



U.S. Immigration and Customs Enforcement

STATEMENT

OF

JULIE MYERS

ASSISTANT SECRETARY

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY**

BEFORE THE

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UNITED STATES SENATE

REGARDING

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INTRODUCTION

Chairman Grassley, Ranking Member Baucus and distinguished Members of the Finance Committee, my name is Julie Myers and I am the Assistant Secretary, U.S. Immigration and Customs Enforcement (ICE). I appreciate the opportunity to share with you today how ICE is applying its expertise and authorities to protect the American people from economic, criminal and terrorist threats that arise from our borders.

THE ICE MISSION

Within the Department of Homeland Security (DHS), ICE holds the most expansive investigative authorities and the largest number of investigators. ICE is the nation's principal investigative agency for violations of the law with a nexus to our borders, including violations of the laws governing trade and commerce.

Our mission is to protect the American people and our economy by combating those who seek to exploit our borders for criminal, business or terrorist purposes. Working overseas, along the nation's borders and throughout the nation's interior, ICE special agents and officers use ICE's unified immigration and customs authorities to identify, investigate, apprehend and remove transnational criminal groups and others who seek to move themselves and their supporters, their illicit proceeds, contraband and other illegal trade or weapons across the Nation's borders through traditional human, drug, contraband, commerce or financial routes and methods. Through these efforts, ICE

continues to make a strong contribution to our economic, border, homeland and national security.

PROTECTING THE NATION'S GLOBAL COMMERCE

The lawful movement of goods across our border is a foundational prerequisite for the continuing strength and integrity of our economy. This country seeks to create the conditions for maximum employment and economic prosperity through lawful international trade and the opening of new consumer markets to U.S. goods. At the same time, the growth of international trade and open border policies invites the increased risk of border security vulnerabilities and transnational economic crimes. ICE continues to apply aggressively its complete set of investigative authorities and capabilities to identify and defeat an array of threats to the U.S. homeland and our economy.

One of the most powerful new set of tools in the ICE arsenal of border security authorities, including those related to cross-border commercial fraud, were included in the recently passed reauthorization of the USA PATRIOT Act. The potential sentence for a violation of 18 USC 545 – Smuggling into the United States, was increased from five years to twenty years. That legislation also added, for the first time, an entirely new criminal charge for smuggling from the U.S.

By providing ICE with the additional tools necessary to more effectively investigate and combat smuggling and other commercial fraud violations, Congress has simultaneously strengthened ICE's ability to combat violent criminal

and terrorist organizations. On behalf of our special agents who work these important economic, border, homeland and national security cases, I thank you for this enhancement in 18 U.S.C. 545 and for your continuing strong support of ICE and our important mission.

At ICE, trade enforcement investigations fall under the purview of the Office of Investigations, Financial and Trade Investigations Division. Because most financial and trade violations that ICE investigates are motivated by profit, these crimes often are interlaced with conspiracies to earn, move and store illegal proceeds. ICE's Commercial Fraud and Intellectual Property Rights (IPR) Investigations Unit in this headquarters Division oversees these important investigations. ICE also has a cadre of dedicated and trained special agents assigned to the 26 ICE Special Agent in Charge offices across the nation, who specialize in investigating these violations. ICE also draws heavily upon our relationships with law enforcement partners around the world. We are able to do that because of ICE's global presence. Our special agents are deployed to 52 overseas Attaché offices. This global reach and our preexisting relationships with foreign law enforcement make it possible for ICE to effectively investigate commercial fraud investigations around the world.

Key to our investigative efforts at ICE is the strong support provided by our partners at U.S. Customs and Border Protection (CBP). By virtue of CBP's interdiction and regulatory mission on the nation's physical borders, that agency provides the bulk of investigative referrals that launch ICE commercial fraud and IPR investigations. ICE and

CBP also have a shared role in the process of identifying, investigating and issuing penalties that may accrue to violators under U.S. customs laws. While ICE and CBP work closely together in a number of areas, nowhere is that synchronization greater than in our cooperative effort to combat commercial fraud.

This close relationship is demonstrated by the decision in February 2004 to launch the joint ICE-CBP Commercial Enforcement Analysis and Response (CEAR) process to better ensure that commercial fraud violations were properly reviewed by both agencies, and that both agencies selected and coordinated the best response to these violations. The CEAR process includes both Headquarters and field working groups that make an early determination of the nature, extent and impact of the violation. These working groups are composed of both ICE and CBP personnel who are chosen as representatives of the various stakeholders within the agencies. The CEAR process ensures that significant commercial fraud violations receive priority. It further ensures that significant violations will be processed according to a clearly established set of national guidelines that have been agreed upon by both agencies. The CEAR process is an excellent example of the cooperation between ICE and CBP in carrying out our cooperative trade enforcement mission.

