

## **Stephen J. Powell**

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### Academic Background

University of Florida College of Law, Gainesville. J.D. with Honors, Dec. 1966. Rank: 7 of 81; Order of the Coif; Executive, Symposium, and Associate Editor, University of Florida Law Review; Moot Court Team (state winners); Phi Kappa Phi scholastic honorary; student bar association President's award; academic scholarship; Phi Delta Phi legal fraternity.

University of Florida, Gainesville. B.A. June 1964. Upper 10%; Major: Psychology; Junior Year at New York University ("A" average); Phi Eta Sigma honorary; Dean's List; Honors Program; Legislative Council; Pi Kappa Alpha fraternity (secretary, activities chairman); ROTC (distinguished military graduate).

### Academic Experience

*Lecturer in Law and Director of International Trade Law Programs*, University of Florida Fredric G. Levin College of Law. January 2000 to present. I am responsible for administering and improving professional and academic activities for the College's international trade and business programs:

1. Presenting seminars to business executives and their attorneys on practical trade subjects.
2. Developing and teaching academic courses on international trade law for future lawyers and business executives.
3. Providing technical assistance to developing countries on implementing their World Trade Organization obligations.
4. Conducting research on trade and business laws to aid company export strategies.

I teach courses to law students, M.B.A. candidates, and economics graduates on international trade law, dispute settlement under international trade and investment agreements, trade and the environment, and trade and human rights.

### Government Experience

*Chief Counsel for Import Administration*, U.S. Department of Commerce, Washington. 1982 - 1999. As the federal government's principal legal advisor on

the unfair trade laws, I was responsible for legal services, both administrative and judicial, for the U.S. laws providing relief from unfairly-traded imports, the antidumping and countervailing duty (AD/CVD) statutes, and for World Trade Organization agreements governing U.S. obligations for AD/CVD matters, negotiation of agreements to discipline government subsidization and unfair private pricing practices, dispute resolution provisions of the North American Free Trade Agreement (NAFTA), and the foreign-trade zones program. I also served as lead U.S. negotiator in the Free Trade Area of the Americas negotiating group on AD/CVD matters.

*Assistant General Counsel for Enforcement and Litigation*, National Oceanic and Atmospheric Administration, Washington. 1976 - 1982. As NOAA's first chief legal officer for enforcement, I developed and implemented national law enforcement policy for 30 marine resource laws and prosecuted 1,800 civil and criminal violations a year. As head of litigation, I defended against the hundreds of suits around the country challenging NOAA action.

*Western Regional Counsel*, NOAA, Seattle. 1972-1976. As NOAA's first regional attorney, I helped the agency implement its domestic and international mission for fisheries regulation, weather forecasting, coastal zone management, oceanic research, and endangered species protection. I developed NOAA's civil penalty assessment system and initiated the first regulatory regime to protect dolphins captured during tuna fishing. I also opened NOAA's five field legal offices.

*Appellate Defense Counsel*, Office of the Judge Advocate General, U.S. Air Force (Captain), Washington. 1971-1972. I represented Air Force members convicted of crime by court-martial, including briefing and oral argument before the Court of Military Appeals.

*Chief of Military Justice, Military Judge, Chief of Preventive Law, Claims Officer, Contracts Officer, and Labor Relations Adviser*, U.S. Air Force, Andrews Air Force Base, Maryland, and Eielson Air Force Base, Alaska. 1967-1971. I served as city attorney to the Base Commander, whose role was similar to that of the mayor. I prosecuted for law violations, negotiated or filed suit to protect Air Force interests, defended against medical malpractice and other claims, provided legal assistance to service members, and arbitrated employee grievances and contract disputes.

*Instructor in Law and Coordinator of Legal Research and Writing Program*, University of Florida College of Law, Gainesville. 1967.

### Affiliations and Awards

Admitted to practice before Florida Supreme Court, U.S. District Court for the Northern District of Florida, U.S. Court of International Trade, U.S. Court of Appeals for the Federal Circuit, U.S. Supreme Court.

Faculty Member, University of Florida's International Agricultural Trade and Policy Center and Affiliate Lecturer, Department of Food and Resource Economics, University of Florida Institute of Food and Agricultural Sciences.

