

Client Alert

Prepared by Matthew L. Levine, William B. Mateja, and Franceska O. Schroeder

Justice Department Report Shows Increased Enforcement of Export Controls

The Justice Department announced last month that it had filed criminal charges against more than 145 defendants for its Fiscal Year 2008.

50 Percent Increase; Targeting China & Iran: DOJ reported that the number of charges filed in the past fiscal year represented a 50 percent increase over the prior fiscal year. According to the announcement, approximately 43 percent of these cases involve munitions or other restricted technology intended for Iran or China. Iran ranked as the leading destination for illegal exports of restricted U.S. technology among prosecutions in the last two years.

Charges Include Rocket/Spacecraft Materials and Software: Charges leveled against these defendants include alleged violations of the International Emergency Economic Powers Act (IEEPA), the Arms Export Control Act, the Trading with the Enemy Act, and other provisions. Recent prosecutions include an indictment charging three men with conspiring to illegally export carbon-fiber material with rocket and spacecraft applications to China; and a conviction of the owners of a company for conspiring to export controlled engineering software to Iran.

Follow-up on National Enforcement Initiative: DOJ reported the results following institution in October 2007 of its “National Export Enforcement Initiative” among DOJ, Homeland Security, Commerce, State and the Pentagon, intended to achieve enhanced prosecution, increased training and coordination among these agencies. To implement the initiative, DOJ appointed a National Export Control Coordinator to facilitate investigations and prosecutions nationwide.

DOJ reported it has been actively involved in a variety of legislative, regulatory and policy proposals designed to enhance enforcement of export controls, including amendments to IEEPA that increased penalties and added conspiracy and attempt provisions.

New OFAC Guidelines: DOJ’s announcement followed not long after the Treasury Department’s Office of Foreign Assets Control (OFAC) announced in September 2008 new guidelines for its own enforcement initiatives. These may be found at <http://www.treas.gov/offices/enforcement/ofac/actions/20080908.shtml>

For more information,
please contact:

Matthew L. Levine
New York
212 641-2270
levine@fr.com

William B. Mateja
Dallas
214 747-5070
mateja@fr.com

Franceska O. Schroeder
Washington, D.C.
202 783-5070
schroeder@fr.com

DOJ's report is a reminder of the necessity of making export compliance a key priority for any business. The report may be found at this link:
<http://www.usdoj.gov/opa/pr/2008/October/08-nsd-958.html>.