ICE Commercial Fraud and IPR investigative priorities are aimed at stopping predatory and unfair trade practices that threaten our economic stability, restrict the competitiveness of U.S. industry in world markets, and place the public health and safety of the American people at risk. These priorities include intellectual property rights, public health and

safety, textiles enforcement, in-bond diversion, tobacco smuggling, international trade agreements such as the North American Free Trade Agreement (NAFTA), anti-dumping, and general revenue fraud violations. I will address each in turn:

INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT

As the largest investigative arm of the Department of Homeland Security, ICE plays a leading role in targeting criminal organizations responsible for producing, smuggling, and distributing counterfeit products. ICE investigations focus not only on keeping counterfeit products off U.S. streets, but also on dismantling the criminal organizations that initiate, support and sustain this activity. IPR violations are direct threats to the engines of creativity and innovation that drive so much of the highly competitive, modern, global U.S. economy.

Estimates by industry and trade associations indicate that U.S. businesses lose as much as \$250 billion annually to counterfeiting and piracy. Some estimates indicate that five to eight percent of all the goods and merchandise sold worldwide is counterfeit. But as great as the monetary loss is, the loss of technology and trade competitiveness suffered by U.S. trademark and copyright owners is immeasurable. It impacts more than just the business community, however. In some instances, this crime also poses a direct threat to the nation's public health and safety with, for example, the illegal importation of unapproved, counterfeit pharmaceuticals.

The nature of the IPR criminal has also changed. ICE assesses that the number of criminal organizations involved in IPR crimes is growing because of the tremendous profits associated with the sale of counterfeit goods and because these organizations already have access to pre-existing smuggling infrastructures and routes. In some cases, these international organized crime groups take the enormous profits realized from the sale of counterfeit goods and use those profits to bankroll other criminal activities, such as the trafficking of illegal drugs, weapons and other contraband.

ICE agents use a variety of agency assets and resources to combat the counterfeiting problem. First, the National Intellectual Property Rights Coordination Center (IPR Center) was created in 2000 and is staffed with agents and analysts from ICE, CBP and the Federal Bureau of Investigation. The IPR Center, which is hosted by ICE, coordinates the U.S. government's domestic and international law enforcement attack on IPR violations. The IPR Center serves as the primary liaison between private industry and law enforcement in targeting IPR crimes.

ICE agents in the United States and abroad work closely with the ICE Cyber Crimes Center to combat the problem of piracy and related IPR violations over the Internet. The Cyber Crimes Center is ICE's state-of-the-art center for computer-based investigations, providing expertise and tools to help agents target Internet piracy. The Cyber Crimes Center coordinates its anti-counterfeiting efforts closely with the National IPR Center.

- In September 2003, ICE Gulfport, Mississippi, began an investigation, known as "Operation Spring," which grew to include the ICE Attaché in China, the ICE Office of Investigations in Houston, the IPR Center and the Internal Revenue Service. Chinese law enforcement soon joined the investigation, turning the case into the first undercover investigation conducted jointly by ICE and Chinese authorities. In July 2004, with the assistance of ICE agents, Chinese officials arrested Randolph Guthrie and several co-conspirators in China. Guthrie was considered by the Motion Picture Association of America to be the largest distributor of pirated DVD movies in the world, with sales over \$2 million annually. At the time of Guthrie's arrest, Chinese officials seized approximately 160,000 counterfeit DVDs valued at approximately \$3.5 million (U.S.) and the equivalent of approximately \$200,000 in U.S. and Chinese currency. In April 2005, Guthrie was convicted in a Shanghai court on criminal charges. He was sentenced to a jail term of 30 months in China, issued a fine of 500,000 Chinese Renminbi (equivalent to \$62,500 U.S.), and ordered deported from the country upon completion of his sentence. In late September 2005, Chinese authorities expelled Guthrie to the United States where he was arrested by ICE. He pled guilty in January 2006 and forfeited more than \$800,000. In March 2006, Guthrie was sentenced to 60 months in prison and 3 years of supervised release, and was fined \$15,000.
- In February 2005, ICE Attaché Beijing received information that Richard Cowley of Shelton, Washington, was linked to groups of individuals involved in the sale

of pharmaceuticals in the United States, the United Kingdom and other locations throughout Europe. This information led to the initiation of Operation Ocean Crossing, the second joint undercover enforcement operation with the Chinese. This operation targeted counterfeit pharmaceuticals being distributed via the Internet. In September 2005, Chinese authorities took action against the largest counterfeit pharmaceutical operation in China and 12 Chinese nationals were arrested. Three illicit pharmaceuticals facilities were shut down. Cowley was arrested in September 2005, and in February 2006, he pled guilty to importing counterfeit drugs.

