



# U.S. Immigration and Customs Enforcement

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**STATEMENT**

**OF**

**J. SCOTT BALLMAN, JR.**

**DEPUTY ASSISTANT DIRECTOR**

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

**REGARDING A HEARING ON**

**PROTECTING AMERICAN JOBS: HOW TO STRENGTHEN**

**ENFORCEMENT OF ANTI-DUMPING TRADE LAWS**

**BEFORE THE**

**UNITED STATES SENATE**

**COMMITTEE ON APPROPRIATIONS**

**SUBCOMMITTEE ON HOMELAND SECURITY**

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**Senate Dirksen Office Building 124**

## **INTRODUCTION**

Chairman Landrieu, Ranking Member Coats, and distinguished Members of the Committee:

On behalf of Secretary Napolitano and Assistant Secretary Morton, it is my privilege to testify before you today to discuss the efforts of U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) to combat illegal trade practices and investigate commercial fraud activities, including the evasion of anti-dumping and countervailing duties (AD/CVD). As members of this Subcommittee know, globalization provides boundless opportunities for commerce, but with these opportunities comes new potential threats to national security. The Department of Homeland Security (DHS) is committed to ensuring the security of America's borders while fostering and facilitating the movement of legitimate trade that is critical to our economy.

## **ICE ENFORCEMENT EFFORTS**

ICE has a long history of engagement in commercial fraud enforcement, particularly AD/CVD, dating back to our past as legacy U.S. Customs Service investigators. ICE works in close cooperation with relevant interagency partners, the private sector, and international counterparts to investigate a broad spectrum of crimes related to commercial fraud. ICE targets and investigates goods entering the United States illegally through our ports and seizes these goods for forfeiture. ICE recognizes that we must partner with the private sector to obtain the necessary information to halt this illegal fraudulent trade practice. It also is essential that we continue to work with all

relevant federal agencies to confront this challenge. ICE has, therefore, built strong relationships with our interagency partners and international counterparts.

### **Anti-Dumping and Countervailing Duties (AD/CVD) Program**

The ICE HSI Anti-Dumping and Countervailing Duties (AD/CVD) Program is one way that ICE protects U.S. businesses from fraudulent trade practices. AD/CVD orders are issued by the Department of Commerce (DOC) and collected and distributed by CBP. Anti-dumping duties are assessed when importers sell merchandise at less than fair market value, which causes material injury to a domestic industry producing a comparable product. The United States can also impose countervailing duties to offset foreign government subsidy payments on exports of foreign businesses. Duties are imposed to offset the dumping or subsidies provided by the foreign country in order to maintain the competitiveness of United States industry and to foster a level playing field for businesses.

ICE is responsible for investigating importers who evade the payment of AD/CVD on imported merchandise. AD/CVD cases are long-term, transnational investigations that require significant coordination between domestic and international offices and with our foreign law enforcement counterparts. When working AD/CVD investigations, ICE special agents also work closely with CBP officers, import specialists, and regulatory auditors.

Prior to opening a criminal case, ICE must verify the information related to dumping allegations made either by CBP or private industry. ICE agents research, identify and obtain entry documents for all of the alleged violator's importations to

calculate a loss of revenue to the United States and to demonstrate that the loss of revenue exceeds the prosecution threshold set by the local United States Attorney's Office. Even if the initial calculation exceeds the minimum prosecution threshold, it is important to note that preliminary dumping duty rates are only estimates. The final rate is set by the DOC, and the final rate can be substantially lower than the initial estimate. For example, ICE had to close multiple Canadian softwood lumber investigations when the dumping duty rate was lowered to zero by DOC officials.

After demonstrating a loss of revenue that exceeds the threshold for prosecution, ICE will utilize Mutual Legal Assistance Treaties (MLATs) to obtain shipping records and other documents from foreign countries in order to prove that an individual or company evaded dumping duties through transshipment, undervaluation or overvaluation, or mis-description. This process normally involves coordination between several U.S. and foreign government agencies.

### **AD/CVD Investigations**

Since 2006, ICE has initiated 391 cases based on allegations of fraud regarding AD/CVD orders, which to date have resulted in 28 criminal arrests, 86 indictments and 39 convictions. Current AD/CVD orders affect products that Americans use on a daily basis. Of these, ICE has investigated a wide range of commodities including honey, saccharin, citric acid, lined paper products, pasta, polyethylene bags, shrimp, catfish, crayfish, garlic, steel, magnesium, pencils, wooden bedroom furniture, wire clothing hangers, ball bearings and nails. I would now like to provide a few examples of significant AD/CVD investigations.

In April 2005, HSI SAC Buffalo personnel began investigating three individuals and two companies for importing disguised, mislabeled, and undervalued Chinese magnesium powder to circumvent a 305.56 percent antidumping duty. The magnesium powder was disguised by physically placing aluminum nuggets on top of the magnesium powder and claiming it was a blend of magnesium and aluminum powders. After arrival in the U.S. the aluminum nuggets were removed from the magnesium powder.

