



U.S. Department of Justice

Antitrust Division

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Washington, D.C. 20530

12/17/2007

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE ^{Acting} DEPUTY ATTORNEY GENERAL CSM/JSR 3/3/08

THROUGH: THE ^{Acting} ASSOCIATE ATTORNEY GENERAL JJK 1/25/2008

FROM: Thomas O. Barnett TOB
Assistant Attorney General
Antitrust Division

SUBJECT: Delegation of Authority Under the International Antitrust Enforcement Assistance Act of 1994 ("IAEAA"), 15 U.S.C. § 6201 *et seq.*

PURPOSE: To obtain the delegation to the Assistant Attorney General, Antitrust Division of the Attorney General's authority under the IAEAA to make and respond to requests for legal assistance in international antitrust investigations.

TIMETABLE: 4 Weeks.

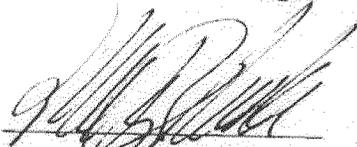
SYNOPSIS: The IAEAA grants the Attorney General the authority to request assistance and evidence from, and to provide assistance and evidence to, foreign antitrust enforcement authorities in international antitrust investigations. Delegation of this authority to the Assistant Attorney General, Antitrust Division would enhance efficient implementation of the IAEAA.

DISCUSSION: The IAEAA enables the Attorney General and FTC to enter into antitrust mutual assistance agreements with foreign governments. These agreements authorize the mutual assistance of U.S. and foreign enforcement agencies in the gathering of evidence relevant to possible antitrust violations, as well as the sharing of information that would otherwise be prohibited as a result of U.S. and foreign confidentiality requirements. The Office of Legal Counsel has previously opined that the general delegation of

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authority to the Antitrust Division to enforce the antitrust laws (28 C.F.R. § 0.40(a)) includes the authority to make requests for assistance in criminal antitrust investigations under antitrust mutual assistance agreements. However, that opinion was focused on a request in a criminal antitrust matter and the IAEAA also extends to civil requests. In addition, that opinion was focused on making a request and not on responding to a request from another country for antitrust assistance. A delegation would clarify that the Assistant Attorney General, Antitrust Division is able to carry out all appropriate functions under the IAEAA. Because of the close relationship between the implementation of the IAEAA and effective coordination and cooperation between U.S. and foreign antitrust authorities, the Attorney General's authority both to make and respond to requests under the IAEAA should be delegated expressly to the Assistant Attorney General, Antitrust Division.

RECOMMENDATION: The Attorney General should delegate to the Assistant Attorney General, Antitrust Division his authority under the IAEAA to make and respond to requests for assistance in international antitrust investigations.

APPROVE: 

Dated: May 22, 2008

Concurring Components:

OLP: ECC

DISAPPROVE: _____

OLC: Sgb 1/15/08

CRM: JL 2/20/08

OTHER: _____

Attachments



Office of the Attorney General
Washington, D.C.

ORDER NO. 2965-2008

**DELEGATION OF AUTHORITY TO REQUEST AND PROVIDE ASSISTANCE AND
EVIDENCE IN INTERNATIONAL ANTITRUST INVESTIGATIONS UNDER MUTUAL
ASSISTANCE AGREEMENTS WITH FOREIGN ANTITRUST AUTHORITIES ENTERED
INTO PURSUANT TO THE INTERNATIONAL ANTITRUST ENFORCEMENT
ASSISTANCE ACT**

By virtue of the authority vested in the Attorney General by 28 U.S.C. § 510 and 15 U.S.C. § 6201, I hereby delegate to the Assistant Attorney General in charge of the Antitrust Division my authority to request assistance and evidence from, and provide assistance and evidence to, foreign antitrust authorities with which the United States has entered into an antitrust mutual assistance agreement under Chapter 88 of Title 15 of the United States Code.

The antitrust evidence subject to this delegation may be requested or provided to assist United States or foreign antitrust authorities in determining whether a person has violated or is about to violate any of the antitrust laws administered by such authorities or in enforcing any of such antitrust laws.

May 22, 2008

Date

A handwritten signature in black ink, appearing to read "Michael B. Mukasey", written over a horizontal line.

Michael B. Mukasey
Attorney General