

**A LEGAL ANALYSIS OF SECTION 301: THE
RETALIATION CLAUSE OF THE UNITED STATES
TRADE ACT OF 1974, AS AMENDED**

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ABSTRACT

Section 301 of the Trade Act of 1974, as amended, is a legal mechanism which permits United States citizens to assert their "right" to export when certain practices of foreign governments illegally, unjustifiably, unreasonably, or discriminatorily limit United States commerce. This clause has been an important legal scheme for the United States to open up foreign markets. However, from the R.O.C.'s point of view, it has always been a serious threat to our export. This clause has triggered a number of investigations alleging that the R.O.C. government assumes unfair trade policy and requiring that the government of the R.O.C. on Taiwan to reduce its tariff and non-tariff barriers. Government officials as well as people of the R.O.C. concern very much about the possible retaliations. They generally conceive that the economy of the R.O.C. could not afford to be retaliated. Since Section 301 contains a very complicated legal structure and since this provision plays an important role in the U.S.-R.O.C. trade relations, it is proper to have an analytical discussion in this paper on the background and legal requirements of Section 301. This analytical discussion becomes more important due to the fact that the United States Trade Representative has been equipped by Section 301 with some more powerful weapons, such as the retaliation schemes contained in the provisions of Super Section 301 and Special Section 301, after the Omnibus Trade and Competitiveness Act of 1988 was enacted. This paper discusses the newly enacted provisions in detail in order to provide readers with a whole picture of Section 301.