PUBLIC HEALTH AND SAFETY

In addition to ICE's efforts to protect the health of the U.S. economy, many of our investigative cases have a direct impact on the physical health and safety of millions of Americans. By enforcing our trade laws governing the importation of pharmaceuticals and other goods destined for critical elements of our economy, ICE special agents help to guarantee the integrity of our medical, transportation and other critical infrastructure.

ICE Public Health and Safety investigations include multiple targeted investigative areas, including the illegal importation of commercial quantities of adulterated, counterfeit, diverted and/or unapproved pharmaceuticals; protected, endangered and non-native detrimental species; unapproved or non-compliant autos, automobile parts, aircraft parts and machinery; environmentally hazardous materials and chemicals; and, tainted

foodstuffs. These violations, if left unchecked, pose a dangerous risk to the health and safety of all Americans. For example:

- In January 2004, the ICE SAC/San Diego initiated a multi-agency investigation incorporating assets from ICE, the Food and Drug Administration, U.S. Postal Inspection Service, IRS and FBI, targeting various websites, Internet payment networks and pharmaceutical supply chains. The targets, *WorldExpressRx.com* and *MyRxForLess.com*, had in excess of 650 affiliated websites responsible for the illegal distribution via the Internet of more than \$25 million in counterfeit or unapproved pharmaceuticals in a three year period. To date, this investigation has resulted in 20 indictments and 18 convictions for various federal criminal charges. The primary violator, Mark Kolowich, was sentenced in January 2005 to 51 months imprisonment. More than \$1.4 million was seized. Prosecution of violators related to this investigation continues.

TEXTILE ENFORCEMENT

Within ICE, textile enforcement focuses on investigations of criminal and civil violations of customs laws through a variety of fraudulent schemes and practices, including false invoicing, false marking/labeling, false claims of origin, misclassification, false descriptions, and smuggling. Together ICE and CBP work to ensure that inadmissible goods are denied entry into the United States, that proper duties are paid, and that the trade complies with free trade agreements and legislative initiatives. While CBP is responsible for enforcing the legal

requirements of these agreements, and of other U.S. laws applicable to the textile industry, ICE investigates the criminal business enterprises and conspiracies that initiate, support and sustain the movement of goods in violation of our textile trade laws.

ICE also participates in Textile Production Verification Teams (TPVT) along with CBP. Since 1987, these teams have been deployed to foreign textile factories that claim to produce textiles that have been exported to the United States. The teams include both ICE special agents and CBP import specialists who are trained to verify production and manufacturing capabilities of the factories visited. In 2005, these teams visited a little over 400 factories in 11 foreign countries. Suspected violations were noted in a number of these factories. So far in 2006, these teams have made 6 out of 13 planned country visits.

- The SAC/Miami investigated TEX GROUP OF COMPANIES, INC., for conspiracy to divert/smuggle quota/visa restricted Chinese-manufactured wearing apparel into the United States via an in-bond diversion scheme. Win Yu LEE, a naturalized U.S. citizen and the President of TEX GROUP, conspired to smuggle over 300 containers of quota/visa restricted textile goods without payments of duties or having obtained quotas/visas. The diverted textile goods were valued at approximately \$43 million. In November 2005, LEE and TEX GROUP pled guilty to Conspiracy. In January 2006, LEE was sentenced to four years of unsupervised probation, and ordered to

pay a criminal forfeiture in the amount of \$5,393,579.36. The TEX GROUP was sentenced to four years probation, and a court fine of \$50,000.00.

IN-BOND DIVERSION

In-bond movements of merchandise are authorized by federal statute. The in-bond system allows merchandise not intended for entry into U.S. commerce to transit the United States or allows foreign merchandise to be entered at a port other than the port of importation. When conducted legally, in-bond transactions facilitate trade by allowing the use of U.S. infrastructure for the transportation of goods to foreign markets.

However, the in-bond system has been exploited for the purposes of smuggling restricted, high duty and quota/visa merchandise into the United States.

In response to the vulnerabilities ICE and CBP have identified in the in-bond system, ICE and CBP have jointly implemented special enforcement operations, such as Operation Security Bond, which targets the illegal use of the in-bond system to smuggle merchandise. ICE and CBP also field Fraud Investigation Strike Teams (FIST) that target fraud within foreign trade zones and customs bonded warehouses. During these operations, ICE's enforcement of customs and immigration statutes has resulted in increased detection of commercial fraud violations and the identification and removal of undocumented aliens with unauthorized access to secure areas.

