

OFFICE OF FOREIGN ASSETS CONTROL

REPORT OF LICENSING ACTIVITIES

PURSUANT TO

THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000

April - June 2005

I. Overview

This report is submitted pursuant to Section 906(b) of the Trade Sanctions Reform and Export Enhancement Act of 2000 ("TSRA") and covers activities undertaken by the Treasury Department's Office of Foreign Assets Control ("OFAC") under Section 906(a)(1) of the TSRA from April through June 2005. On July 12, 2001, OFAC issued regulations, with a request for public comment, implementing the TSRA. The regulations went into effect on July 26, 2001. Under these procedures, OFAC processes license applications requesting authorization to export agricultural commodities, medicine, and medical devices to Iran and Sudan under the one-year specific licensing regime set forth in Section 906 of the TSRA.

There was a 3.2 percent increase in the number of license applications received during this reporting quarter from the prior quarter (228 for Apr.-Jun. 2005, 221 for Jan.-Mar. 2005¹). A majority of the complete and eligible license applications² processed in this quarter were processed within the established time guidelines for license application review.³ OFAC was able to issue licensing determinations⁴ on 61.8 percent of all the license applications received during the April – June 2005 period (compared to 56.4 percent for the Jan.-Mar. 2005 period).

The increased complexity and length of license applications (the majority of applications pertain to the export of medical devices to Iran) coupled with the more protracted scrutiny on the part of other reviewing agencies continued to affect processing time of license applications in this

¹ The Jan.-Mar. 2005 figure reported here reflects a total higher than previously reported for that period because OFAC received applications dated within that period subsequent to the completion of the report.

² OFAC's Licensing Division forwards only complete and eligible license applications to the State Department.

³ *Federal Register/Vol. 66, No. 134/Thursday, July 12, 2001/Rules and Regulations, 36685, provides the following guidelines:* The expedited process will include, when appropriate, referral of the one-year license request to other government agencies for guidance in evaluating the request. If no government agency raises an objection to or concern with the application within nine business days from the date of any such referral, OFAC will issue the one-year license, provided that the request otherwise meets the requirements set forth in this rule. If any government agency raises an objection to the request within nine business days from the date of referral, OFAC will deny the request for the one-year license. If any government agency raises a concern short of an objection with the request within nine business days from the date of referral, OFAC will delay its response to the license request for no more than thirty additional days to allow for further review of the request.

⁴ A licensing determination is defined as any action, either intermediate or final, that OFAC takes on a license application. It may take the form of a license, a "return-without-action" letter, a general information letter, an interpretative letter, a denial letter, a telephone call, a fax, or an e-mail.

quarter. A 30-day extension of the nine-business day review period by other agencies occurs in nearly all cases. Interagency review exceeded the 30-day extension period in 42.9 percent of licensed cases (compared to 16.9 percent for Jan.–Mar. 2005). Of these cases, the review period exceeded the 30-day extended period by an average of 37.7 business days (compared to 30.2 business days for Jan.-Mar. 2005).

These cases are evaluated by other agencies both in terms of whether the foreign entities involved in the transaction “promote international terrorism,” as required in section 906 of the TSRA, and in terms of whether the commodities at issue implicate independent export control regimes involving chemical or biological weapons or weapons of mass destruction as provided in section 904(2)(C) of the TSRA. Scrutiny of these cases on these grounds often results in requests for additional information by the reviewing agency, which neither the applicant nor OFAC can anticipate, causing additional delays in the review process.

