

International Trade MVP: Akin Gump's Stephen Kho

By **Django Gold**

Law360, New York (December 14, 2012, 6:45 PM ET) -- Akin Gump Strauss Hauer & Feld LLP's Stephen Kho has dedicated his entire career to navigating the tumultuous waters of trade policy and international dispute resolution, having in the past year taken home some impressive victories, as well as a spot on Law360's list of International Trade MVPs.

A veteran of the public sector, having spent nine years within the Office of the U.S. Trade Representative prior to joining up with Akin Gump, Kho in his private practice has developed a body of work that has taken the attorney into complex and high-stakes disputes all around the globe, including in recent high-stakes matters in Argentina and China.

Kho, whose work ranges across issues involving international policy and government relations, investment matters, intellectual property protection and non-tariff barriers to trade, among many others, says that it is the intriguing, challenging nature of international relations that keeps him interested in the field.

"What really drew me to this area is that it is quite fascinating when you are dealing with sovereign nations and governments, because in the world of international law, there is no absolute right or wrong," Kho said. "You're dealing with these sovereign entities that can essentially do whatever they want to do — there's no international jail for a sovereign. You really have to find compromises, to be able to negotiate a solution."

Kho, who serves as a partner with Akin Gump, working out of the firm's Washington and Beijing offices, says that his extensive work with the USTR — where he worked from 1998 to 2007 — allowed him to develop the skills and knowledge necessary to develop a successful private practice with Akin Gump.

"I was always wary of private practice, but Akin was a good place to land because it is a law firm that I think really understands the practice of law from a government point of view," Kho said, pointing to the culture engendered in part by firm co-founder Robert Strauss, who himself served as the U.S. trade representative under President Jimmy Carter. "A lot of the places I looked at really didn't get what I wanted to do, but here, they absolutely understood."

Much of what Kho says he wants to do revolves around the delicate interplay between nations involved in international disputes. And in that regard, he has had his hands full in the last year.

In March, through the efforts of Kho and his colleagues, the U.S. announced its suspension of certain trade benefits for Argentina, a punishment for the nation's refusal to pay a \$165 million arbitration award to Akin Gump client Azurix Corp., a Houston-based water services company.

As Kho recounts, after Argentina decided to expropriate foreign investment into a water treatment infrastructure project, an investor-state arbitration was conducted, resulting in the hundred-million-dollar award that the Argentine government refused to pay.

"The investor-state arbitration system has been around for a while and it works fairly well. But Argentina is the first country that decided that after they lost a case that they wouldn't pay," Kho said. "We had to create some new enforcement mechanisms to get at Argentina to get them to pay up."

In this case, that meant petitioning the U.S. government to step in and withdraw trade benefits for Argentina. Now that the U.S. has done so, Kho says the dispute has a chance at being resolved.

"It hasn't resulted in full resolution yet, but it has resulted in the Argentine government stepping forward to negotiate with the company to try and reach settlement," he said. "They could blow us off if they want. But getting another sovereign to apply pressure has been useful."

Another victory for Kho came in May, when China announced that it would be opening its mandatory third-party liability automotive insurance market to foreign participation after years of stifling foreign efforts at making inroads in this sector.

"Their system was essentially set up to make money for Chinese companies," Kho said of the existing system, which he said generated outrage among Chinese consumers. "There were set, high rates with set payouts that were low. People felt they were paying into system but not getting the benefit."

In order to fix the system, Kho, acting on behalf of client and insurer Liberty Mutual Group, worked with the U.S., Japan, Korea and various other countries to push China to open up its auto insurance market.

"It took four years, but this is one of the most significant markets they've opened up without being forced to do so," Kho said, noting that Liberty Mutual was the first foreign company to receive a license to sell third-party auto insurance in China.

Though triumphs such as these have come about through hard work and, at Kho's admission, a bit of luck, he attributes much of his professional success to the people with whom he works on a day-to-day basis.

"I'm very fortunate to have Akin, which has a tremendous group of people with government experience to draw on," he said. "It's helpful to have people we can bounce ideas off of, people with connections, not just in U.S. government, but abroad. And we have great clients who are willing to try things that are new and different."

--Editing by Jeremy Barker.