USMCA - THE MODERNIZED NAFTA

November 15 and 16, 2018

Court of Appeal of Quebec – Training Room (Ernest-Cormier Building, 100 Notre-Dame Street East, Montreal, QC.22)

Symposium organized jointly by the Bar of Montreal and the American Bar Association – Section of International Law

In forcing the NAFTA parties to renegotiate the Agreement, the Trump administration has also created the opportunity to modernize the 23-year-old NAFTA, to re-evaluate its legacy and to discuss an alternative model. After Mexico and Washington announced their bipartite Agreement in principle on August 27th, 2018, and after the White House notified Ottawa that it should endorse what was agreed before October 1, 2018, the three countries settled in extremis the day before the U.S. deadline on what is now known as the US-Mexico-Canada Agreement (USMCA). The USMCA is expected to be signed by officials at the G20 Summit in Buenos Aires, Argentina at the end of November 2018 and the Agreement will remain to be implement by each party after the signing.

Has the modernized free-trade agreement delivered on what was expected from the legal, political and business communities? On a substantive level, what issues are addressed in the modernized USMCA and what are the legal implications for our clients with cross-border activities? What new chapters are being included and which chapters are being withdrawn from modernized and comprehensive trade agreement?

The conference will address the new international regimes in which our domestic and global economies will have to navigate and will cover questions concerning investments, trade remedies and customs, government procurement, rules of origin, investor/state dispute resolution, labour rights and mobility, immigration, environment, intellectual property, digital trade, and other aspects of international trade in North America.
Preliminary Conference Schedule

November 15, 2018

8:30 a.m. – 9:00 a.m. Registration of participants

9:00 a.m. – 10:00 a.m. Opening ceremony – The “new” USMCA

Keynote speaker: Raymond Bachand, Ad.E. | Chief negotiator for the Government of Québec for the modernization of NAFTA & Strategic Advisor, Norton Rose Fullbright LLP (Montreal)

10:00 a.m. – 10:15 a.m. Coffee Break

10:15 a.m. – 11:45 p.m. Panel 1 – Employment, Immigration Labour Mobility and Labour Standards in the context of the USMCA

Facilitating greater mobility of workers across USMCA boundaries, in the face of sentiment favouring just the opposite;
Protecting Canadian/Mexican/U.S. cultures;
Including labour rights provisions in the USMCA

Chair: Bianca Brault Lampron, LL.M. | Co-Chair of the Organizing Committee & attorney, Morency, société d'avocats LLP. (Montreal, QC)

Panellists:

• Jonathan A. Grode, Esq. | U.S. Practice Director, Green and Spiegel LLC (Philadelphia, PA)
• Julie Lessard | Partner, BCF (Montreal, QC)
• Ernesto Velarde Danache | President, Ernesto Velarde Danache inc. (Mexico)

11:45 p.m. – 1:15 p.m. Luncheon Keynote Speaker: David Lametti | Member of Parliament and Parliamentary Secretary to the Minister of Innovation, Science and Economic Development (Ottawa)

1:15 p.m. – 2:45 p.m. Panel 2 – 21st century trade issues

Bringing USMCA into line with the reality of business in the 21st century—including digital trade, trade in services and IP rights;
Striking a new balance between encouraging innovation and protecting intellectual property;
Topics that are discussed bilaterally in USMCA but are multilateral, such as intellectual property;
Mexico’s 21st Century Business Plan.

**Chair:** Dan Ciuriak | Director and Principal, Ciuriak Consulting Inc. (Ottawa)

**Panellists:**
- Bernard Colas, LL.D. | Partner, Colas Moreira Kazabdjian Zikovsky (Montreal)
- Geoffrey M. Goodale | Partner, FisherBroyles LLP (Washington)
- Turenna Ramirez Ortiz | Partner, Sánchez Devanny LLP (Mexico)

2:45 p.m. – 3:00 p.m. Coffee Break

3:00 p.m. – 5:00 p.m. **Panel 3 – Investment Chapter**

While the European Union is considering the establishment of a multilateral investment court, the legitimacy of North American Investment Treaty Arbitration is at a critical point. This panel will review the existing NAFTA Chapter 11, explore the modernized investment chapter and discuss the implications for cross-border investment of removal of foreign investment protections.

**Chair:** Patrick Goudreau | Co-Chair of the Organizing Committee & Partner, Municonseil Avocats (Montreal)

**Panellists:**
- Éric Bédard | Lawyer, Woods LLP (Montreal)
- Armand de Mestral | Professor emeritus Jean Monnet Chair in the Law of International Economic Integration, McGill University (Montreal)
- Jean-François Hébert | Deputy Director, Trade Law Bureau (JLT), Government of Canada (Ottawa)
- Patrick T. Childress | Associate, Sidley Austin LLP (Washington D.C.)
November 16, 2018

8:30 a.m. – 9:00 a.m.  Registration of participants

9:00 a.m. – 9:45 a.m.  Opening ceremony – A New Context for Negotiating – or not Negotiating – Trade Agreements

**Keynote speaker:** Pierre Marc Johnson, Ad.E., G.O.Q., MSRC | Former Premier of Québec, Chief Negotiator for the Government of Québec in the Comprehensive Economic and Trade Agreement between Canada and the European Union (CETA) & Counsel, Lavery LLP (Montreal)

9:45 a.m. – 10:00 a.m.  Coffee Break

10:00 a.m. – 12:15 p.m.  Panel 4 – Trade Remedies, Rules of Origin and Government Procurement

*Access to Mexican, American and Canadian markets for goods and services; Can we resolve long-standing trade irritants such as softwood lumber, supply management in agriculture, U.S. farm subsidies, Buy America, and certain Rules of Origin; USMCA Rules of origin; Special cases of auto industry and textiles.*

**Chair:** Vincent Routhier | Partner, DS Lawyers Canada LLP (Montreal)

**Panellists:**

- Edmundo Elias-Fernandez | Partner, Ramos, Ripoll & Schuster (Mexico)
- Leslie Alan Glick | Partner & Co-chair of the International Trade and Customs Specialty Team, Butzel Long (Washington D.C.)
- Nicolas Guzman | Associate, Drinker Biddle (Chicago)
- Julia Padierna-Peralta | Associate, Baker & McKenzie LLP (Washington D.C.)
12:15 p.m. – 1:30 p.m. Board Luncheon: Robert Brown | Chair of the American Bar Association – Section of International Law and Francisco Couto | Treasurer of the Bar of Montreal

1:30 p.m. – 4:00 p.m. Closing Panel 5 – General conclusions on CPATPP, CETA, Regional Trade Agreements, WTO (stalling of Appellate Body nominations), the future of international trade agreements and of the rules-based international trading system

Chair: Robert Brown, PhD | Chair of the American Bar Association – Section of International Law

Panellists:
- Elizabeth V. Baltzan | Principal, American Phoenix Trade Advisory Services PLLC (Washington D.C.)
- Peter E. Kirby | Partner, Fasken Martineau DuMoulin (Montreal)
- Edna Ramirez Robles, PhD | Professor University of Guadalajara and International Consultant (Puerto Vallarta, Mexico)
- Naboth Van den Broek | Partner, WilmerHale (Washington D.C.)
- Simon V. Potter, Ad.E. | Counsel, McCarthy Tétrault (Montreal)

4:00 p.m. – 7:00 p.m. Cocktail