. 1991 Guest speaker, Michigan Association of Law Librarians Annual Meeting. Topic: The GATT Uruguay Round and the EEC in 1992.
- Summer 1990-93 Faculty, McGeorge Law School Summer Law Program, London, UK. Course: International Business Transactions
- Feb. 1989 Luncheon speaker, monthly meeting of the Law Librarians of Metropolitan Detroit. Topic: Canada-US Free Trade Agreement.
- March 1989 Panelist, Free Trade Agreement Workshop, sponsored by the Central Business District Ass'n and Detroit Economic Growth Corporation. Topic: Canadian regulation of pricing practices.
- April 1988 Presentation: *Arms Control Verification and the Fourth Amendment*. ABA Section of International Law and Practice, Committee on Arms Control and Disarmament.
- Oct. 1988 Panelist, Midwest Ass'n for Canadian Studies Third Biennial Conference. Topic: A comparative analysis of Canadian and American responses to subsidization of international trade.
- Summer 1982 Foreign legal consultant, Lim, Shin & Kim, Attorneys at Law, Seoul, Korea. Duties: Draft transnational joint venture, technology transfer, and licensing agreements.