International Smuggling & Trafficking of Firearms

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Homeland Security Investigations

Roadmap for Today

- Introduction to Homeland Security Investigations (HSI)
- HSI’s Role in International Smuggling & Trafficking of Firearms, etc. Investigations
- U. S. Export Control Laws
  - Arms Export Control Act (AECA)
    - United States Munitions List (USML)
  - Export Administration Act (EAA)
    - Commerce Control List (CCL)
  - International Emergency Economic Powers Act (IEEPA)
  - Smuggling Goods from the U.S.
- HSI & ATF Cooperation
- HSI Export Enforcement Related Authorities
- HSI Undercover Operations
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Mission Statement

HSI’s Counter-Proliferation Investigations program prevents illicit procurement networks, terrorist groups and hostile nations from illegally obtaining United States military products, sensitive dual-use technology, weapons of mass destruction, or chemical, biological, radiological and nuclear materials.
Homeland Security Investigations

DHS Organizational Chart

U.S. Department of Homeland Security
- Transportation Security Administration
- Customs and Border Protection
- ICE / Homeland Security Investigations
- U.S. Coast Guard
- U.S. Citizenship and Immigration Services
- U.S. Secret Service
- Federal Emergency Management Agency
Homeland Security Investigations

Introduction to HSI

• Homeland Security Investigations (HSI) is charged with protecting national security, promoting public safety and detecting and disrupting criminal activity by investigating a wide range of domestic and international criminal activities arising from the illegal movement of people, goods, money and contraband into, within and out of the United States.

• HSI is the largest investigative arm within the Department of Homeland Security and second largest investigative law enforcement agency in the U.S. Federal Government.

• HSI has approximately 6700 Special Agents assigned to 210 domestic field offices located in all 50 states, Puerto Rico, Guam, U.S. Virgin Islands, and the Northern Mariana Islands.

• In addition to Domestic Criminal Investigations, HSI maintains an Office of International Operations and Office of Intelligence. HSI has approximately 250 Special Agents assigned to 75 International Offices located in 48 countries around the World. HSI has the largest international representation of any U.S. law enforcement agency.
HSI Special Agents are designated as “Customs Officers” and are empowered with all according search, arrest and seizure authorities necessary to investigate & enforce U.S. customs laws.

- This designation authorizes the warrantless search of persons, conveyances, vessels, certain mail and cargo at the Border, Extended Border, and Functional Equivalent of the Border (Border Search Authority).

- SAs may detain, for the purpose of further review, any documents, electronic media, or electronic devices at any point during a border search. Such a detention does not require individualized suspicion.

HSI Special Agents are also designated as “Immigration Officers” and are empowered without a warrant to interrogate, detain, search for, and arrest any alien or person believed to be entering or residing in the U.S. in violation of law or; there is reasonable cause to suspect that grounds exist for denial of admission or removal from the United States.
Homeland Security Investigations (HSI) HSI has broad legal authority to enforce over 400 federal statutes and uses this authority to investigate all types of smuggling and cross-border criminal activity, to include:

- Narcotics and Contraband Smuggling
- Bulk Cash Smuggling
- Financial Crimes & Money Laundering
- **Counter-Proliferation & Export Violations**
- Cyber Crimes
- Human Rights & War Crimes Violations
- Human Trafficking and Smuggling
- Child Pornography/Child Exploitation
- Intellectual Property Violations
- Commercial/Trade Fraud
- Identity and Benefit Fraud
- Transnational Street Gangs
- National Security Matters
- Cultural Property and Art Theft
- Mass-Marketing Fraud
As the primary federal law enforcement agency responsible for investigating international smuggling operations and illegal export crimes, HSI is committed to targeting the illegal movement or export of U.S. origin firearms, ammunition, and explosive weapons with the ultimate goal of preventing the acquisition of these items by Trans-National Criminal Organizations and individuals who utilize them to further criminal activity and commit acts of violence.