Affiliate Faculty, Center for Latin American Studies, University of Florida.

Advisory Council, Center for International Business Education and Research, University of Florida Warrington College of Business.

American Bar Association: Council, Section of International Law, 2001 - 2004; International Trade Committee, 1990 - present (former chair).

Florida Bar Association, International Law Section.

Presidential Rank Award (Meritorious Executive 1991); Department of Commerce Gold (1992 and 1998) and Silver Medals (1987, 1989, and 1998).

### Professional Development

The attachment describes my continuing desire to inform business leaders, attorneys, and others about international trade issues. For example, I have addressed business groups on the importance of Free Trade Area of the Americas talks, discussed with agricultural lawyers and growers the impact on transgenic crops of WTO rules, lectured to Brazilian and Egyptian exporters on practical ways to achieve more accurate AD/CVD results, spoken to law professors and students on implications of NAFTA and WTO dispute settlement, and addressed Chinese government officials on the intricacies of responding to an Anti-Dumping questionnaire.

### Research Activities

I have authored articles exploring such subjects as the effect of regional trade agreements on rules-based governance in the Americas, the place of human rights law in world trade rules, major revisions to U.S. trade law that resulted from the Uruguay Round of GATT negotiations, the nature of Mexico's trade law system, the effects on the trade laws of globalization of the production process, the impact of the foreign-trade zone program on U.S. oil refining, the unique dispute settlement system of the NAFTA, the potential to use competition-law principles in implementation of the trade laws, application of U.S. trade law to imports from China, Russia, Egypt, India, and Brazil, and several studies of judicial decisions. Details are in the attachment.

### Negotiations

On behalf of the United States, I have negotiated trade agreements confronting the

principal international business conflicts of our time, including pacts with the Russian Federation governing uranium, with Brazil on steel, with Mexico as to its NAFTA accession and with Hemispheric nations to create a Free Trade Area of the Americas, with Canada creating binational dispute settlement panels and defusing the lumber dispute, and with Japan tempering its semiconductor imports. I was a major contributor to the OECD agreement imposing disciplines on subsidies and unfair pricing by the major shipbuilding nations, including the strongest dispute settlement provisions ever negotiated among sovereign powers. I negotiated with Congressional committees three major rounds of amendments to U.S. trade laws. As NOAA's western counsel, I negotiated a major transfer of federal lands to the Aleut Indians under the Alaska Native Claims Settlement Act, as well as conventions with Japan, Canada, and the Soviet Union to protect the seals, whales, and fisheries of the North Pacific. As an Air Force JAG, I negotiated the first Air Force labor agreement with Alaskan workers.

## **RESEARCH ACTIVITIES**

Stephen J. Powell

"Regional Economic Arrangements and the Rule of Law in the Americas: The Human Rights Face of Free Trade Agreements," 17 FLA. J. INT'L L. (forthcoming 2005).

"The WTO's Cotton and Sugar Subsidies Dispute Settlement Decisions: Implications for Other Crops and for U.S. Agricultural Policy," DRAKE J. AG. LAW (forthcoming 2005), portions *available at* [http://www.fred.ifas.ufl.edu/iatpc/archive/CPTC\\_04-11.pdf](http://www.fred.ifas.ufl.edu/iatpc/archive/CPTC_04-11.pdf) .

"The Place of Human Rights Law in World Trade Organization Rules," 16 FLA. J. INT'L L. 219 (2004).

"WTO and NAFTA Dispute Settlement for North American Agricultural Trade," *in* INTERNATIONAL AGRICULTURAL TRADE DISPUTES: CASE STUDIES IN NORTH AMERICA (Calgary Press 2004).

"Summary of FTAA Chapter on Antidumping, Countervailing Duties, and Subsidies," Fla. Bar Int'l Law Quarterly Fall 2001.

THE COMPENDIUM OF FOREIGN TRADE REMEDY LAWS (Amer. Bar Assoc. 1998)(Co-Editor).

"The Role of United States Trade Laws in Resolving the Florida-Mexico Tomato Conflict," 11 FLA. J. INT'L L. 319 (1998).

