

**IEEPA  
Amendment  
Increases  
Penalties  
for Export  
Control  
Violations**

On October 16, 2007, the U.S. government increased the penalty ceiling for most export control violations from \$50,000 to \$250,000 per violation, or twice the amount of the violating transaction (whichever is greater). The penalty increase imposed by the International Emergency Economic Powers Enhancement Act (S. 1612) ("the Act") follows a 2006 increase in export penalties from \$11,000 to \$50,000 per violation. (Violations are typically measured on a per-shipment basis.)

The law amends the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1705) by increasing civil and criminal penalties for most export control violations. In addition to the increase in civil penalties, the Act also increases criminal penalties to \$1 million per violation, and reiterates that those in violation can face prison terms of up to 20 years. The new penalties are partially retroactive for civil violations because the law applies to violations in which "enforcement action is pending or commenced" on or after October 16, 2007.

In a letter to Congress dated September 25, 2007 the Department of the Treasury ("Treasury") addressed the Office of Foreign Asset Control's ("OFAC") implementation of these penalties on economic sanctions principally involving exports and re-exports of U.S.-origin products to, and financial transactions with, Iran, Sudan and Syria (and imports from Burma). Treasury indicated that it would continue to "apply its authorities in a judicious and responsible manner under an increased penalty system." Under Secretary of Commerce for Industry and Security Mario Mancuso wrote Congress

to indicate that Commerce Department penalties on a broad range of export activities would be appropriate to the violation. "Our intent is not to punish any business unfairly for minor, accidental violations," indicated Mancuso. Despite these comments, exporters clearly face increased risk from these penalty increases.

The Act also prohibits conspiracies to violate export control rules. This change was made in response to a recent District court case finding that conspiracy charges could not be brought for certain export control violations under IEEPA.

**KELLEY DRYE COLLIER SHANNON**

**EXPORT CONTROLS PRACTICE**

Kelley Drye Collier Shannon has 10 attorneys with substantial expertise in U.S. and EU export controls and economic sanctions laws and regulations. The firm is experienced in every aspect of export compliance and enforcement at all the principal export control agencies, including the Department of Commerce, Department of State, Department of the Treasury, Nuclear Regulatory Commission, and others. We offer full-service export control and compliance services.

**FOR MORE INFORMATION**

For further information on this penalty increase or any other export control issue of concern, including the development of an efficient, effective compliance program to help prevent violations, please contact:

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