



UNITED STATES DEPARTMENT OF COMMERCE
Under Secretary for Industry and Security
Washington, D. C. 20230
October 28, 2002

The Honorable **Paul Sarbanes**
Chairman, Committee on Banking,
Housing and Urban Affairs
United States Senate
Washington, D.C. 205 10

Dear Mr. Chairman:

I hereby report to the Congress the actions taken by the Department of Commerce's Bureau of Industry and Security relating to exports of **agricultural** commodities to Cuba during the two year period since the enactment of the Trade Sanctions Reform and Export Enhancement Act of 2000 (**TSRA**) (Title IX of Pub. L. 106-387) on October 28, 2000. This report is required by Section 906(c) of **TSRA**.

If you have any questions regarding this matter, please feel free to contact me at (202) 482-1455 or have your staff contact Scott **Kamins**, our Director of Congressional and Public Affairs, at (202) 482-0097.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth I. Juster".

Kenneth I. Juster

Enclosure



DEPARTMENT OF COMMERCE REPORT ON ACTIONS TAKEN
PURSUANT TO SECTION 906(a)(1) OF THE
TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000

Section 906(c) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (Title IX of Pub. L. 106-387), enacted on October 28, 2000, requires that the appropriate federal government department or agency submit a report to the Congress, not later than two years from the date of enactment of TSRA, on the operation of the licensing system under Section 906(a)(1) for the preceding two year period. Specifically, TSRA requires that the report include the following information: (1) the number and types of licenses applied for; (2) the number and types of licenses approved; (3) the average amount of time elapsed from the date of filing of a license application until the date of its approval; (4) the extent to which the licensing procedures were effectively implemented; and (5) a description of comments received from interested parties about the extent to which the licensing procedures were effective, after the applicable department or agency holds a public 30-day comment period.

Accordingly, the Bureau of Industry and Security (BIS) within the Department of Commerce is submitting this report covering its licensing activity relating to exports of agricultural commodities to Cuba from July 26, 2001, the date the BIS regulation implementing TSRA went into effect, through September 30, 2002. The Treasury Department's Office of Foreign Assets Control (OFAC) is responsible for licensing exports to Iran, Iraq, Libya, and Sudan, Iraq remains subject to multilateral sanctions and is thus not eligible for the TSRA procedures.

On July 12, 2001, BIS revised its Export Administration Regulations (EAR) to implement the TSRA requirements on exports of agricultural commodities to Cuba. The implementing rule became effective on July 26, 2001. BIS created License Exception Agricultural Commodities (AGR) to permit expedited review of proposed exports of agricultural commodities to Cuba, as required by Section 906(a)(1) of TSRA. Under License Exception AGR, an exporter must submit prior notification of a proposed transaction to BIS. The exporter may proceed with the shipment once BIS confirms that no reviewing agency has raised an objection to the transaction (confirmation generally provided within twelve business days), provided the transaction meets all of the other requirements of the license exception. This expedited review process includes screening the ultimate recipient of the commodities to ensure that it does not promote international terrorism. Exports of medicines and medical devices to Cuba are not eligible for License Exception AGR and continue to be subject to the license application and review requirements of Section 6004(c) of the Cuban Democracy Act of 1992.

Pursuant to Section 906(c) of TSRA, BIS is submitting this report on License Exception AGR activity involving exports to Cuba for the two year period since the enactment of TSRA. The data covers all License Exception AGR notifications and licensing activity for AGR-eligible commodities to Cuba from July 26, 2001 through September 30, 2002.

As illustrated by the attached chart, BIS received 205 notifications of proposed transactions pursuant to License Exception AGR during the reporting period, with 194 transactions approved in an average of twelve business days. Eleven notifications were returned without action in an average of three days. These notifications were returned either because the proposed items for export were not eligible under License Exception AGR or because the filing duplicated a previous filing. BIS also processed 81 license applications for AGR-eligible items. These cases were processed following BIS licensing procedures as defined by Section 10 of the Export Administration Act of 1979, as amended (EAA) – currently in lapse – and Executive Order 12981, which maintains those procedures in effect. BIS approved 69 license applications with an average processing time of 28 days. Twelve cases were returned without action in an average of eight days and no applications were denied. Applications were returned without either at the request of the applicant or because the application was a duplicate.