THE WORLD TRADE ORGANIZATION: MULTILATERAL TRADE FRAMEWORK FOR THE 21ST CENTURY AND U.S. IMPLEMENTING LEGISLATION (Amer. Bar Assoc. 1996)(Co-Editor).

"Straight Talk about a Complex Issue---The U.S. Standard of Judicial Review of Antidumping and Countervailing Duty Determinations: An Important Challenge for NAFTA Panels," 19 FORDHAM INT'L L.J. 1451 (1996)(co-author).

"Unfair Trade Practices: Recent Experience of the United States in Enforcement of the Antidumping and Countervailing Duty Laws Against Brazil," SEMINAR ON TRADE REMEDIES (Fundação Centro De Estudos de Comércio Exterior 1995).

"New Antidumping Procedures under the Uruguay Round Agreements Act," GATT AND THE WTO: NEW RULES AND NEW OPPORTUNITIES IX (Amer. Conf. Inst. 1995).

"Initiation of Investigations," CHANGES IN U.S. ANTIDUMPING AND COUNTERVAILING DUTY LAWS:

AN IN-DEPTH REVIEW 1 (D.C. Bar/Geo. Wash. U. L. Center 1995).

"Increased Transparency and Due Process in Mexico's Antidumping and Countervailing Duty Laws Under NAFTA," MEXICO - INVESTMENT AND TRADE: PROGRESS AND PROSPECTS 403 (New York: Prac. Law Inst., 1993).

"Current Administration of United States Antidumping and Countervailing Duty Laws: Implications for Prospective United States-Mexico Free Trade Talks," 11 NW. J. INT'L L. & Bus. 177 (1990)(co-author).

"Oil Refining in U.S. Foreign-Trade Zones," ENERGY WATCHERS II: PHOENIX-LIKE OPEC AND THE OIL-GAS RELATIONSHIP 99 (Boulder: Int'l Res. Cent. for Energy & Econ. Dev., 1991)(co-author).

"Globalization of the Production Process and the Unfair Trade Laws," 2 THE COMMERCE DEPARTMENT SPEAKS 1990 9 (New York: Prac. Law Inst., 1990)(co-author).

"Administrative Protective Orders before the Department of Commerce," III INT'L TRADE CMTE. NEWSLTR. 4 (Amer. Bar Assoc., 1989)(co-author).

"Implementation of the 1988 Trade Act: Amendments to the Antidumping and Countervailing Duty Laws," II INT'L TRADE CMTE. NEWSLTR. 4 (Amer. Bar Assoc., 1989)(co-author).

"1988 Amendments to the Antidumping and Countervailing Duty Laws: A Tune-Up for the Vehicles of Fair Trade," INTERNATIONAL TRADE: COMPETING UNDER THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988 (Washington: Bureau of Nat'l Affairs, 1989).

"Recent Significant Court Decisions in the Area of Antidumping and Countervailing Duties," PROC. ANNUAL SPRING MTG., SEC. OF INT. LAW & PRACTICE (Washington: Amer. Bar Assoc., 1989)(co-author).

"Effect on Petroleum Producers of Omnibus Trade and Competitiveness Act of 1988: Storm Warnings Ahead," ENERGY WATCHERS I: A "REINTEGRATED" OIL INDUSTRY 97 (Boulder: Int'l Res. Cent. for Energy & Econ. Dev., 1990).

"Dispute Settlement in Antidumping and Countervailing Duty Cases under the United States-Canada Free-Trade Agreement," PRIVATE INVESTORS ABROAD: PROBLEMS AND SOLUTIONS IN INTERNATIONAL BUSINESS IN 1988, ch.16 (New York: Matthew Bender & Co., 1989).

"International Energy Trade and the Unfair Trade Laws," 11 U. PA. J. INT'L BUS. L. 339

(1989)(co-author).

"Ramifications of U.S. Trade and National Security Laws for Petroleum Imports," 14 J. ENERGY & DEV. 293 (1989)(co-author).