- HSI initiates approximately 1800 new CPI / Illegal Export Investigations each year.
- During FY 2014, HSI was actively investigating approximately 3800 cases involving violations of U.S. export control laws.
HSI has led law enforcement efforts in export enforcement for over 30 years by utilizing the broadest export enforcement authorities derived from the following statutes:

<table>
<thead>
<tr>
<th>Statute</th>
<th>Description</th>
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<tbody>
<tr>
<td>22 USC § 2778</td>
<td><strong>Arms Export Control Act (AECA)</strong>&lt;br&gt; Military Defense Articles, Services and Brokering&lt;br&gt; Implemented by International Traffic in Arms Regulations (ITAR)</td>
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<tr>
<td>50 USC § 2411</td>
<td><strong>Export Administration Act (EAA)</strong>&lt;br&gt; Dual-Use Commodities &amp; Technology&lt;br&gt; Implemented by Export Administration Regulations (EAR)</td>
</tr>
<tr>
<td>50 USC § 1705</td>
<td><strong>International Emergency Economic Powers Act (IEEPA)</strong>&lt;br&gt; Economic and Trade Sanctions&lt;br&gt; Regulations Defined by OFAC</td>
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<td>18 USC § 554</td>
<td><strong>Smuggling Goods from the U.S.</strong>&lt;br&gt; Any <em>Merchandise</em> Exported Contrary to Law&lt;br&gt; (Violations Enforced by HSI)</td>
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<tr>
<td>13 USC § 305</td>
<td><strong>Unlawful Export Information Activities</strong>&lt;br&gt; Failure to file, or filing false, misleading Export Information (EEI)&lt;br&gt; (Relates to EEI filed in the Automated Export System – AES)</td>
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Elements of a Criminal Export Violation

1. An Export / Re-export,
   - Conspiracy to Export / Re-export or
   - Attempted Export / Re-export occurred.

2. Of a licensable defense article/ service or technical data and

3. No License was obtained.

4. Knowledge – The exporter had knowledge of the United States export laws & regulations.
   - Specific Intent or Willfulness – the exporter intentionally or willfully caused the export to occur in violation of United States export laws & regulations.
Arms Export Control Act (AECA)

- HSI and CBP are the **only** U.S. law enforcement agencies that have been statutorily delegated the authority to investigate, detain, or seize any export or attempted export of firearms and other defense articles contrary to the provisions of the AECA and ITAR (ITAR §127.4)

- This is the primary statute used to charge the illegal export of firearms, ammunition & etc.

- Implemented thoroughly the **International Traffic in Arms Regulations** (ITAR)

- Regulates the export and brokering activities of defense articles, services and related technical data from and into the United States. (Title 22 United States Code (U.S.C.) 2778)

- Export is Defined as “Sending or taking a defense article out of the United States in any manner”

- Administered by the Department of State, Directorate of Defense Trade Controls (DDTC). **DDTC does not have its own enforcement arm to investigate criminal cases so they have delegated that authority to HSI.**

- Criminal Penalties: Up to 20 years imprisonment, $1M fine, or both
United States Munitions List

**CATEGORY I—FIREARMS, CLOSE ASSAULT WEAPONS AND COMBAT SHOTGUNS**

a) Non-automatic and semi-automatic firearms to caliber .50 inclusive.
b) Fully automatic firearms to .50 caliber
c) Firearms or other weapons (e.g. insurgency-counterinsurgency, close assault weapons systems) having a special military application regardless of caliber.
d) Combat shotguns. This includes any shotgun with a barrel length less than 18”
e) Silencers, mufflers, sound and flash suppressors for the articles in (a) through (d)
f) Riflescopes manufactured to military specifications
g) Barrels, cylinders, receivers (frames) or complete breech mechanisms for the articles in paragraphs (a) through (d) of this category.
h) Components, parts, accessories and attachments for the articles in paragraphs (a) through (g) of this category.

**CATEGORY II—GUNS AND ARMAMENT**

a) Guns over caliber .50 (12.7mm, whether towed, airborne, self-propelled, or fixed, including but not limited to, howitzers, mortars, cannons and recoilless rifles.)
b) Flame throwers specifically designed or modified for military application
c) Apparatus and devices for launching or delivering ordnance, other than those articles controlled in Category IV.
d) Kinetic energy weapon systems specifically designed or modified for destruction or rendering mission-abort of a target.