II. Program Operation

From April 1 to June 30, 2005, OFAC’s Licensing Division received a total of 228 license applications pursuant to Section 906(a)(1) of the TSRA. During this period, OFAC issued licensing determinations on 141 of the 228 license applications. A total of 149 licenses and 14 license amendments⁵ were issued from April through June (**See Charts 1 and 2**). On average, licenses and license amendments were issued within 36.8 business days of receipt of the application. Upon completion, 94.5 percent (154 in total)⁶ of the licenses and license amendments issued were sent via e-mail in Adobe Acrobat PDF format to licensees, a service that generated very favorable comment by licensees. In addition, OFAC issued six general information letters (average turnaround: seven business days), 41 “return-without-action” letters (“RWA letters”) (average turnaround: 6.8 business days), and 17 denial letters (average turnaround: 29.7 business days – also subject to interagency review) (**See Graph 1**). The average number of business days for the Licensing Division to issue a licensing determination in response to submissions to OFAC on any license application under the TSRA regulations was 30 business days, an increase of 40.2 percent compared with last quarter’s average of 21.4 business days. The total licenses issued, general information letters, RWA letters, and denial letters does not equal the number of license applications received because: (1) not all license applications received during this quarter were closed in this quarter; (2) some license applications pending from prior quarters of operation were closed in this quarter; (3) in some instances multiple applications from the same license applicant were combined into one license; and (4) a few license applications were handled via telephone, fax, or e-mail.

As in past quarters, the preponderance of license applications submitted and licenses/license amendments issued was for Iran (**See Chart 3**). A total of 197 license applications (86.4%) was received for Iran, in contrast to 24 (10.5%) for Sudan. Likewise, 147 licenses/license amendments (90.2%) were issued for the sale of agricultural commodities, medicine, and medical devices to Iran, versus 16 (9.8%) for Sudan. In keeping with the program’s trend, the majority of license applications (55.2%) and over half of the licenses/license amendments (52.3%) were for the export of medical devices to Iran and Sudan. Of the 197 license

⁵ A “license amendment” is an amendment to an existing license previously issued by OFAC. Some license amendment applications require interagency review, such as those adding an additional end-user or additional commodities to an existing license.

⁶ Compared with 95.8 percent (136 in total) for Jan.-Mar. 2005.

applications for Iran, 57 (28.9%) were for agricultural commodities, 24 (12.2%) for medicine, and 116 (58.9%) for medical devices. Of the 147 licenses/license amendments issued for Iran, 51 (34.7%) were for agricultural commodities, 17 (11.6%) for medicine, and 79 (53.7%) for medical devices. In addition to being fewer in number, the percentage breakdown of the 24 license applications for Sudan is disparate: 14 (58.3%) for agricultural commodities, three (12.5%) for medicine, and seven (29.2%) for medical devices. Of the 16 licenses/license amendments issued for Sudan, four (25%) were for agricultural commodities, four (25%) for medicine, and eight (50%) for medical devices. The disparity in the number of license applications and licenses/license amendments for the two countries reflects their respective economic development and political situation.

CHART 1
Number of License Applications and Licenses Issued by Product

| | Agricultural Commodities | Medicine | Medical Devices | TOTAL |
|----------------------------------|-------------------------------------|-----------------|----------------------------|--------------|
| License Applications | 75 | 27 | 126 | 228 |
| Licenses Issued | 52 | 19 | 78 | 149 |
| License Amendments Issued | 3 | 2 | 9 | 14 |
| Applications Denied | 1 | 1 | 15 | 17 |

CHART 2
Number of License Applications and Licenses Issued by Country

| | Iran | Libya⁷ | Sudan | TOTAL |
|---|-------------|--------------------------|--------------|------------------------|
| License Applications⁸ | 197 | 2 | 24 | 228⁸ |
| Licenses Issued | 133 | 0 | 16 | 149 |
| License Amendments Issued | 14 | 0 | 0 | 14 |
| Applications Denied | 17 | 0 | 0 | 17 |

⁷ Effective September 21, 2004, Executive Order 13357 terminated the emergency declared in Executive Order 12543 with respect to the policies and actions of the Government of Libya and revoked related Executive Orders. Accordingly, no OFAC license is required for exports to Libya. Executive Order 13357 does not, however, eliminate the need to comply with the licensing provisions of the Export Administration Regulations, 15 C.F.R. Parts 730 et seq.