- In November 2004, ICE ASAC/ Laredo initiated an in-bond diversion investigation. ICE agents determined that Customs Broker Rosa E. Garcia was involved in the smuggling of Chinese-made clothing by diverting it from the in-

bond system. Garcia, a retired Fines, Penalties & Forfeitures Director for the Port of Laredo, arranged for the filing of false in-bond documents, and unlawfully diverted two shipments of wearing apparel to Los Angeles, California, instead of exporting them to Mexico. Garcia and a co-conspirator were indicted for smuggling. In March 2006, Garcia was sentenced to a term of 18 months in prison and 3 years probation.

TOBACCO SMUGGLING

International cigarette smuggling has become a lucrative criminal enterprise, resulting in the annual loss of billions of dollars in tax revenue and customs duties around the world. While the extent of cigarette smuggling in the United States is unknown, it is ICE's formal assessment that the volume of this illegal trade is significant. Cigarette smuggling activities attract international and domestic criminal groups with the lure of high profits and relatively low risk for prosecution. Smugglers under-report weight on shipments, undercount and undervalue shipments, and sometimes improperly mark the country of origin.

- Tobacco smuggling often involves false statements regarding shipments from foreign countries, the illegal manipulation of the in-bond system, and the improper storage of imported cigarettes. ICE works closely with CBP and foreign and domestic counterparts to investigate tobacco violations, and I would like to highlight a few ICE successes in this area: ICE SAC Baltimore and SAC Seattle initiated investigations of money laundering through the purchase of contraband

cigarettes. Stormy PAUL conspired with Rubens CARDOSO and others to smuggle cigarettes from Paraguay, and separately conspired with others to smuggle cigarettes from China. The investigations resulted in the arrests of 8 individuals. In March and April 2006, CARDOSO and six other defendants pled guilty to conspiracy to traffic in contraband cigarettes. PAUL is scheduled for trial in July 2006.

- The ICE SAC/El Paso investigated INTERNATIONAL TRADERS OF EL PASO (ITEP), the intended recipient of a large quantity of counterfeit cigarettes. Jorge ABRAHAM was identified as the leader of the organization and MILLER was his partner. The investigation revealed that this organization was willing to smuggle any type of merchandise, goods, or commodities for a profit. The SAC/El Paso established that ABRAHAM was receiving counterfeit and contraband cigarettes from various companies in Miami, Florida, and El Paso, Texas, as well as from manufacturers in Taiwan and China. In total, 10,726 cases of counterfeit and contraband cigarettes and 101 cases of liquor worth approximately \$20 million were diverted or intended to be diverted into the commerce of the United States for illegal sale. The total loss of revenue to the Federal Government and various state governments is approximately \$8 million. MILLER and 14 co-defendants were arrested, and approximately \$75,000 was seized. To date, a total of 13 defendants in this case have pled guilty. Plea negotiations and trial preparations are ongoing for one remaining defendant. ICE is also seeking forfeiture of

property and assets derived from the proceeds of the alleged illegal activities, valued at over \$6 million.

The reauthorization of the USA PATRIOT Act included a lowering of the threshold quantity of contraband cigarettes from 60,000 to 10,000. This change allows ICE to present more tobacco smuggling cases for prosecution. In case after case, ICE special agents have witnessed how traditional smuggling conspiracies, such as those centered on cigarettes, are often linked -- usually as a funding mechanism -- to other more serious, global criminal enterprises.

NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)

A major objective of NAFTA is the elimination of barriers to trade for cross-border movement of goods and services among the United States, Canada and Mexico. Under NAFTA, tariffs on most goods originating in the three countries are eliminated. Merchandise that enters the United States under NAFTA does so under favorable duty rates. To ensure the validity of NAFTA claims, CBP has an aggressive, multi-disciplinary verification process in place. ICE works jointly with CBP, conducting criminal and civil fraud investigations when potential violations are detected. Thus, ICE investigations are important tools used to insure NAFTA compliance.

- In November 2002, ICE ASAC/El Centro agents investigated TRIUNFO-MEX for allegedly submitting altered and false invoices for food products that it

imported into the United States. Under NAFTA, these food products could be imported without duty until the quota was met. The investigation revealed that TRIUNFO-MEX significantly undervalued these imported food products after the quota ceilings were reached, thereby avoiding the payment of higher tariffs. A CBP review revealed a potential loss of revenue in excess of \$3.5 million. The corporate president and two employees were convicted for falsely classifying goods. In February 2006, the president was sentenced to 12 months incarceration, 6 months in a halfway house, and fined \$7,500. He was ordered to pay \$3.5 million in restitution. TRIUNFO-MEX, the corporation, was sentenced to 5 years probation and fined \$2.1 million.

