

From NAFTA to the USMCA

Friday, October 26, 2018, 4:15-5:30 PM (1.5 CLE credits)

This program will examine the United States-Mexico-Canada Agreement (*USMCA*) that may soon replace NAFTA, with a non-exclusive emphasis on provisions governing trade and investment disputes. Panelists from each NAFTA / USMCA party will explore the USMCA's implications for the future of international trade and investment law, as well as for relations among North America's three economies.

Panelists:

Professor Andrea Bjorklund, McGill University Faculty of Law, Montreal
Francisco Franco-Rodriguez, Baker McKenzie, Mexico City
Andrew M. Lanouette, Cassidy Levy Kent, Ottawa
Carlos Ramos-Mrosovsky, Alston & Bird, New York

Moderator: Rekha Rangachari, New York International Arbitration Center

Program Outline (*subject to revision*)

- I. "Renegotiating" NAFTA – overview and political / economic context
 - A. From NAFTA to the USMCA
 - B. Current status and future prospects
- II. International Disputes under NAFTA and the USMCA
 - C. Investor-State Disputes
 1. Past experience with investor-state disputes under NAFTA Chapter 11
 2. NAFTA and the wider debate over investor-state dispute settlement
 3. Disputes under USMCA Chapter 14
 - a. Between U.S. investors and Mexico (and *vice versa*)
 - b. Between U.S. investors and Canada (and *vice versa*)
- III. Anti-dumping and countervailing duties under NAFTA Chapter 19
- IV. Geopolitics and Trade – what comes next?

Written Materials

- UNITED STATES–MEXICO–CANADA TRADE FACT SHEET Modernizing NAFTA into a 21st Century Trade Agreement (October 2018)
- USMCA Chapter 10 (Trade Remedies)
- USMCA Chapter 14 (Investment)
- NAFTA Chapter 11 (Investment)
- Andrew M. Lanouette & Christopher J. Kent, “Canada: high deference, stark reality” in *Domestic Judicial Review of Trade Remedies* (Yilmaz, ed. 2013)
- Congressional Letter to U.S. Trade Representative Robert Lighthizer (March 20, 2018).
- Andrea K. Bjorklund, “The Emerging Civilization of Investment Arbitration,” 113 Penn State Law Review 1269 (2009)
- Andrea K. Bjorklund, “NAFTA Chapter 11 and the Environment: An Assessment after Fifteen Years” in *Fifteen Years of NAFTA Chapter 11 Arbitration* (Gaillard, ed. 2011)