

CIT FOREWORD AND REMARKS

THE EMERGENCE OF A TRADITION IN THE DISCOURSE ON THE COURT OF INTERNATIONAL TRADE

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The year 2006 witnessed the *Georgetown Journal of International Law's* publication of the first annual review of the decisions of the U.S. Court of International Trade.¹ The publication of the annual review was, and is, an important step in the development of the Court's jurisprudence because it opens a new forum to assist the Court in fulfilling its obligation to provide an "*independent, consistent, fair, and impartial interpretation and application of the customs and international trade laws.*"² Through this forum, the Court and the bar increase the level of our dialogue to assist in the achievement of the Court's mandate.

In one sense, this is not a new development. Each decision issued by the Court builds on prior jurisprudence, providing a transparent report of the development of the Court's reasoning. Similarly, each decision involves the application of the fundamental, established principles that are reflected and articulated in the statutes and principles that animate the resolution of customs and trade disputes. But there is also something new involved in these volumes. By taking the time and making the effort to review each year's decisions, the bar offers to the Court a new and meaningful opportunity for consideration and reflection on its work.

To provide this opportunity means undertaking a considerable task. The commentators participating in the first annual review sought to cover each of the major segments of the Court's jurisprudence from 2005. Consequently, the first annual review, like the work of the Court itself, covered a broad range of issues. Despite their breadth, however, the comments in that review provided important feedback to the Court. To cite only a few examples, the volume included suggestions on the Court's standard for summary judgment, its criterion for remand,

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1. See Jane Restani, *A Special Year in the Life of the United States Court of Int'l Trade, Foreword and Remarks*, 38 GEO. J. INT'L L. 1 (FALL 2006).

2. United States Court of International Trade, *Long Range Plan*, June, 2000, p. 2; see also H.R. REP NO. 96-1235, at 20 (1980), *reprinted in* 1980 U.S.C.C.A.N. 3729, 3731 (In creating the Court of International Trade, Congress intended to "ensure greater efficiency in [the use of] judicial resources and uniformity in the judicial decision-making process.")

and its use of Court of Appeals for the Federal Circuit (“CAFC”) precedent from cases outside the realm of customs and international trade. Notably, that first volume also provided a thorough and considered review of the relationship of WTO obligations to U.S. international trade law.

Like the first, this second annual review covers many decisions and significant developments in each of the major segments of the Court’s jurisdiction. The year 2006, for example, witnessed the culmination of the Canadian softwood lumber litigation. Also, once again, cases involving goods from China constituted approximately thirty percent (30%) of the actions brought pursuant 19 U.S.C. § 1581(c). This past year we also witnessed important developments in the continuing consideration of the causes of action available under the Administrative Procedure Act, and in trade adjustment assistance litigation, notably concerning equitable tolling of time limits and the definition of an “article” for purposes of establishing eligibility. This year’s review will also reflect, perhaps unfortunately, continuing litigation over the Court’s subject matter jurisdiction.

Reflecting on these developments and more, this year’s review once again will offer us valuable insight on how we, the Court, and the bar can continue to work together to improve the Court’s jurisprudence in the service of the many parties that come before us.

The breadth of the Court’s work once again reflects the contribution of both the Court and the bar to the rule of law and to the justice system of which we are a part. Through this system we help secure our society’s well being and the peaceful resolution of disputes upon which that well being depends. The Court extends its deepest thanks to all of the contributors and to the *Georgetown Journal of International Law* for advancing this important work.