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# June 2023 Newsletter



## 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 **Brenda Cordova**, 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 **James R. Holbein**, Of Counsel, and **Harold Jackson**, 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!



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 [Adrienne Braumiller](#), Partner & Founder, [Harold Jackson](#), Associate Attorney, and [Gavin Andersen](#), 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



Need some assistance with classification? [bob@braumillerlaw.com](mailto:bob@braumillerlaw.com)

Click the events image to the right for our upcoming webinars.



**Braumiller Law Group Attorneys will be speaking at the following conferences:**



**June 13th - 14th, 2023  
Ontario**

**BLG Partner Paul Fudacz to  
present at ICPA Canada  
conference**

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

**September 10th-13th, 2023**

**Grand Hyatt**

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



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

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