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'De-Chines[ing]' and Defrauding Charges: Newly Unsealed Indictment Shows DOJ's Expanding Focus on Procurement and Trade Fraud

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As government contractors and importers emerge as targets of DOJ's attention, compliance representations and customs declarations that once seemed routine may now invite serious scrutiny.

While every new administration brings new policy objectives to the Department of Justice, the second Trump administration has been more eager than most to eschew its predecessors' enforcement priorities. This can be seen in—among other areas—the DOJ's approach to prosecuting white-collar crime. Declaring that “overbroad and unchecked corporate and white-collar enforcement burdens U.S. businesses and harms U.S. interests,” the Justice Department has pared back or abandoned many traditional areas of white-collar enforcement. The DOJ has, for example, tightened the guidelines for prosecuting certain bribery offenses, disbanded the National Cryptocurrency Enforcement Team, abandoned efforts to prosecute defendants accused of defrauding “race- and sex-based” government programs and stripped the Public Integrity Section of its authority to file new cases.

As it backs away from many traditional white-collar enforcement priorities, the administration has declared its intention to focus its remaining efforts on, among other declared priorities, [procurement fraud and trade and customs fraud](#). A recently unsealed indictment delivers on both fronts and shows, in particular, that government contractors may face additional legal risk as the government moves to criminally prosecute alleged violations of the Buy American Act (BAA) and Trade Agreement Act (TAA). While the government's moves are certainly cause for government contractors to verify BAA and TAA compliance throughout their supply chains, prosecutors will face their own challenges in navigating these complex statutes as they attempt to bring charges that can stick.

The Forklifts Indictment

A [27-count indictment](#) unsealed in Colorado on September 30, 2025, demonstrates the government's efforts to crack down on both procurement fraud and customs fraud. According to the so-called “*Forklifts* Indictment,” two related federal contractors—and three of their executives—provided Chinese manufactured contractors to the Departments of Defense and Homeland Security. The government accuses the defendants of removing “Made in China”

identifiers from the equipment—a process the contractors allegedly described internally as “de-Chines[ing]”—in order to disguise violations of their contracts’ BAA and TAA provisions.

The indictment also alleges a parallel customs-evasion scheme. Between 2018 and 2024, the defendants purportedly conspired with a sales manager at their Chinese manufacturer to submit false invoices to U.S. Customs and Border Protection that allegedly deprived the United States of over \$1 million in revenue. Because tariffs are usually calculated as a percentage of declared value, these false invoices allegedly allowed the defendants to underpay duties and gain a competitive advantage.

An Escalation in BAA and TAA Enforcement

The government ordinarily responds to BAA and TAA violations with [some combination](#) of civil [penalties](#), terminating contracts for [default](#) and [suspending or debarring](#) offending contractors. In the *Forklifts* case, alleged BAA and TAA issues—combined with alleged customs evasion—led to criminal charges. The choice to pursue criminal charges here aligns with the DOJ’s declared policy priorities surrounding statutes tied to economic nationalism, procurement integrity and tangible government loss.

As the government shifts to criminal enforcement of BAA and TAA statutes, prosecutors may face a learning curve. This is evident from the *Forklifts* indictment itself, which appears to confuse requirements of the BAA and TAA. The TAA only applies [above specified dollar thresholds](#), and [prohibits](#) the procurement of products not produced in the United States or other designated countries. In contrast, the BAA applies to certain contracts between the [micro-purchase threshold and the TAA threshold](#), and [applies a price preference](#) to domestic products without prohibiting imported products. But the indictment [incorrectly notes](#) that the BAA “required the federal government to purchase supplies that have been manufactured in the United States.”

Recent case law could also complicate the government’s efforts to criminally prosecute BAA and TAA violations. The government’s TAA contract clause requires contractors to provide “[U.S.-made...end products](#),” which the Federal Acquisition Regulation [defines as](#) “an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States.” Interpreting this, the [Federal Circuit has held](#) that a product can be considered “manufactured in the United States” even if it is made from “foreign-made components,” assembled together domestically without being “substantially transformed.” The nuances in BAA and TAA law might create unnecessarily confusing or complicated thickets in any attempt by prosecutors to assign liability beyond a reasonable doubt.

In the *Forklifts* case, the government alleges that the contractors’ work in the United States (allegedly limited to removing evidence of Chinese origin) was insufficient to constitute “manufacture.” DOJ may feel optimistic that it can prove up this particular scheme. The indictment suggests that DOJ has obtained telling internal communications and/or testimony, and one of the defendants has been denied bail—a rare step in a domestic white-collar

case—after authorities discovered a large weapons cache upon arrest. This will provide prosecutors with added leverage in plea negotiations. But other cases predicated on BAA and TAA violations may prove challenging: as practitioners have noted, it is unclear “[just how much ‘manufacturing’ contractors must do in the U.S.](#)” to satisfy the Federal Acquisition Regulation’s TAA clause.

DOJ’s Tariff Evasion Enforcement Focus Remains on China—For Now

The *Forklifts* indictment reinforces DOJ’s ongoing focus on tariff evasion involving Chinese goods. In [announcing the formation](#) of the Cross-Agency Trade Fraud Task Force on August 29, DOJ cited four civil trade fraud actions this year—all involving imports from China.

The historical focus on China is unsurprising: the Section 301 tariffs [imposed during the first Trump administration](#) were among the few large enough to create meaningful incentives for customs fraud. The indictment references the [June 2018 China tariffs](#) and [alleges](#) that the defendants’ evasion scheme began almost immediately thereafter.

But DOJ’s trade enforcement posture is likely to expand geographically. With the administration’s new round of tariffs on goods from [Europe](#), [Japan](#), [South Korea](#), [Canada](#) and other major trading partners, the potential universe of evasion cases has widened considerably. Future investigations are likely to follow the money—and the tariffs—wherever they lead. Further, as with BAA and TAA violations, issues that companies previously dealt with through civil and administrative remedies now risk being the subject of criminal charges.

What Government Contractors and Importers Need to Know

Recent coverage of the Justice Department’s white-collar enforcement priorities has tended to focus on DOJ’s decision not to prosecute certain offenses. For government contractors, this includes alleged false certifications of disadvantaged-business enterprise eligibility based upon race or sex, enforcement of which DOJ [has apparently abandoned](#) in part or wholesale. DOJ coverage has also focused on prosecutions such as those of James Comey and Letitia James, which have drawn criticism for perceived [evidentiary weaknesses](#) and [political overtones](#), and which have raised questions about DOJ’s current capabilities in the white-collar arena.

Yet the *Forklifts* indictment highlights a Justice Department that remains capable of marshalling significant resources toward conventional fraud, customs and procurement cases. As government contractors and importers emerge as targets of DOJ’s attention, compliance representations and customs declaration that once seemed routine may now invite serious scrutiny. And alleged infractions that previously might have been dealt with civilly are now likely to portend criminal charges where priority issues of economic nationalism or procurement integrity are implicated.

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