**CATEGORY III—AMMUNITION/ORDNANCE**

a) Ammunition/ordnance for the articles in Categories I and II of this section.
b) Ammunition/ordnance handling equipment specifically designed or modified for the articles controlled in this category, such as, belting, linking, and de-linking equipment
c) Equipment and tooling specifically designed or modified for the production of defense articles controlled by this category.
d) Components, parts, accessories, attachments and associated equipment specifically designed or modified for the articles in this category.
Export Administration Act (EAA)

- implemented through the Export Administration Regulations (EAR)
- Regulates the export of strategic dual-use goods and technologies from the United States. (Title 50 US Code 2401-2420

• Administered by the Department of Commerce, Bureau of Industry and Security (BIS)
• Criminal violations enforced through the International Emergency Economic Powers Act (IEEPA): Up to 20 years imprisonment, $1M fine, or both.
Commerce Control List (CCL)

Commerce/BIS has licensing jurisdiction over:

a) Shotguns with a barrel length of 18 inches or more and related components
b) Shotgun shells and gunpowder
c) Muzzle loading (black powder) firearms with a caliber less than 20 mm
d) Body Armor level IIIA and below
e) Air guns including pellet guns, BB guns, air rifles and paintball guns
f) Non-functioning replica firearms
g) Many scopes and sighting devices
h) Non-lethal devices such as stun guns, immobilization guns, and projectiles
Smuggling Good From the United States

- The export, attempt to export, or conspiracy to export any merchandise contrary to any law or regulation of the United States is a violation. (Title 18 USC § 554)
- The receipt, transportation, sale, concealment, transfer, or purchase of any such merchandise prior to export is also a violation

- Often utilized to prosecute firearms and ammunition smuggling violations because it doesn’t require proving export licensing requirements of the AECA.
- Criminal Prohibition: 10 years imprisonment, $250k/$500k fine, or both
The mutual goal of HSI and ATF is to keep the public and the United States safe by using those tools given to both Agencies either through statute or regulation and which are vital to the effective control of the domestic and international trafficking of firearms, ammunition, explosives, weapons and munitions.

To more effectively utilize Federal investigative resources, ATF and HSI are committed to enforcing the statutes and regulations within each agency's jurisdiction while at the same time working in partnership and in support of each other.
The mutual goal of HSI and ATF is to keep the public and the United States safe by using those tools given to both Agencies either through statute or regulation and which are vital to the effective control of the domestic and international smuggling & trafficking of firearms, ammunition, explosives, weapons and munitions.

**ATF**
- Illegal possession, transport, sale and receipt of firearms, explosives and ammunition.
- Domestic (Interstate) Trafficking
- Licensing Imports & Sales of Firearms
- Regulation of U.S. Firearms Industry

**HSI**
- International Smuggling & Trafficking
- Illegal Exports of all Firearms & Munitions from the United States
- Temporary Import & Re-export of Firearms

**Joint ATF & HSI Authority**
- Possession of Firearms/Ammunition by Illegal Aliens
- Illegal importation of Firearms & Munitions into the U.S.
Border Search Authority – 19 USC 482, 19 USC 1581-1583

- Warrantless search authority of persons, conveyances, certain mail and cargo at the Border, Extended Border, and Functional Equivalent of the Border (FEB).


- Administrative Subpoena authorized and issued by HSI authorities that can compel testimony and production of records from individuals and/or corporations related to investigations involving violations of the Export Administration Act (EAA), the Arms Export Control Act (AECA), the International Emergency Economic Powers Act (IEEPA), and 18 U.S.C. § 554 (Smuggling goods from the United States).

Customs Mutual Assistance Agreements (CMAA) –

- CMAAs are “customs to customs” treaties and are negotiated and signed by the customs authorities in each country. HSI Special Agents can legally obtain information from other countries pursuant to these agreements.
HSI Undercover Operations

- Granted under Title 19 USC 2081 and 8 USC 1363(a)
- HSI Certified Undercover Operations – authorizes acquisition of property, proprietary corporations, and deposit of proceeds in bank accounts
- Effectively obtain evidence of knowledge and intent
- Exploit identity of violators and associations
- Insight into other criminal activities
- Gain / exploit intelligence
Questions?
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