



Customs & International Trade Bar Association

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April 20, 2023

Mr. Stuart F. Delery
White House Counsel
Office of White House Counsel
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

RE: Judge Vacancies at the United States Court of International Trade

Dear Mr. Delery:

On behalf of the Customs and International Trade Bar Association (CITBA), we write to encourage the President to nominate judges to fill two outstanding vacancies at the U.S. Court of International Trade.¹

CITBA was founded in 1926. Its members are attorneys who practice or maintain interests in customs law, international trade law, and related matters. CITBA members represent U.S. importers, exporters, and domestic parties in matters involving U.S. customs, antidumping, countervailing duty, and other international trade laws, and related laws and regulations of U.S. federal agencies concerned with international commerce. Most CITBA members are admitted to practice before the U.S. Court of International Trade.

The Court of International Trade is an Article III court with jurisdiction over a diverse range of matters involving import transactions. In particular, the Court has jurisdiction to review antidumping and countervailing duty determinations by the Department of Commerce and International Trade Commission, and decisions governing import transactions made by U.S. Customs and Border Protection. In addition, Congress bestowed on the Court of International Trade residual jurisdiction to decide any civil action against the United States arising out of any law pertaining to international trade. For example, over the past few years the Court has entertained challenges to determinations made under Section 232 of the Trade Expansion Act of 1962 and Section 301 of the Trade Act of 1974 – enforcement measures that Presidential Administrations had used rarely until recently. The Court of International Trade also reviews agency determinations under differing standards of reviews. The subject matter before the Court is complex, technical, and always changing.

¹ CITBA's Board membership includes government attorneys and officials, but they have not participated in the preparation of these comments or taken any position on this matter.

As the impact of international trade on the U.S. economy continues to grow, so, too, has the need for the just, impartial, and efficient adjudication of international trade disputes. Unfortunately, despite the Court of International Trade’s unwavering effort to provide for the “just, speedy, and inexpensive determination of every action and proceeding” before it, longstanding vacancies on its bench compromise the Court’s ability to do so. The Court of International Trade is currently missing two of its nine authorized judges, and has operated without nine full-time judges since 2014. The impact of the judicial vacancies was manifest in 2022. From 2017 to 2021, the Court of International Trade issued an average of 179 opinions per year, with 74% of those opinions authored by full-time judges (as opposed to senior judges). In contrast, the Court of International Trade issued 157 opinions in 2022, only 64% of which were authored by full-time judges. Moreover, while vacancies at any federal court are problematic, the Court of International Trade bears a disproportionate share of this burden, as shown in the table below:

Court	Authorized Judgeships	Vacancies	Vacancy Percentage	Nominees Pending
U.S. Court of International Trade	9	2	22%	0
U.S. Court of Federal Claims	16	2	13%	1
U.S. District Courts	677	64	9%	29
U.S. Courts of Appeals	179	9	5%	5

(Source: <https://www.uscourts.gov/judges-judgeships/judicial-vacancies>) (last updated Apr. 18, 2023)

The Court of International Trade is also the only federal court without a pending nominee to fill a judicial vacancy.

In view of the circumstances described above, CITBA respectfully requests that the Biden Administration act expeditiously to nominate judges to fill the two vacancies at the Court of International Trade. CITBA is confident there are strong candidates with relevant experience in international trade and customs laws, and stands ready to assist by providing its views on the fitness of proposed nominees to the Senate Judiciary Committee.

We thank you for considering our views in a matter of great interest and importance to the lawyers practicing before the Court of International Trade.

Respectfully submitted,



Jay C. Campbell
Co-Chair, Judicial Selection Committee
 Customs and International Trade Bar Association



Jeffrey M. Telep
Co-Chair, Judicial Selection Committee
 Customs and International Trade Bar Association

cc: Senator Chuck Schumer
Senate Majority Leader

Senator Dick Durbin
Chair, Senate Judiciary Committee

Senator Lindsey Graham
Ranking Member, Senate Judiciary Committee

Senator Ron Wyden
Chair, Senate Finance Committee

Senator Mike Crapo
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