ANTI-DUMPING AND COUNTERVAILING DUTIES

The United States imposes anti-dumping and/or countervailing duties (AD/CVD) on certain imports to help domestic producers compete against foreign suppliers engaged in (or benefiting from) the unfair trade practices of dumping and export subsidy. The Department of Commerce and the U. S. International Trade Commission (ITC) play key roles in administering AD/CVD laws. Once the Department of Commerce sets AD/CVD duties, CBP is notified and thereafter collects the additional duties. Attempts to circumvent the AD/CVD duties may be investigated by ICE based on the multidisciplinary Commercial Enforcement Analysis and Response (CEAR) evaluation. The methods often used to evade antidumping duties include transshipment, re-marking, under-valuation, and false description. The objective of ICE is to stop predatory unfair

trade practices that threaten U.S. economic stability and restrict the competitiveness of U.S. industry in world markets.

- In September 2003, SAC Los Angeles investigated an anti-dumping scheme involving PRC-produced crawfish tail meat. LIN was the head of logistics of the U.S. importer, and was also a Vice President of the BAOLONG GROUP, a People's Republic of China (PRC)-based crawfish tail meat producer. Extensive documentary evidence disclosed that LIN and another person conspired with the BAOLONG GROUP to import falsely invoiced PRC-produced crawfish meat in order to avoid anti-dumping duties of approximately 224 percent. The loss of revenue was estimated to be approximately \$3 million. In May 2004, LIN was convicted for conspiracy.

BULK CASH SMUGGLING

As the opportunity to exploit US financial institutions diminishes, the smuggling of currency out of the United States has become a preferred method of moving proceeds across our borders. ICE Special Agents have used the Bulk Cash Smuggling statute with great effect, having arrested 330 individuals since its passage in October 2001. In addition, ICE and CBP, have worked together to seize over \$160 million involved in these violations.

However, ICE's enforcement of bulk cash smuggling does not end at the border. In August 2005, ICE partnered with CBP and the State Department to initiate a joint

training program known as Operation Firewall with our Mexican counterparts. As a result, Mexican authorities seized over \$30 million in cash and negotiable instruments, including the single largest bulk cash seizure in Mexico of \$7.8 million dollars. ICE and Mexican authorities continue to investigate these seizures to tie them to larger investigations in the United States, Mexico and Latin America. The State Department continues to fund these international efforts and we are grateful for their support.

TRADE-BASED MONEY LAUNDERING

Because of ICE's expertise in customs matters, our Special Agents are highly effective at combating trade fraud and trade-based money laundering. Trade can be used to transfer proceeds in a variety of ways such as, overvaluing the cost of imported goods to disguise illegal-proceeds as legitimate payment for those goods; converting proceeds into merchandise which is then shipped abroad and sold for local currency; even *hawalas*, use trade transactions as a way to balance their accounts.

To detect and combat Trade based money laundering ICE has established a Trade Transparency Unit - TTU. The ICE TTU analyzes Trade and BSA data to identify anomalies related to cross-border trade indicative of money laundering or trade fraud. The ICE TTU initiates and supports investigations related to trade-based money laundering. In addition to analyzing US trade data, ICE has begun exchanging trade data with foreign counterparts. ICE and participating governments are, for the first time, able to see both sides of trade transactions for

commodities entering or leaving their countries. This truly makes trade transparent and greatly assists in the detection of money laundering and customs fraud. Currently, ICE has TTU agreements with Colombia, Paraguay, Brazil and Argentina. Both the Department of The Treasury and Department of State have provided valuable support to this initiative.

CONCLUSION

As the Department of Homeland Security's largest investigative agency with unique authorities to protect the American people from threats that arise from our borders, ICE is demonstrating daily that it is uniquely equipped to aggressively enforce our nation's laws against threats to the American people and our economy that arise from our borders.

While ICE is a new agency, we are aggressively applying our investigative authorities and capabilities to identify and combat threats to our economic, border, homeland and national security. At the same time, we are bringing to bear the best of our former agencies' expertise, cultures, and techniques, while building a new federal law enforcement agency that is more effective and efficient than the sum of its parts. In case after case, ICE agents and officers are putting into practice on behalf of the American people and our economy the powerful advantages that flow from our unified authorities. The net result is a greater contribution to the Nation's economic integrity and the protection of our border, homeland and national security.

On behalf of the men and women of ICE, I thank the Finance Committee and its distinguished members for your continued support of our work.

I would be pleased to answer your questions.