



1330 Connecticut Avenue, NW  
Washington, DC 20036  
TEL: 202.429.6402  
FAX: 202.429.3902  
sbaker@step toe.com

**Areas of Practice**

Congressional Oversight & Investigations

National and Homeland Security

Telecom, Internet & Media

CFIUS Foreign Investment Reviews

International Regulation & Compliance

International Trade & Investment

Worldwide Arbitration & Dispute Resolution

Appellate & Supreme Court

**Education**

UCLA School of Law, J.D., 1976, Alumni Award for Excellence (first in class), Chief Articles Editor, UCLA Law Review

Brown University, A.B., 1970

**Judicial Clerkships**

Law Clerk to Justice John Paul Stevens, US Supreme Court, 1977-78

Law Clerk to Honorable Frank M. Coffin, US Court of Appeals, First Circuit, 1976-77

**Stewart A. Baker**

Stewart A. Baker is a partner in the Washington office of Steptoe & Johnson LLP. He returned to the firm following 3½ years at the Department of Homeland Security as its first Assistant Secretary for Policy.

At Homeland Security, Mr. Baker created and staffed the 250-person DHS Policy Directorate. He was responsible for policy analysis across the Department, as well as for the Department’s international affairs, strategic planning and relationships with law enforcement and public advisory committees. This work required a broad understanding of all aspects of the Department’s activities, including maritime regulation, customs enforcement, immigration, identity management, SAFETY Act implementation, money laundering enforcement, government contracts, and regulation of travel and air transportation, and its role in the Committee on Foreign Investment in the United States (“CFIUS”).

While at DHS, Mr. Baker led successful negotiations with European and Middle Eastern governments over travel data, privacy, visa waiver and related issues. He devised a new approach to visa-free travel, forged a congressional and interagency consensus on the plan and negotiated acceptance with key governments.

He also managed the passage and implementation of the SAFE Ports Act, led the Department’s policy effort to reform federal immigration laws, and transformed the Department’s role in CFIUS, helping to drive the first rewrite of the CFIUS law and regulations in a generation.

**Telecom, Internet & Media**

Mr. Baker managed one of the nation’s premier technology law practices at Steptoe before accepting the DHS post. Described by The Washington Post as “one of the most techno-literate lawyers around,” Mr. Baker’s practice covers national security, electronic surveillance, law enforcement, export control encryption, and related technology issues. He has been a key advisor on US export controls and on foreign import controls on technology. He has also advised companies on the requirements imposed by CFIUS. In addition, he was responsible for spearheading the government-private sector coalition that permitted major telecommunications equipment manufacturers and carriers to break the decade-long deadlock with law enforcement on wiretapping of modern technology, permitting successful implementation of the Communications Assistance for Law Enforcement Act (“CALEA”).

In 2010 Mr. Baker’s memoir of his time at the DHS, *Skating On Stilts: Why We Aren’t Stopping Tomorrow’s Terrorism*, was published by Hoover Press. Drawing on his experiences, Mr. Baker examines the technologies we love—jet travel, computer networks, and biotech—and finds that they are likely to empower new forms of terrorism unless the United States changes its current course a few

## Stewart A. Baker

Law Clerk Extern to  
Honorable Shirley M.  
Hufstедler, US Court of  
Appeals, Ninth Circuit,  
1975

### Bar & Court Admissions

District of Columbia

California

degrees and overcome resistance to change from business, foreign governments, and privacy advocates.

### International Trade

Mr. Baker’s practice includes issues relating to government regulation of international trade in high-technology products, and advice and practice under the antidumping and countervailing duty laws of United States, European Community, Canada, and Australia. He also counsels clients on issues involving foreign sovereign immunity, and compliance with the Foreign Corrupt Practices Act. Stemming from his role at DHS, Mr. Baker has a deep background in the international implications of US security policy – from the disputes over US collection of data from international businesses to the US statutory command that all containers being shipped to the US be scanned before leaving foreign ports.

### Worldwide Arbitration

Mr. Baker has handled the arbitration of claims exceeding a billion dollars, is a member of national and international rosters of arbitrators, and is the author of articles and a book on the United Nations Commission on International Trade Law arbitration rules.