"Disciplining the Agency, the Litigants, and the Court: Extraordinary Remedies," PROC. OF THE U.S. CT. OF INT'L TRADE, FIFTH ANNUAL JUDICIAL CONFERENCE (1988)(co-author).

"Application of the U.S. Antidumping and Countervailing Duty Laws to the U.S.S.R.," PROC. OF FIRST U.S.- U.S.S.R. LEGAL SEMINAR ON TRADE AND ECONOMIC RELATIONS (1988).

"Antidumping Law and the United States-Canada Free Trade Agreement: Possible Next Steps," UNITED STATES/CANADA FREE TRADE AGREEMENT: THE ECONOMIC AND LEGAL IMPLICATIONS 415 (Washington: Amer. Bar Assoc., Nat'l Inst., 1988).

"Impact of the Court of International Trade on the Department of Commerce's Administration of the Antidumping and Countervailing Duty Laws," 10 B.C. INT'L & COMP. L. REV. 181 (1987)(co-author).

"Commerce Procedures for Imposing Sanctions for Violation of An Antidumping or Countervailing Duty Protective Order," 2 THE COMMERCE DEPARTMENT SPEAKS 1987 159 (New York: Prac. Law Inst., 1987).

"Stare Decisis in the Court of International Trade: One Court or Many?," U.S. TRADE LAW & POLICY 351 (New York: Prac. Law Inst., 1987)(co-author).

"Recent Developments under the Trade Agreements Act of 1979," PROC. OF FOURTH U.S.- P.R.C. JOINT LEGAL SEMINAR (1985).

"The Legal Nihilism of Pashukanis," 20 U. FLA. L. REV. 18 (1967).

"Evidence: Lie Detector Tests," 18 U. FLA. L. REV. 527 (1965).

## **Educational Seminars**

Stephen J. Powell

I conceived and implemented the following educational programs:

“International “Economic Law and Human Rights,” 1-credit course in St. Thomas University School of Law, Miami, LL.M. in Intercultural Human Rights Program, March 2005.

“The Contribution of Regional Trade Agreements to the Rule of Law in the Americas,” FIFTH ANNUAL CONFERENCE ON LEGAL & POLICY ISSUES IN THE AMERICAS 2004, University of Florida Center Levin College of Law and University of Costa Rica Faculty of Law, San José, June 2004.

“The FTAA and Beyond: Making Regional Trade Agreements Work for Your Company,” WORLD TRADE CONFERENCE, World Trade Council, Destin, May 2002.

“The Potential for Future Economic Relations with Cuba,” THIRD ANNUAL CONFERENCE ON LEGAL & POLICY ISSUES IN THE AMERICAS 2002, University of Florida Levin College of Law, Gainesville, April 2002.

“Implementation of the WTO Anti-Dumping and Subsidies Agreements in the United States,” LAW FORUM 2001, Organization of Commonwealth Caribbean Bar Assocs., Nassau, May 2001.

“What Economic Integration in the Hemisphere Means to Florida Industries: Now and in 2005,” SECOND ANNUAL CONFERENCE ON LEGAL & POLICY ISSUES IN THE AMERICAS 2001, University of Florida Levin College of Law, Gainesville, April 2001.

“Regional Trade Agreements and the WTO in the Americas: New Issues As the Pace of Economic Integration Quickens,” FIRST ANNUAL CONFERENCE ON LEGAL & POLICY ISSUES IN THE AMERICAS 2000, University of Florida Levin College of Law, Gainesville, May 2000.

“India and the United States: Intellectual Property, International Trade, and Investment Issues,” University of Florida Levin College of Law Seminar, Gainesville, Sept. 2000.

“Global Developments in Unfair Trade Actions,” The George Washington University Law School THIRD INSTITUTE ON CURRENT ISSUES IN INTERNATIONAL TRADE AND INVESTMENT, Washington, May 1998, with experts from Brussels, Mexico City, Seoul, Ottawa, and Washington.

"The New Globalizing Economy: Risks, Challenges, and Practical Solutions," Luncheon Address by Stuart E. Eizenstat, Under Secretary of Commerce for International Trade, Amer. Bar Assoc. Section of Int'l Law and Practice Spring Meeting, Washington, May 1997.