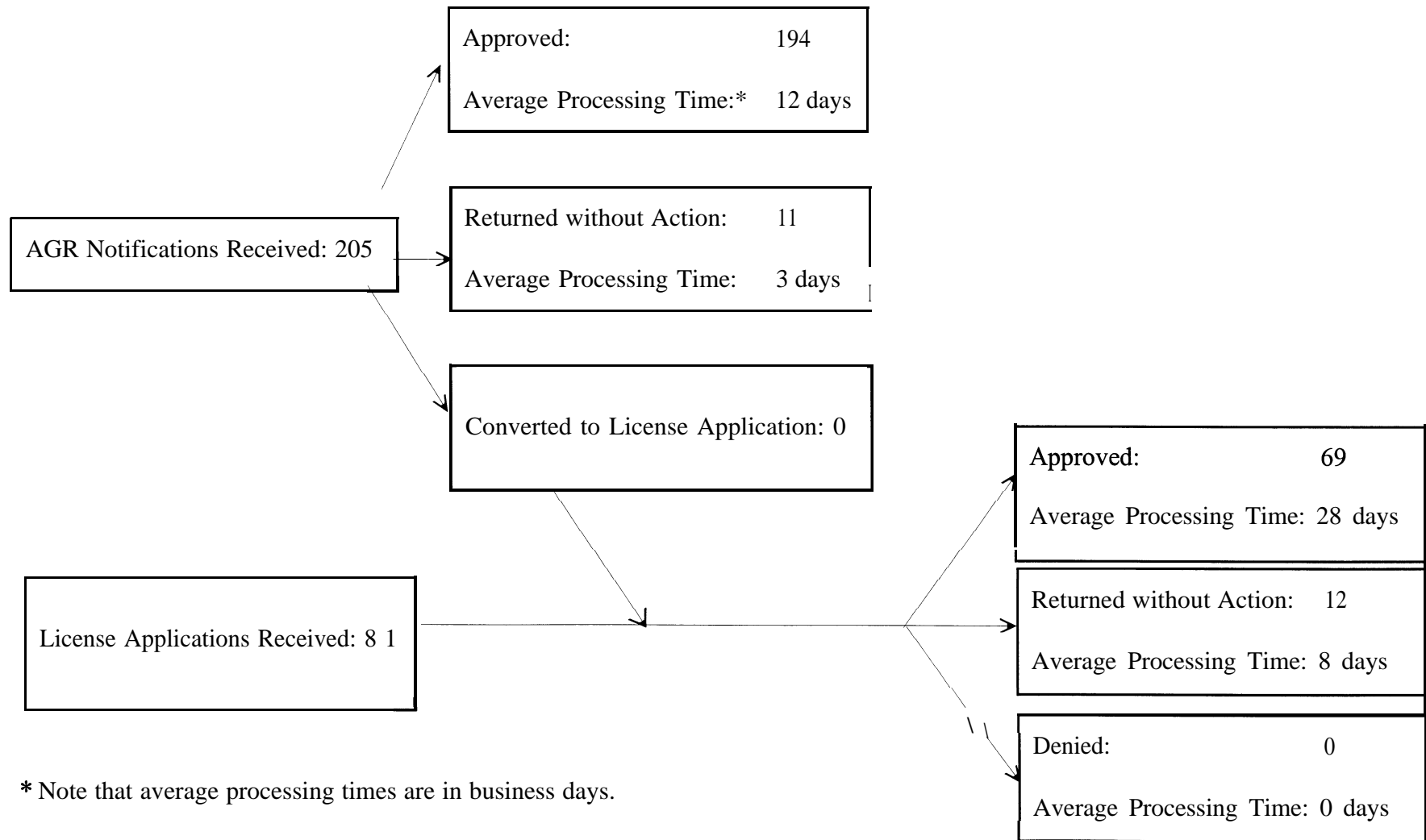
BIS licensing procedures effecting TSRA have been effectively implemented. The reviewing agencies have been able to adequately screen transactions to effectuate the goals of the legislation and still provide for the ability to deny licenses to entities that promote international terrorism within the four TSRA-eligible countries. At the same time, the processing of all notifications has been consistent with the twelve business day process created as part of License Exception AGR. Thus, BIS procedures are consistent with the requirements of Section 906(a)(1) of TSRA.

Based on the requirement set forth in Section 906(c)(5) of TSRA, BIS held a **30-day** public comment period on the effectiveness of its licensing procedures for the export of agricultural commodities to Cuba. A **Federal** Register notice was published on August 21, 2002 (67 FR 54136) and posted on the BIS Web page. BIS received three comments during the **30-day** comment period, all from agricultural trade associations. Two associations concluded that BIS was doing an effective job and was making an outstanding effort to make the process as effective as possible. One association had broader comments relating to **TSRA-eligible** exports to Cuba, Iran, Libya, and Sudan, and commented on both BIS and OFAC procedures. This association expressed concern about the delays in license processing and recommended amending the procedures to allow for **24-hour** processing of applications. All three associations commented on other barriers to trade with Cuba, including the financial restrictions and the shipping license requirements.

Attachment

**Biennial Report to the Congress on Activities Undertaken by the Department of Commerce Pursuant to
Section 906(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000**

Agricultural Commodities to Cuba: October 28, 2000 - September 30, 2002



* Note that average processing times are in business days.