

Supplemental Information on Export Controls Enforcement

Stephen J. Bogni, Chief for Arms and Strategic Technology Investigations, Immigration and Customs Enforcement (ICE), Department of Homeland Security, contacted McKenna Long & Aldridge (MLA) to provide information on ICE's export controls enforcement efforts after receiving MLA's recent Government Contracts Advisory. (See "Export Controls Enforcement Likely to Increase Dramatically," *Government Contracts Advisory*, McKenna Long & Aldridge LLP (December 14, 2006).) MLA is supplementing its prior Advisory to provide our clients and other subscribers with additional information regarding ICE's role in export controls enforcement.

Our previous Advisory discussed additional export controls enforcement resources resulting from the reorganization of the Department of Justice (DOJ) and the Federal Bureau of Investigation's (FBI) new enforcement authority when export controls violations are related to foreign counterintelligence. Our previous Advisory did not include a discussion of the substantial and increasing enforcement activities of ICE. However ICE has the broadest criminal export enforcement authority of any agency, which includes violations of the Arms Export Control Act (AECA), International Traffic in Arms Regulations (ITAR), International Emergency Economic Powers Act, Export Administration Act (concurrent with the Department of Commerce), Trading with the Enemy Act, and the newly enacted prohibition against Smuggling Goods from the United States, 18 U.S.C. 554. ICE (and its predecessor, the U.S. Customs Service) has devoted significant resources to export controls enforcement for more than 25 years, which has resulted in numerous arrests, indictments, convictions, seizures, and forfeitures.

In addition to the increased activity of the DOJ and FBI, ICE has stepped up its criminal export controls enforcement. It currently has more than 200 domestic field offices and 56 attaché offices responsible for investigation of export controls violations. During Fiscal Year 2006, ICE investigations led to 144 arrests, 128 indictments, and 98 convictions. ICE's 2006 results exceed both its own statistics for the previous five years and those of other agencies. In fact, the increased investigations (119), arrests (92), and prosecutions (60) under the AECA and the ITAR for 2006, noted in our previous Advisory as being supported by the Department of State, Directorate of Defense Trade Controls, were *initiated* by ICE. In short, export controls violations will now be met by increased enforcement by ICE, with its years of investigatory experience and success invigorated by personnel reallocations and additional resources, and joined by the FBI when such violations are deemed related to foreign counterintelligence.

CONTACTS

If you would like more information, please contact any of the McKenna Long & Aldridge attorneys or public policy advisors with whom you regularly work. You may also contact:

John G. Horan
202.496.7215

Joshua R. Hochberg
202.496.7691

Frederic M. Levy
202.496.7631

Allen B. Green
202.496.7523

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