

Geneva

by way of Japan



VICTORIA DONALDSON

CLASS OF 1993

by Diane Haynes

“I’ve never done first-year law school!” laughs Victoria Donaldson, a Counsellor with the World Trade Organization’s (WTO) Appellate Body Secretariat in Geneva. Her Stanford BA in International Relations, which included a year at the Sorbonne, let her skip the first year of her Bachelor of Laws at Oxford, which in turn put her directly into second-year law at UBC. From there, it was straight into a clerkship at the Supreme Court of Canada and then a Master of Laws at Harvard.

Donaldson holds Bar memberships with the Law Society of BC, the New York Bar and the Law Society of England and Wales, and is conversant in French, Spanish and Japanese. The omission of first-year law does not appear to have held her back.

Donaldson traces her current work back to her first class in international trade law with UBC’s Chris Thomas, and recalls working as an editor for the *UBC Law Review*; volunteering with the ISLAP clinic; competing in the bilingual Laskin Moot; and winning awards in both Appellate Advocacy and Japanese Legal Studies. She credits UBC Law with much of her “luck,” but by all indications, she has made her own.

Did you take the “road less travelled” even as a child?

I think I was relatively conformist as a kid growing up in Kamloops. Probably the first “road less travelled” that I took, after my last year of high school, was going on a Rotary Club exchange program to Japan for a year. That really opened my eyes to experiencing another culture and new ways of doing things and gave me a different perspective on where I came from and my own cultural references.

Was that the appeal for you in pursuing an international career?

I think it’s a mix of constantly being challenged to look at things in different ways while at the same time being reaffirmed in your faith in humanity by the similarities in people no matter where they come from. I like the richness of interacting with people who bring different things to the table. It doesn’t necessarily have to be international to provide that, but for me that is part of the pleasure of it.

I’m looking at your CV: Paris, Brussels, Geneva. A very cosmopolitan career path!

It was a combination of interest and serendipity. While I was at Harvard, I applied to law firms in Washington and Brussels that, at the time, were the places that did international trade law, and accepted a job in Brussels. I went to Cleary, Gottlieb, Steen & Hamilton and a week after I arrived, the trade partner announced he was leaving the firm. A lot of the work I had been expecting to do left the firm with him, so instead I was doing a lot of European competition work.

The firm said, well, if you want to try and develop a trade law practice then we’ll support you. But as a relatively junior associate, it’s not very easy to build up a practice. So they suggested that I apply for an internship at the WTO to get some direct experience. Which I did. And was turned down. So I was sort of at this crossroads.

A client who was also a friend was working for Carrier Corporation, a manufacturer of air conditioners, in Paris and she suggested to me that I go there, have some time to think about what I wanted and in the meantime enjoy a different challenge doing mergers and acquisitions as an in-house lawyer. So that’s what I did.

While I was there, the WTO called me back and said, Look, we remember you. We have a competition for a new post that’s just been created and if you are interested, you might want to apply. So I applied and got the job, and in the end that was really exactly what I wanted to do. Trade law had always been my primary interest.

Where did that interest originate?

During my undergraduate studies in International Relations at Stanford, I did both international economics and international political science, but I was more interested by the economic side. I actually did my undergraduate thesis on the US/Canada Free Trade Agreement, which had just been negotiated at that time. By the time I got to my Master’s at Harvard, NAFTA had just been negotiated so I ended up doing my Master’s thesis on that.

You once described your current job as a kind of clerkship, except that you have seven “bosses” instead of one, and the parties in the disputes are countries. Could you expand on that description for readers of the alumni magazine?

The Appellate Body is essentially an international tribunal that decides appeals in trade disputes between the Member States of the WTO. The seven judges who make these decisions are not based in Geneva, but their Secretariat (where I work) is. We are ten lawyers, a Director and four administrative assistants. Our function is to support the Appellate Body – for the lawyers that means helping as necessary with legal advice and analysis. Whenever an appeal is made, three of the seven judges are randomly selected to hear the case. We then assign an appeal team to them, which normally consists of

two lawyers (unless it's a particularly complex case, in which case there would be more) and a secretary. We prepare memoranda for the judges on the case ... before they come to Geneva, based on the written legal submissions we receive from the parties prepared by either government lawyers or a private law firm, and our own analysis. The judges come to Geneva and there's an oral hearing where the parties present their arguments and are subjected to questioning.

One of the big differences between being a clerk and my job here is that we participate in the meeting with the judges when they're preparing for the hearing, when they have their deliberations and after the hearing when they're discussing what they think of the case. Sometimes they'll ask us for advice in the course of their deliberations, so we're very privileged and it's quite fascinating to see the process of decision-making in action.

Once the decision has been written, it has to be translated from English into the two other WTO languages, French and Spanish, before it's released. Professional WTO translators do the work, but the lawyers have to check the final

results very carefully to make sure that all three language versions are consistent. So that's the core function of what we do and that can be quite intense because each appeal by treaty has to be finished in 90 days, which is an extremely short period compared to most courts and tribunals.

