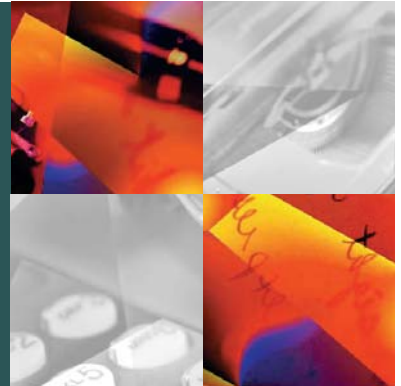




THE CANADIAN
BAR ASSOCIATION

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BARREAU CANADIEN

2010 International Law Conference The Future of Canada-U.S. Cross-Border Relations



Presented by the Canadian Bar Association's National International Law Section and the National Continuing Legal Education Committee

May 6-7, 2010
Wosk Centre for Dialogue,
Vancouver, B.C.

Conference Accreditation:

- Law Society of British Columbia (11.5 hours)
- Law Society of New Brunswick
- Law Society of PEI
- Barreau du Quebec
- Law Society of Saskatchewan
- Law Specialty Committee of the Law Society of Upper Canada for 8.5 hours towards the professional development requirement for certification

Please visit www.cba.org/pd
for more information

Conference Co-Chairs:

Noemi Gal-Or, Director, Institute for Transborder Studies, Professor, Political Science Department, Kwantlen Polytechnic University, Surrey, BC
Jeff Horswill, Davis LLP, Vancouver, BC

The CBA International Law Section (ILS) is pleased to invite you to attend a 1 ½ day conference on "The Future of Canada-US Cross-Border Relations". The conference will offer cutting-edge insights to anyone involved in Canada-US cross-border legal matters. It also represents a valuable opportunity to watch top legal practitioners, government officials, academics, and stakeholders from Canada and the U.S. share their experience and insight.

This extraordinary gathering of legal, government, academic, and stakeholder minds reflects the shared commitment in support of an open and wide Canada-US dialogue. The conference will serve as a podium to address and discuss concerns of broad public interest in an inclusive fashion. Specifically, the themes of the conference reflect the focal themes of the CBA International Law Section: International Trade and Investment, International Law and the Rights of the Person and Communities, International Dispute Resolution, and International Business and Regulations.

The conference is the CBA's first-ever comprehensive Canada-US International Law professional gathering in Vancouver and is being held on the heels of the enormous Canada-US cooperation surrounding the 2010 Winter Olympic Games. You don't want to miss out on this unique opportunity, visit www.cba.org/pd to register now.

Ce programme est offert uniquement en anglais.

Program Agenda

THURSDAY, MAY 6

11:30 Registration

12:30-14:00 Welcome Luncheon

Welcome by Conference Co-chairs: **Noemi Gal-Or**, Kwantlen Polytechnic University, Surrey, BC & **Jeff Horswill**, Davis LLP, Vancouver, BC
Jim Matkin, QC, Co-Chair, The Vancouver Board of Trade's Canada-United States Relations Committee

14:15-15:30 Plenary: Legal Lessons in Inter-Jurisdictional Relations from the 2010 Olympics Games

This plenary will address the experience gained from the recent Winter Olympics concerning legal issues pertaining to cross-border collaboration in the areas of security, travel, emergency preparedness, various inter-jurisdictional coordination challenges, and commercial inter-provincial-state partnership. It includes also the incorporation of cross-border aboriginal interests within the Canada-US dialogue.

Moderator: **Noemi Gal-Or**, Kwantlen Polytechnic University, Surrey, BC

Speakers: **David Guscott**, Executive Vice President, Celebrations and Partnerships, Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games
Col R.J. Lesperance, Deputy Judge Advocate General, Reserves, Canadian Armed Forces
Tom Jones, Superintendent, RCMP
Bud Mercer, Assistant Commissioner, RCMP

15:30-15:45 Refreshment Break

15:45-17:15 Breakout Sessions

Session A: Cross Border Regulation and Trade

Moderator: **Richard Lane**, Imperial Oil Limited, Calgary, AB

Speakers: **Lorne Carson**, Osler, Hoskin & Harcourt LLP, Calgary, AB
P. John Landry, Davis LLP, Vancouver, BC
Tim Newton, Columbia River Permanent Engineering Board

Session B: Labour Movement and Human Trafficking into the Pacific North West

Moderator: **Mary Cornish**, Cavalluzzo Hayes Shilton McIntyre & Cornish LLP, Toronto, ON

Speakers: **Charles Gordon**, Fiorillo Glavin Gordon, Vancouver, BC
Professor Benjamin Perrin, University of British Columbia, Vancouver, BC

18:15-20:00 Dinner with Keynote Speaker Justice Ian Binnie, Supreme Court of Canada, Ottawa, ON
Introduction: **Paul Lalonde**, Heenan Blaikie LLP, Toronto, ON

Topic: Corporate Complicity in International Human Rights Abuse - The Search for Effective Remedies

Admission to the dinner is included in your conference registration fee

FRIDAY, MAY 7

8:45-10:00 Breakfast and Plenary Session: TILMA, AIT, NAFTA, and WTO: Integration or fragmentation of inter-jurisdictional law?