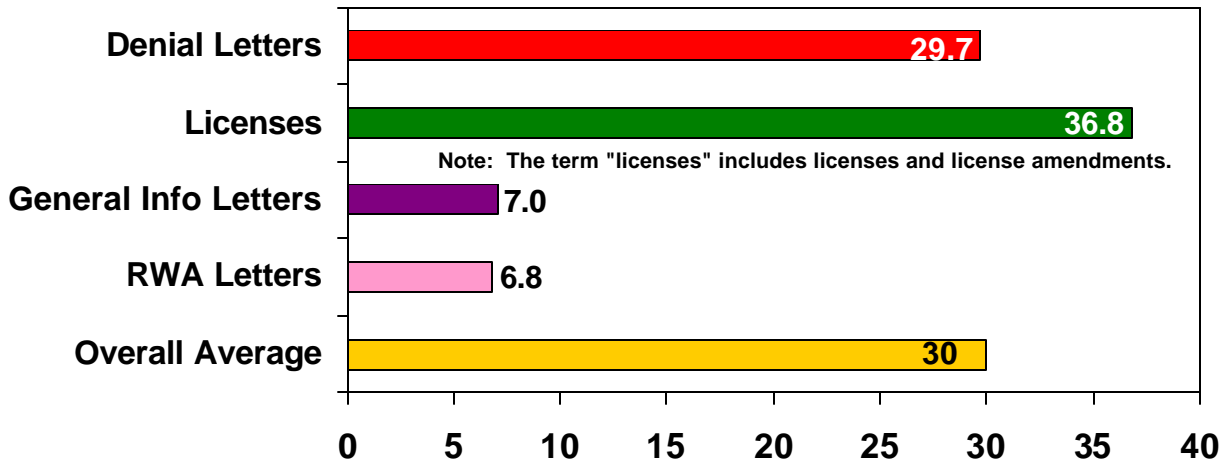
⁸ OFAC received five license applications for Syria in this quarter of operation. On December 12, 2003, President Bush signed the Syria Accountability and Lebanese Sovereignty Restoration Act ("SAA") (Public Law 108-175). On May 11, 2004, President Bush issued Executive Order 13338 to implement §§ 5(a)(1), 5(a)(2)(A), and 5(a)(2)(D) of the SAA. Section 5(a)(1) of the SAA requires a prohibition on the export to Syria of all items on the Commerce Control List. Section 5(a)(2)(A) prohibits the export or reexport to Syria of all products of the United States, with the exception of food and medicine. The result of the implementation of §§ 5(a)(1) and 5(a)(2)(A) of the SAA is to restrict the export and reexport of all items subject to the Export Administration Regulations to Syria. The Department of Commerce's Bureau of Industry and Security is responsible for licensing exports and reexports, including food and medicine, to Syria.

CHART 3
Number of License Applications and Licenses Issued by Country and Product

| | Agricultural Commodities | Medicine | Medical Devices | TOTAL |
|--|-----------------------------|----------|--------------------|------------|
| IRAN | | | | |
| License Applications | 57 | 24 | 116 | 197 |
| Licenses and License Amendments Issued | 51 | 17 | 79 | 147 |
| SUDAN | | | | |
| License Applications | 14 | 3 | 7 | 24 |
| Licenses and License Amendments Issued | 4 | 4 | 8 | 16 |

GRAPH 1

Average Time for Issuing Licensing Determinations
(business days)



III. Conclusion

The average processing time for issuing licenses rose 50.2 percent to 36.8 business days in this quarter of operation, and the average time for issuing licensing determinations increased by 40.2 percent to 30 business days versus 21.4 business days in the preceding quarter.

In August 2003, in consultation with the State Department, OFAC implemented a process that permits OFAC to issue agricultural commodities licenses without interagency review where the commodity and the end-user had been approved through the interagency review process within the past twelve months. During this quarter, two licenses were issued under this exception to the interagency review process, enabling OFAC to issue these agricultural commodities licenses on average within 3.5 days of receipt of the license application.