"The Department of Commerce's Proposed Countervailing Duty Regulations," Amer. Bar Assoc. evening seminar, Washington, April 1997.

"Age of the Americas: Key Issues in the Free Trade Area of the Americas (FTAA) Negotiations," Amer. Bar Assoc. Annual Meeting, Orlando, August 1996. Program repeated under sponsorship of District of Columbia Bar Association, Washington, March 1997.

"The New Frontier: Substantive Antidumping Regulations Implementing the Uruguay Round Agreements Act," Amer. Bar Assoc. Section of Int'l Law and Practice seminar, Washington, April 1996.

"Post-Uruguay Round Trade Laws of Europe, Latin America, and the Pacific Rim: New Challenges for U.S. Exporters," Amer. Bar Assoc. Section of Int'l Law and Practice Fall Meeting, San Francisco, November 1995, with experts from Sao Paulo, Mexico City, Tokyo, Brussels, and Washington.

"Breakfast at the Bar," Amer. Bar Assoc. Section of Int'l Law and Practice, Washington, with

- David L. Aaron, Under Secretary of Commerce for International Trade, March 1998;
- Marcia E. Miller, Chair, U.S. International Trade Commission, November 1997;
- Robert S. LaRussa, Assistant Secretary of Commerce for Import Administration, October 1997;
- Thelma Askey, Staff Director, House Ways and Means Committee's Subcommittee on Trade, February 1997;
- Jennifer A. Hillman, General Counsel, Office of the U.S. Trade Representative, November 1995;
- J. Michael Farren, Under Secretary for International Trade, U.S. Department of Commerce, May 1992.

"Economics and Accounting Issues in Title VII Proceedings Before the U.S. Department of Commerce," Amer. Bar Assoc. Section of Int'l Law and Practice Practitioners' Workshop, Washington, September 1995.

"The New World Trade Agreement: What It Means for Your Business," Int'l Trade Assoc. of Greater Chicago and Amer. Bar Assoc. Section of Int'l Law and Practice, Chicago, March 1995.

"Expanding NAFTA: Criteria for Extension," New York State Bar Assoc. and Amer. Bar Assoc. Section of Int'l Law and Practice Evening Seminar, New York, January 1995, with experts from Mexico City, Kingston, New York, Ottawa, and Washington.

"American Trade Law in a Changing World Economy," presentation by Jeffrey E. Garten, Under Secretary for International Trade, U.S. Department of Commerce, at the Spring Meeting of the Amer. Bar Assoc.'s Section of Int'l Law and Practice, Washington, April 1994.

"The Commerce Department Speaks on International Trade and Investment 1994," Practising Law Inst. (Day Two, Import Laws), Washington, September 1994.

"Cold War Trade Laws: Responding to Revolution," Amer. Bar Assoc. Section of Int'l Law and Practice One-Day Seminar, Washington, September 1994.

"Privatization of State-Owned Companies and the Countervailing Duty Law," Amer. Bar Assoc. Section of Int'l Law and Practice Evening Seminar, Washington, April 1993.

"GATT Dispute Settlement for Antidumping and Countervailing Duty Determinations," Amer. Bar Assoc. Section of Int'l Law and Practice Evening Seminar, Washington, June 1992, with experts from Wellington, Geneva, and Washington.

"Antidumping Procedures in Canada, the European Communities, and Mexico," Amer. Bar Assoc. Section of Int'l Law and Practice Evening Seminar, Washington, September 1991, with panelists from Brussels, Ottawa, Monterrey (Mexico), and Washington.

"The Commerce Department Speaks on the Legal Aspects of International Trade 1990," Practising Law Inst. (Day Two, Import Laws), Washington, January 1990.

"International Trade Law for Non-Lawyers," a one-day seminar offered on an annual basis since 1989 to employees of the International Trade Administration of the Department of Commerce to broaden their perspectives on trade issues, Office of Chief Counsel for Import Administration, Washington.

"The Commerce Department Speaks 1987," Practising Law Inst. (Day Two, Recent Developments in Antidumping and Countervailing Duties and Textile Trade), Washington, September 1987.