

## William J. Kovatch, Jr.

### Areas of Primary Responsibility at the U.S. Department of Commerce

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#### **APO COORDINATING ATTORNEY**

- Advised the head of Commerce's Administrative Protective Order ("APO") Unit on Commerce's system for protecting business proprietary information in antidumping and countervailing duty proceedings.
- Fielded questions from Commerce attorneys and Import Administration officials on the legal issues involved in Commerce's APO system. Advised Commerce officials regarding the Trade Secrets Act.
- Presented training seminars for Commerce employees and law firms addressing the APO system.
- Assisted in administering Commerce's system for sanctioning APO violations. Conducted investigations of alleged APO violations. Drafted memoranda recommending findings in such investigations. Drafted Federal Register notices announcing the results of these investigations.
- Drafted amendments to Commerce's APO regulations.

#### **CUSTOMS LIAISON ATTORNEY**

- Advised the head of Import Administration's Customs Unit on the legal issues involved in Commerce's interaction with U.S. Customs and Border Protection ("CBP").
- Reviewed Commerce's recommendations to CBP regarding Customs Protests involving antidumping and countervailing duty matters.
- Coordinated Import Administration's participation in litigation of Customs Protest denials involving antidumping and countervailing duty matters. Communicated with attorneys from the Department of Justice and CBP concerning this litigation. Reviewed legal briefs before filing and provided Import Administration's views. Assisted in preparing for oral argument. Reported on the results of the litigation to Import Administration decision-makers.
- Fielded questions from Commerce attorneys and Import Administration officials regarding Customs law.
- Reviewed and approved the standard language used in Commerce's liquidation instructions.
- Advised CBP officials regarding the operation of U.S. antidumping and countervailing duty law.
- Provided legal guidance in Import Administration's participation in the International Trade Data System, which is an effort to promote cooperation among administrative agencies to simplify the burden on importers with respect to reporting data and to share that data among agencies legally authorized to use it.
- Participated in negotiations with CBP to reach a Memorandum of Understanding addressing Commerce's participation in ACE.
- Presented training seminars to Commerce attorneys regarding Customs law.

#### **LAWS, REGULATIONS AND METHODOLOGY FOR CALCULATING DUMPING MARGINS ("ZEROING") (WTO DISPUTE WITH THE EUROPEAN COMMUNITIES)**

- Assisted in drafting the U.S. appellee submission to the Appellate Body defending the Panel's finding that zeroing was permissible in administrative reviews.
- Assisted U.S. Trade Representative ("USTR") attorneys and Commerce Deputy Chief Counsel in making the oral presentation to the Appellate Body.
- Assisted in drafting the U.S. first written submission in dispute settlement proceedings addressing whether the United States had complied with the recommendations and rulings of the Dispute Settlement Body.

#### **MEASURES RELATING TO ZEROING AND SUNSET REVIEWS (WTO DISPUTE WITH JAPAN)**

- Drafted the U.S. written submissions to the Panel, including written answers to Panel's questions.
- Assisted USTR attorneys and Commerce Deputy Chief Counsel in making the oral presentation at the panel meetings.

- Collaborated with attorneys representing the U.S. bearings industry regarding the strategy to defend Commerce's practice and determinations.
- Strategized with USTR and Commerce officials regarding the defense of Commerce's practice and determinations.

#### **SOFTWOOD LUMBER FROM CANADA (ANTIDUMPING DUTY INVESTIGATION – WTO DISPUTE WITH CANADA)**

- Drafting portions of the U.S. written submissions in a dispute settlement proceeding addressing Canada's challenge to the U.S. implementation of the recommendations and rulings of the Dispute Settlement Body concerning Commerce's Antidumping Investigation of Softwood Lumber from Canada.
- Strategized with USTR and Commerce officials regarding the defense of Commerce's practice and determinations.

#### **SOFTWOOD LUMBER FROM CANADA (COUNTERVAILING DUTY INVESTIGATION – NAFTA AND WTO DISPUTE WITH CANADA)**

- Drafted portions of the U.S. written submissions to a WTO dispute settlement panel addressing the legal issues of the proper calculation of the rate of subsidization and Commerce's procedures.
- Argued before the WTO panel that Commerce's procedures were consistent with the WTO Antidumping Agreement.
- Drafted portions of the U.S. brief submitted to a NAFTA binational panel addressing the legal issues of the proper calculation of the rate of subsidization and Commerce's procedures.
- Argued the proper calculation of the rate of subsidization before the NAFTA panel.

#### **SECTION 129 OF THE URUGUAY ROUND AGREEMENTS (WTO DISPUTE WITH CANADA)**

- Served on legal team that successfully defended section 129 of the URAA from Canada's challenge that it violated the WTO Agreements. Assisted in drafting U.S. written submissions to the WTO dispute settlement panel. Assisted in preparing for the oral presentation of the U.S. arguments in the panel meetings.

#### **CORUS STAAL V. UNITED STATES (APPEAL TO THE U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT)**

- Drafted a supplemental brief arguing Commerce's practice of zeroing was a reasonable interpretation of the law, and that the court should not use the Charming Betsy doctrine to overturn Commerce's determination based on the WTO Appellate Body Report in *Softwood Lumber from Canada*.
- Assisted Department of Justice attorneys in drafting an opposition to a Petition for a Writ of Certiorari filed with the U.S. Supreme Court.