The three individuals and two businesses allegedly conspired to defraud the Department of Defense (DOD) by using this imported Chinese magnesium powder to manufacture counter-measure flares designed to draw heat seeking missiles away from fighter aircraft, in violation of the Buy America Contract, which requires that the magnesium must be a product of the United States.

DOD was sold 1.8 million fraudulent and untested countermeasure flares for approximately \$42 million. The Chinese magnesium used in the manufacture of the counter-measure flares was substandard and DOD had to dispose of the flares. The company evaded approximately \$10 million in AD duties.

In February 2007, ICE agents in Atlanta received an allegation from CBP Import Specialists that Goshen Trading (Goshen) was submitting fraudulent documents to CBP to evade the payment of anti-dumping duties on wooden bedroom furniture from China. The goods were allegedly being intentionally misclassified as “other” or “dining” furniture from China. On April 10, 2007, ICE SAC Atlanta agents executed federal search warrants at two Goshen business locations and at the residence of Goshen’s owner, Seng Ng, which resulted in the seizure of 27 boxes of documents and eight

computers. Subsequent analysis of the seized documents and computers identified evidence substantiating that Goshen knowingly and willfully submitted fraudulent documents to CBP on at least 185 separate importations of Chinese wooden bedroom furniture. On May 13, 2009, Ng pled guilty to 18 U.S.C. § 542, entry of goods by means of false statements or invoices. On July 27, 2009, Ng was sentenced to 14 months in prison, and ordered to forfeit \$5,993,433.70 to the United States in restitution.

In February 2008, ICE's Special Agent in Charge (SAC) office in Chicago and the Food and Drug Administration (FDA), Office of Criminal Investigation (OCI), began investigating Alfred L. Wolff, Inc., for the transshipment of Chinese honey to evade paying 221 percent antidumping duties. YongXiang Yan, a Chinese manufacturer of honey and the President and Chairman of the Board of Changge City Jixiang Bee Product Co. Ltd. ("Jixiang"), supplied Alfred L. Wolff, Inc., with Chinese honey that was transshipped through the Philippines before entering the United States. To date, this investigation has led to 14 indictments of 11 individuals and five companies, and a forfeiture provision for approximately \$78 million in evaded dumping duties and an additional \$39.5 million in undervaluation. In addition, five individuals have been arrested, two of whom have pled guilty and have been sentenced. Hung Ta Fan, the owner of four companies in the United States that were used to fraudulently import the honey from China, was sentenced to 30 months in prison and fined \$5 million, and Yan was sentenced to 18 months and was fined \$3 million.

ICE SAC San Diego investigated Arturo Huizar-Velazquez, a citizen of Mexico, for circumventing anti-dumping duties on Chinese-made metal hangers. The metal hangers were shipped from China through the Port of Long Beach California to Mexico,

where they were relabeled as a product of Mexico and then imported in the United States. On March 9, 2010, a shipment of wire hangers from China, destined for Huizar-Velazquez in Mexico, was examined at the Port of Long Beach and marked with invisible ink. On March 17, 2010, this marked shipment was presented for export into Mexico at the Otay Mesa port of entry. On March 19, 2010, the marked shipment was re-presented for entry into the United States. On March 20, 2010, the shipment was examined, the invisible ink was observed and it was noted that the majority of the cartons were the same as those seen on March 9, 2010, in Long Beach. Additionally, all the cartons in the shipment were now stamped "Made in Mexico," which was not the case prior to being exported to Mexico. Huizar-Velazquez and his employee, Jesus De La Torre-Escobar, were arrested and charged in a 55-count indictment for entry of goods falsely classified, smuggling of goods, money laundering, and structuring of currency. The indictment included a forfeiture provision for \$5 million. De La Torre-Escobar pled guilty to one count of conspiracy and Huizar-Velazquez pled guilty to conspiracy, entry of goods by false statements, false statements, wire fraud, and money laundering. De La Torre-Escobar was sentenced to 355 days in prison and required to pay \$3.4 million in restitution. Huizar-Velazquez is scheduled to be sentenced on May 31, 2011.

It is important to note that ICE criminal investigations are the last line of defense against the evasion of AD/CVD. By the time ICE investigators are involved in a particular case, the alleged violators have already committed customs fraud by evading or by attempting to evade dumping duties. To further deter these activities and protect U.S. business interests in the global economy, the United States government must also

continue its efforts to educate the public and foreign industry about the penalties of our successful investigations and enforcement actions.

### **CONCLUSION**

Thank you once again for the opportunity to appear before you today to discuss the important role that ICE plays in combating illegal trade practices and commercial fraud activities and enforcing anti-dumping and countervailing duties. I would be pleased to answer any questions that you may have at this time.