The Canada-US inter-jurisdictional cross-border situation is affected by a legal inter-jurisdictional web consisting of Canadian inter-provincial legal agreements, Provincial-State legal collaboration as well as North American regional and global legal regimes. Does this plurality intensify integration or rather fragmentation? This plenary session will explore the legal machinations of this web. The April 2009 consolidation of the *Trade, Investment and Labour Mobility Agreement (TILMA 2006)* provides an opportunity to re-assess whether, to what extent, and how inter-provincial trade in the Pacific Northwest impacts Canada-US trade across the region, and whether and how it interlocks with the Canadian Agreement on Internal Trade (AIT)? How do both agreements position Canada in relations to the NAFTA? What opportunities it offers in the context of the NAFTA? What is the current state of the NAFTA and the WTO, and what should the legal professional be aware of in order to be able to navigate this web.

Moderator: **Noemi Gal-Or**, Kwantlen Polytechnic University, Surrey, BC

Speakers: **Robert Musgrave**, Director, Trade Policy, Government of British Columbia, Victoria, BC
Professor John Murphy, Villanova Law School, Villanova, PA
Ted Posner, Crowell & Moring LLP, Washington, DC
Brenda Swick, McCarthy Tetrault LLP, Ottawa, ON

10:00-10:15 Refreshment Break

10:15-11:45 Breakout Sessions

Session A: Trade Issues: "buy American", border congestion, and "cap & trade"

This breakout session will examine three thorny issues in the Canada-US trade relations. Border congestion has become a perennial issue of concern for Canadian and American businesses since the post- 9/11 thickening of our common border and legal red tape is still an impediment to unfettered flow. Trade and commercial transactions and activities have been further compromised with last year's financial crisis and US administration's adoption of a protectionist trade remedy. Additionally, the "green" challenge has raised threats of fiercer cross-border competition combined with opportunities for

collaboration. Speakers from both sides of the border will explore some of the pertaining legal issue, their experience, and where applicable, proposals designed to encourage cooperation.

Moderator: Ian Laird, Crowell & Moring, Washington, DC

Speakers: Charles Rendina, Boughton Law Corporation, Vancouver, BC

Judith Hull, Environment Canada, Gatineau, QC

Jeffrey Thomas, Borden Ladner Gervais LLP, Vancouver, BC

Session B: A Practical Guide to Cross-border Mediation-Arbitration

Business in Canada and the US are both searching for more efficient alternatives to litigation. Is arbitration failing to fulfill its promise as the more cost-effective alternative? How can mediation be introduced into the arbitration process without introducing further delay and expense? This breakout session will provide a practical guide to new tools in international "med-arb", from the drafting of the dispute resolution clause to tips on effective advocacy before mediators or arbitrators who may speak your language but come from a different legal culture.

Moderator: Robert Wisner, McMillan LLP, Toronto, ON

Speakers: Steven Andersen, International Centre for Dispute Resolution, San Diego, CA

Frank Borowicz, Q.C., Davis LLP, Vancouver, BC
Chris Hilgenfeld, DGPM, Seattle, WA

12:00-13:30 Luncheon with Keynote Speaker Lucy Reed, Freshfields Bruckhaus Deringer LLP, New York, Immediate Past President, American Association of International Law

Introduction: Noemi Gal-Or, Kwantlen Polytechnic University, Surrey, BC

Topic: An American Perspective on Canadian and American Legal Cross-border Concerns and Opportunities

13:45-15:15 Plenary: Canadian and American Cross-border Concerns and Opportunities: A dialogue between the legal profession, stakeholders, and government

This plenary is designed as a brain storming platform to discuss varied interests and concerns as seen from the speakers' perspective. Labour and business, First Nations, government and non-government public and private bodies, law makers, law enforcers, and law interpreters from both Canada and the US may consider to raise legal issues concerning the reaction to the Global Financial Crisis by legislators, regulators, courts, and stakeholders; the practical legal implications for boards directors and proposals to reform relevant to CA-US cross-border relations.

Moderator: Jeff Horswill, Davis LLP, Vancouver, BC

Speakers: Barry Appleton, Appleton & Associates International Lawyers, Toronto, ON

Ken Georgetti, President, Canadian Labour Congress, Ottawa, ON

Senator Lesil McGuire, Anchorage Senate District N, Anchorage, AK

Matt Morrison, CEO, Pacific Northwest Economic Region, Seattle, WA

Lee Richardson, Member of Parliament, Chair of the House of Commons Standing Committee on International Trade

The Honourable Naomi Yamamoto, Minister of State for Intergovernmental Relations, Victoria, BC

15:15-15:30 Refreshment Break

15:30-17:00 Breakout Sessions: Commonalities and Differences in Cross-border Experiences According to Stakeholders (legal professionals from private, corporate, public practice, and non-profit)

Session A: Freedom of Expression during International Events

Moderator: Monique Pongracic-Speier, Schroeder Speier, Vancouver, BC

Speakers: Robert Holmes, President, British Columbia Civil Liberties Association, Vancouver, BC

Bruce Johnson, Davis Wright Tremaine, Seattle, WA

Session B: Year in Review: New Developments in Cross-border business dispute resolution

This breakout session closes the conference with a year in review of the most significant international dispute resolution cases from 2009. *Teck Cominco* raised issues in private international law, cross-border environmental damage and choice of forum. Cross-border class actions are proliferating and raise challenging new issues regarding the certification of international classes and the enforcement of foreign judgments. And the *Yugraneft Corporation* case explores limitation periods that may apply to the enforcement of international commercial arbitration awards.

Moderator: Jeff Horswill, Davis LLP, Vancouver, BC

Speakers: Elizabeth Edinger, University of British Columbia, Vancouver, BC

Paul Lalonde, Heenan Blaikie LLP, Toronto, ON
Christopher Richter, Woods s.e.n.c.r.l., Montréal, QC