#### **OIL COUNTRY TUBULAR GOOD FROM MEXICO (ANTIDUMPING DUTY ORDER)**

- Drafted briefs submitted to a NAFTA binational panel that defended Commerce's refusal to revoke the antidumping duty order in the sunset review, and the fourth administrative review.
- Argued before a NAFTA panel that Commerce appropriately decided not to revoke the antidumping order as a result of the sunset review.
- Argued before a NAFTA panel that Commerce appropriately decided not to revoke the antidumping order as a result of the fourth administrative review.
- Provided legal advice on the ongoing administrative reviews of the antidumping duty order.
- Advised agency decision-makers regarding a remand from a NAFTA panel on the fourth administrative review.
- Advised agency decision-makers regarding a section 129 proceeding to implement the WTO panel's report with respect to the sunset review.

**ZHEJIANG NATIVE PRODUCE & ANIMAL BY-PRODUCTS IMPORT & EXPORT CORP. V. UNITED STATES (APPEAL TO THE U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT)**

- Drafted a brief supporting Commerce's practice of imputing knowledge of dumping when critical circumstances have been alleged and Commerce calculates a dumping margin of 25 percent or greater.
- Assisted Department of Justice attorney in drafting a Petition for Rehearing.
- Coordinated Commerce's redetermination on remand and filed that redetermination with the U.S. Court of International Trade.
- Drafted an opposition to Plaintiff's motion for relief from judgment.

**COLOR TELEVISIONS FROM JAPAN (LITIGATION REGARDING THE LIQUIDATION OF ANTIDUMPING DUTIES)**

- Assisted Department of Justice attorney in arguing the case of NEC Solutions v. United States before the U.S. Court of Appeals for the Federal Circuit.
- Assisted in drafting the Government's brief before the U.S. Court of International Trade arguing that certain entries of televisions from Japan had not been deemed liquidated as entered pursuant to 19 U.S.C. § 1504(d) in the case of NEC Solutions v. United States.
- Ensured Commerce's compliance with discovery requests by answering interrogatories and providing certifications from Commerce officials.
- Met with company officials from Philips Electronics to explain Commerce's method of assigning importer-specific assessment rates.
- Drafted legal memoranda to assist the Department of Justice in filing Answers to Complaints in Customs Protest litigation and cases filed pursuant to the CIT's residual jurisdiction under 28 U.S.C. § 1581(i).

**FREE TRADE AGREEMENT WITH THE UNITED ARAB EMIRATES**

- Assisted USTR in developing negotiating positions on the textiles chapter in a proposed free trade agreement with the U.A.E.
- Assist USTR in analyzing and responding to the U.A.E.'s counterproposals.
- Attended negotiation rounds in Washington, D.C. and London.
- Advise administrative decision-makers on the issues arising out of the negotiations.

**FREE TRADE AGREEMENT WITH OMAN**

- Reviewed final text of the Free Trade Agreement with Oman, implementing legislation and Statement of Administrative Action.
- Advised Committee for the Implementation of Textile Agreements regarding the adoption of procedures for textile safeguards.

**FREE TRADE AGREEMENT WITH AUSTRALIA**

- Advised Committee for the Implementation of Textile Agreements regarding the adoption of procedures for textile safeguards.

**STEEL PRODUCTS FROM RUSSIA (INTERNATIONAL AGREEMENT)**

- Assisted in negotiating and drafting an amendment to an agreement between Russia and the United States limiting imports of Russian steel products into the United States.
- Drafted presidential proclamation implementing the amendment.

**UKRAINE'S STATUS AS A NON-MARKET ECONOMY**

- Advised administrative decision-makers during the antidumping duty investigation of Steel Wire Rod from Ukraine on the legal issues surrounding Ukraine's application for treatment as a market economy.
- Met with Ukrainian Government officials in Kyiv and Washington to discuss Ukraine's status as a non-market economy, and the process for requesting market economy treatment.
- Advised administrative decision-makers during the recent changed circumstances review of Steel Wire Rod from Ukraine, regarding Ukraine's status as a non-market economy.

**MAGNESIUM FROM RUSSIA (ANTIDUMPING DUTY INVESTIGATION)**

- Provided legal advice to administrative decision-makers regarding the first antidumping duty investigation against Russia since its graduation to a market economy.
- Provided legal advice on the issue of whether Commerce should make an adjustment to normal value due to alleged distortions in the Russian energy sector.

**SILICOMANGANESE FROM KAZAKHSTAN (ANTIDUMPING DUTY INVESTIGATION)**

- Advised administrative decision-makers on the legal issues surrounding the graduation of Kazakhstan from a non-market economy to a market economy.

**RUSSIA'S STATUS AS A MARKET ECONOMY (AD HOC PROCEEDING)**

- Served on legal team advising the Assistant Secretary on the issues regarding Russia's graduation from a non-market economy to a market economy.

**BULGARIA'S STATUS AS A MARKET ECONOMY**

- Advised administrative decision-makers on Bulgaria's status as a market economy.
- Met with the Bulgarian Ambassador to explain Bulgaria's status as a market economy.
- Advised administrative decision-makers on the publication of a Federal Register notice clarifying Bulgaria's status as a market economy.

**HOT-ROLLED STEEL PRODUCTS FROM KAZAKHSTAN (ANTIDUMPING DUTY INVESTIGATION)**

- Assisted in negotiating and drafting a proposed suspension agreement between the Government of Kazakhstan and the United States.