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Penalties Skyrocket For Export Violations

On October 16, 2007, President Bush signed into law the International Emergency Economic Powers Enhancement Act (IEEPA Enhancement Act or "the Act"), which substantially raises civil and criminal penalties for export and economic sanctions violations. This marks the second significant increase in export-related penalties in the last two years. The Department of Commerce's Bureau of Industry and Security (BIS) has also invoked IEEPA in its execution of export enforcement activities since 2001, when the Export Administration Act lapsed.

Specifically, under the Act, maximum civil monetary fines *increased five-fold, from their previous maximum amounts of \$50,000 to \$250,000 per violation or twice the value of the underlying transaction, whichever is higher*. This marks the second five-fold increase in less than two years (the USA PATRIOT Improvement and Reauthorization Act of 2005 amended IEEPA to increase civil penalties from \$11,000 to \$50,000 per violation). Similarly, maximum criminal fines for individuals under the Act are increased from \$250,000 to \$1,000,000 per violation. These increased amounts supplement the existing possible penalties, which include a maximum of 20 years imprisonment, criminal fines for corporations of \$1,000,000, seizure and forfeiture of goods, and administrative denial of export privileges.

Significantly, the increased IEEPA penalties apply to civil enforcement actions already pending. They also apply to both civil and criminal enforcement actions commenced on or after October 16, 2007, rather than only on violations occurring on or after that date.

The signing of the Act follows on the heels of the Department of Justice's (DOJ) appointment of a National Export Controls Coordinator this past June, and the announcement last week of a new multi-agency Export Enforcement Initiative ("the Initiative"). The Initiative, which is intended to foster greater multi-agency cooperation and coordination, includes the formation of Counter-Proliferation Task Forces in appropriate U.S. Attorney's offices around the country. Further, the Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE) has announced that it recently doubled the number of agents assigned to export control enforcement.

Between the increased penalty amounts enacted this week and the additional personnel and coordination among agencies, we expect to see a rise not only in the monetary penalties assessed in export cases, but also in the sheer number of enforcement actions pursued by the U.S. Government.



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