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Another China Competition Bill: The Future of Section 301 Exclusions

By: Adrienne Braumiller, Founding Partner

The Trade Act of 1974 grants the President broad powers to manage trade relationships with foreign countries. Section 301

of the act allows the President, acting through the United States Trade Representative ("USTR"), to impose retaliatory tariffs on imports from a country if the USTR determines that country's economic conduct "is unreasonable or discriminatory and burdens or restricts United States commerce." Before 2018, Section 301 was rarely used; when it was, it was usually to resolve minor disputes in the WTO.

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Legal Framework Governing Foreign Direct Investment from the United States and Canada in Mexico

By <u>Brenda Cordova</u>, Mexico Legal Counsel, Braumiller Law Group



A large number of companies considering relocating their business abroad have turned their eyes to Mexico, which has become an attractive place for investors to relocate their business, mainly because it is close to the United States and Canada (nearshoring), the labor costs is relatively low, the availability of IMMEX (maquiladora) program, and because there is a preferential treatment to originating goods and foreign investments from the United States and Canada that are protected under the USMCA, among other factors.

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Buy American – Treatment of Preferences in the Federal Acquisition Regulations

By <u>James R. Holbein</u>, Of Counsel, and <u>Harold Jackson</u>, Associate Attorney, Braumiller Law Group

This article provides an overview of federal procurement laws and how the Federal Acquisition Regulations (FAR) implement some

of those commitments in government contracts. The FAR, found under 48 C.F.R. Part 25, comprises the list of rules governing procurement of products and materials by federal agencies for public use. The FAR incorporate the rules prescribed in the Buy American Act (BAA) of 1933, the Trade Agreements Act (TAA), the WTO GPA (Agreement on Government Procurement), and the Buy American Act, as well as numerous executive actions. The FAR also includes official examples of how and when the BAA, TAA, and other rules apply.

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Driving You MAD - Customs Issues in Mergers Acquisitions & Divestitures

By Bruce Leeds, Senior Counsel, Braumiller Law Group

Let's say you work in Customs Compliance at Shark Company. You learn that your company is purchasing Shrimp Company. Do you have any concerns? Will there be work to do? Yes and yes!

Buying Another Company

When one company buys another there are typically two ways the purchased company will be treated: (1) It will be incorporated into the parent company and will no longer exist as a separate entity. (2) It will become a separately incorporated subsidiary of the parent company and retain its IRS number.

Does Shrimp Company have any imports? If not, there is only one thing to do unless this situation changes. If Shark



Company is a participant in the Importer Self-Assessment Program under Trusted Trader, you will need to advise Customs of the acquisition in the annual ISA report.

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Despite Geopolitical Tension...Can Robust Bilateral Trade Exist? Australia and China, a Good Example Perhaps

By Bob Brewer, Braumiller Law Group

It's a little awkward, but in fact, a reality in this day and age that bilateral trade between two countries who view each other as somewhat adversarial, can co-exist economically. As the

world turns, so does global trade, take Australia and China for the shining example....as trade between the two remains strong, despite Australia planning to put new nuclear subs in the water per AUKUS to keep China in check, as well as continue to show up at the QUAD meetings, to keep China in check, among various other military drills with the U.S. and U.K to keep China in check. Yes, it's all about keeping China in check as they build military installations on the various islands in the S. China sea. As 2/3rds of the world's trade continues to flow through the South China sea, and China continues to claim the majority of it, there is of course the potential for much more than military skirmishes in the air, at sea, and soon to be, on land, if China decides to pull the trigger early on the invasion of Taiwan.

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Using CBP's Enforcement Statistics to Assess Forced Labor Risk in the Supply Chain

By <u>Jennifer Horvath</u>, Partner, and <u>Harold Jackson</u>, Associate Attorney at Braumiller Law Group PLLC

The U.S. continues to spearhead enforcement against imported goods that were made using forced labor, and



public enforcement statistics can help your company assess risks of forced labor. Under the Uyghur Forced Labor Prevention Act (UFLPA), a statute that bans the importation of all goods made in the Xinjiang Uyghur Autonomous Region (XUAR) in China, and under Withhold Release Orders (WRO) and Findings authorities derived from 19 U.S.C. § 1307, U.S. Customs & Border Protection (CBP) is actively targeting and excluding or seizing goods it believes were made using forced labor. Recent trade enforcement statistics show an exponentially heightened crackdown on forced labor entries.

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Key Legal Developments in 2023 Concerning United States Customs and International Trade

By <u>Adrienne Braumiller</u>, Partner & Founder, <u>Harold Jackson</u>, Associate Attorney, and <u>Gavin</u> <u>Andersen</u>, Braumiller Consulting Trade Advisor

U.S.-China Trade - Tariffs, Forced Labor & Export Controls

Section 301 Tariffs on Chinese goods continues to be at the forefront of international trade relations with China and the United States. As part of the four-year review required under the relevant statute (19 USC § 2417), the United States Trade Representative (USTR) began a two-phase notice-and-comment period in May 2022. The first phase closed in September 2022 with comments mostly in support of the continuation of the tariffs; the second phase closed in January 2023 with comments mostly in opposition. Meanwhile, in March 2023, the U.S. Court of International Trade upheld two tranches of Section 301 tariffs (Lists 3 and 4A), finding that the USTR did not exceed its statutory authority or violate the Administrative Procedures Act (APA) when it promulgated them.

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When it comes to classifying product things aren't always what they seem in light of the obvious.

The slightest element (often sourced from China) within the manufacturing process can sometimes change the country of origin, and often Section 301 then comes into play, (China Tariffs) not mention Forced Labor issues, a high tech ban, and so on...:-)

In this case, let's just call it a Zebrelephant. Combo code: 84433210069000





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June 13th - 14th, 2023 Ontario

BLG Partner Paul Fudacz to present at ICPA Canada conference

Information and registration: <u>https://www.braumillerlaw.com/events/changes-to-cbp-cbsa-regulations-upcoming-regulatory-changes-cbsa-carm-in-the-future/</u>

September 10th-13th, 2023

Grand Hyatt

Partner & Founder Adrienne Braumiller, and Partner Vicky Wu to present at ICPA San Antonio



Information and registration: <u>https://web.cvent.com/event/e7910053-c854-4b14-a226-b224fb65aa9f/summary</u>

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