BE IT RESOLVED that the American Bar Association recommends that the nomination and appointment process for the selection of judges for the Court of International Trade reflect the specialized nature of the Court’s substantive jurisdiction, the nationwide impact of the Court’s decisions, and the status of the Court as an Article III court, as follows:
   a. Consistent with the Court’s status as a national court, nominees should be selected without reference to geographic considerations;
   b. It would be useful if nominees had, in addition to other qualifications, experience with the international trade and customs laws administered by the Court.

REPORT

1. Prior to 1979, the Customs Court had limited jurisdiction to review decisions of the U.S. Customs Service relating to the imposition of duties on imported merchandise. The majority of cases before the Customs Court traditionally involved classification and valuation issues. The Customs Court was accordingly established in New York City where the country’s most active port was located.

2. With passage of the Trade Agreement Act of 1979 and the Customs Court Act of 1980, however, the jurisdiction, powers, and responsibilities of the Customs Court were significantly expanded to provide a comprehensive, nationwide system for judicial review of all civil actions arising
from import trade transactions, including antidumping and countervailing
duty cases. The name of the court was changed to the Court of Inter-
national Trade ("CIT") to reflect these new judicial functions relating to
international trade. The Congress emphasized that expanding the juris-
diction of the CIT and enhancing its powers commensurate with its status
as an Article III court would ensure greater efficiency and uniformity of
decision making. The goal was to develop a national court with specialized
expertise in resolving international trade disputes.

3. The changes effected in 1979 and 1980 have succeeded in increasing
the CIT's impact on significant issues affecting international trading prac-
tices throughout the United States. Since 1980, for example, the CIT has
reviewed over 400 countervailing duty and antidumping cases.

4. The changes effected in 1979 and 1980 were expressly intended to
clarify that the CIT is a national court and its decisions have nationwide
impact. Unlike courts of limited geographic jurisdiction which require
residency in the district as a condition of appointment, such as United
States district courts,¹ the CIT is a national court with no residency
requirement. Indeed, judges of the CIT may be designated to preside at
a trial or hearing at any location in the United States.² Accordingly, the
process for selecting judges for the CIT should operate to appoint qualified
nominees without reference to geographic considerations.³ Other national
courts, such as the Tax Court and the Claims Court, have succeeded in
attracting nominees with diverse geographic backgrounds.

5. In addition, in establishing the CIT, Congress emphasized the ex-
pertise and specialized skills required for effective decision making in the
field of international trade. A nominee for the CIT should have demon-
strable experience in the trade laws administered by the Court, as well
as possess the requisite qualifications to serve as an Article III judge.⁴
Nevertheless, few of the sitting judges on the CIT had significant prior
experience with trade law or customs matters prior to joining the Court.
The appointment process should be tailored to ensure that prior trade law
or customs experience is an important factor in determining a nominee's
qualification for appointment to the Court.

Conclusion

By means of this recommendation, the American Bar Association puts
record its concern that the process for selecting and appointing judges

³. Currently, seven of the twelve CIT judges and six of the eight active judges are from
the State of New York.
⁴. CIT judges may be assigned temporarily to perform judicial duties in any U.S. circuit
court or district court. See 28 U.S.C. § 293(a).