But we don't have appeals all the time—we tend to get between five and 12 appeals a year. One other core WTO activity we do when we're available is capacity building for developing countries. Sometimes we run courses in Geneva and bring government officials from developing countries here and we teach them about WTO law. Sometimes those training activities will take place in the developing countries themselves.

You mentioned "core WTO activities?"

The WTO has four main areas of activity: monitoring and surveillance of the existing trade treaties; negotiation of new rules; dispute settlement; and capacity building. My main activity is dispute settlement, but I also help out in capacity building when time and workload permit.

Which aspect of your work do you like the best?

The variety!

Getting back to that cosmopolitan quality of international work, what's your lifestyle like in Geneva?

Geneva offers a lot in terms of outdoor life, which is something I always loved about Vancouver. In the summer there's hiking and water skiing. I do quite a lot of running and hope to complete my third marathon this year. In the winter I ski as much as possible. There are probably 25 ski resorts within an hour and a half's drive of Geneva.

It has many of the advantages of BC's west coast but it's right in the heart of Europe. It's surrounded by France on three sides, so you can go grocery shopping in France if you want, and it's a three-and-a-half-hour train ride to Paris, four-hour train ride to Milan, two hours to Lyon, and just a short plane ride to London, Brussels or most European destinations.

Composition of the Appellate Body

The Appellate Body is composed of seven Members appointed to four-year terms by the WTO Dispute Settlement Body. This table shows the current composition of the Appellate Body and the respective terms of office of its Members.

NAME	NATIONALITY	TERM(S) OF OFFICE
Georges Michel Abi-Saab	Egypt	2000-2004 2004-2008
Luiz Olavo Baptista	Brazil	2001-2005 2005-2009
Arumugamangalam Venkatachalam Ganesan	India	2000-2004 2004-2008
Merit E. Janow	United States	2003-2007
Giorgio Sacerdoti	Italy	2001-2005 2005-2009
Yasuhei Taniguchi	Japan	2000-2003 2003-2007
David Unterhalter	South Africa	2006-2009

Do you have time to take advantage of all these benefits?

I do, although I probably don't take advantage as much as I could. I recently bought a place in the mountains, so now I go even more often than I did before. It's great. I can't afford anything in Geneva—it's an extremely expensive city. But the silver lining is that wherever you travel seems cheap by comparison.

It sounds like the ideal combination of intellectual and outdoor pursuits!

Well, it's a long way from Vancouver, and my parents and my sisters are there, and I would like to see them more often than I do.

Speaking of home, what did our big trade dispute, the softwood lumber dispute, look like from the WTO's perspective?

One of the interesting things about the case was the fact that Canada chose to pursue its claims in two different fora: both at the WTO and in front of NAFTA tribunals. There were a number of different cases, and in some of them Canada ended up getting different results from the NAFTA and WTO tribunals. This might have created very interesting questions of international law in terms of which ruling would take precedence: the multilateral one from the WTO or the bilateral one in NAFTA. Canada also took action in the US domestic courts where there were more rulings on interesting issues like the relationship between NAFTA and US domestic law, so there was really a multiplicity of rulings.

That's a very interesting legal issue for the future, I think, because there's such a proliferation of regional trade agreements like NAFTA. More than 300 have been notified to the WTO, and increasingly there will be these questions about what you do if the same set of facts gives rise to disputes in two different fora, and you get different results.

What else do you foresee as a focus of the organization's work over the next five to 10 years?

The current round of negotiations, which began in 2001 and is called the Doha round, was designed to come up with a set of rules that would create a more level playing field for

developing countries. But those negotiations are in a state of great uncertainty at the moment, and the conventional wisdom is that if they don't start making real progress soon, the whole round might never be completed.

The way the WTO takes decisions in negotiations is by consensus, which means that every one of our 150 Member countries has the ability to block a decision. So politically, it's difficult to get agreement.

A trend of the last few years has been to see developing countries being much more active within the WTO at all levels, particularly the large developing countries like Brazil, India and Argentina.

One major question is to what extent the big developed players like the United States, but also Canada and Japan, are going to be able to accommodate the new powerful players and whether they'll be able to come to some agreement on what the proper rules of trade should be, and to what extent new rules will be to the benefit of all developing countries.

To me, one of the attractions of the WTO and international economic law in general is the possibility for it to act as a mechanism for stimulating growth. I genuinely do believe that if you can have a trading system based on the right rules, it's going to stimulate development. The question is, can we succeed in creating the right conditions for developing economies to be able to take advantage of that? I think that will play a large part in determining where the WTO goes over the next five years.

You've been with the WTO for eight years now. Do you plan to be there to see how it all plays out?

I can't say I have any plans for leaving in the near future. I would think about doing a little more teaching outside the WTO. Many of my colleagues teach for a week or a month at a time at a university in their home country. I would definitely be interested if UBC were interested! I haven't had a particularly clear path here, but I do feel like it's the right place for me to be. I feel very privileged to be doing this job. ●