### Appellate

Mr. Baker has had a number of significant successes in appellate litigation and appearances before the United States Supreme Court. He developed – and persuaded the Court to adopt – a new theory of constitutional federalism that remains the most vibrant 10th Amendment doctrine of the past 30 years. In addition to having filed many Supreme Court and appellate briefs, Mr. Baker was appointed by the Supreme Court to brief and argue *Becker v. Montgomery* and was recognized in the Court’s opinion for his “able” advocacy. He founded the State and Local Legal Center, which represents state and local governments before the Court; and his writings on appellate and constitutional issues have been cited in various opinions of the Court. His brief opposing the federal government in *New York v. United States*, 488 US 1041 (1992), was described by Assistant Attorney General Walter Dellinger as “one of the most influential amicus briefs ever filed in the Supreme Court.”

### Noteworthy

- Named a Top Lawyer in National Security by *Washingtonian* magazine, 2011
- Recommended, *Legal 500 US 2010*; Media, Technology & Telecoms: Telecoms and Broadcast - Regulatory.

## Stewart A. Baker

- Distinguished Visiting Fellow, Center for Strategic and International Studies, 2009
- Assistant Secretary for Policy, Department of Homeland Security, 2005-2009
- General Counsel, Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, 2004-2005
- General Counsel, National Security Agency, 1992-1994
- Deputy General Counsel, United States Department of Education, 1979-1981
- The Washington Post list of seven Washington lawyers who distinguished themselves in 1998

### Select Seminars & Events

Investing In Security: Vital Issues in Export Controls, FCPA, OCI, CFIUS and FOCI Webinar, February 1, 2012

Cyber Security, National Security and Economic Security Seminar, June 28, 2011, *This is a Steptoe-sponsored event presented by the Federalist Society*

Stewart Baker and Michael Vatis to Present at WMACCA's Global Issues Forum on the Perils of Taking Information Technology Global, May 3, 2011

Stewart Baker to Present at ACI's Advanced Summit on Complying with Global Encryption Controls, April 12, 2011

Global Mobility Workshop, June 10, 2010, *(A Steptoe-Sponsored Event)*

US China Business Council/US Information Technology Office Cybersecurity Briefing, May 12, 2010

### Selected Publications

The SEC and Cybersecurity  
January 20, 2012, *The Deal*

Denial of Service  
Lawyers are crippling America's ability to defend against cyberwar with arcane rules and regulations. But war waits for no man.  
September 30, 2011, *Foreign Policy*

A Security Turf War?

## Stewart A. Baker

An odd attack on the NYPD  
August 28, 2011, *New York Post*

How Europe Puts America at Risk  
October 8, 2010, *The Washington Post*

“Staying Ahead of CFIUS”, *The Deal*  
October 1, 2010

Addressing National Security Concerns  
September 24, 2010, *Insight*

New Executive Order to Prompt Changes in Security Standards for Biolabs  
September 3, 2010

Cyber Security Alert - Major Cyber Security Threat Affecting US Companies  
July 28, 2009

## Professional Affiliations

Council on Foreign Relations (1994-present)

President’s Export Council Subcommittee on Export Administration  
(2003-2005)

Commerce Department’s Industry Trade Advisory Committee on Information  
and Communications Technologies, Services, and Electronic Commerce  
(2003-2005)

Markle Foundation Task Force on National Security in the Information Age  
(2002-2004)

Federal Trade Commission’s Advisory Committee on Online Access and  
Security (2000)

American Bar Association Standing Committee on Law and National Security  
(1998-2005)

Member, Y2Ktoday Advisory Board (1999)

Chair, State and Local Legal Center Advisory Board (1981-92; 1994-2005)

International Telecommunication Union Experts Group on Authentication  
(1999)

Member, President’s Export Council Subcommittee on Encryption  
(1998-present); Acting Chair (1998-1999)

**Stewart A. Baker**

Member, Free Trade Area of the Americas Experts Committee on Electronic Commerce (1998-2005)

Member, US Delegation, UNCITRAL Group of Experts on Digital Signatures (1997-2005)

Member, International Chamber of Commerce Group of Experts on Electronic Commerce (1996-2005)

Member, US Delegation, OECD Group of Experts on Cryptography Policy (1995-1997)

Member, International Chamber of Commerce Working Party on Digital Authentication (1996-1998)

Member, Defense Science Board's Task Force on Information Warfare (1995-1996 and 1999-2001)

Member, Board of Editors, The Internet Newsletter (1997-2005)