

OFFICE OF FOREIGN ASSETS CONTROL

REPORT OF LICENSING ACTIVITIES

PURSUANT TO

THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000

October - December 2004

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 October through December 2004. 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 an 18.7 percent decrease in the number of license applications received during this reporting quarter from the prior quarter (226 for Oct.-Dec. 2004, 278 for Jul.-Sep. 2004¹). 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 consistently operated within its internal time guidelines by using no more than **0.2 business day on average** in both forwarding complete and eligible license applications to other agencies for review, and processing complete and eligible license applications following receipt of an approval or denial memorandum from other agencies. OFAC was able to issue licensing determinations⁴ on 69 percent of the license applications received during the October - December 2004 period (compared to 55.5 percent for the Jul.-Sep. 2004 period).

¹ The Jul.-Sep. 2004 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 interpretation letter, a denial letter, a telephone call, a fax, or an e-mail.

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 quarter of operation. The 30-day extension of the nine-business day review period by other agencies is taken for nearly all cases. Interagency review exceeded the 30-day extension period in 21.3 percent of licensed cases (compared to 35.9 percent for Jul.-Sep. 2004). Of these cases, the review period exceeded the 30-day extended period by an average of 36.2 business days (compared to 18.7 business days for Jul.-Sep. 2004).

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 October 1 to December 31, 2004, OFAC’s Licensing Division received a total of 226 license applications pursuant to Section 906(a)(1) of the TSRA. During this period, OFAC issued licensing determinations on 156 of the 226 license applications. A total of 233 licenses and seven license amendments⁵ were issued from October through December (**See Charts 1 and 2**). On average, licenses and license amendments were issued within 24.5 business days of receipt of the application. Upon completion, 96.3 percent (231 in total)⁶ of the licenses and license amendments issued were sent via e-mail in Adobe Acrobat PDF format to licensees, a service greatly appreciated by licensees. In addition, OFAC issued two general information letters (average turnaround: five business days), 37 “return-without-action” letters (“RWA letters”) (average turnaround: one business day), and four denial letters (average turnaround: 22.8 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 21.6 business days, an increase of 11.3 percent compared with last quarter’s average of 19.4 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.

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 96.7 percent (113 in total) for Jul.-Sep. 2004.

CHART 1
Number of License Applications and Licenses Issued by Product

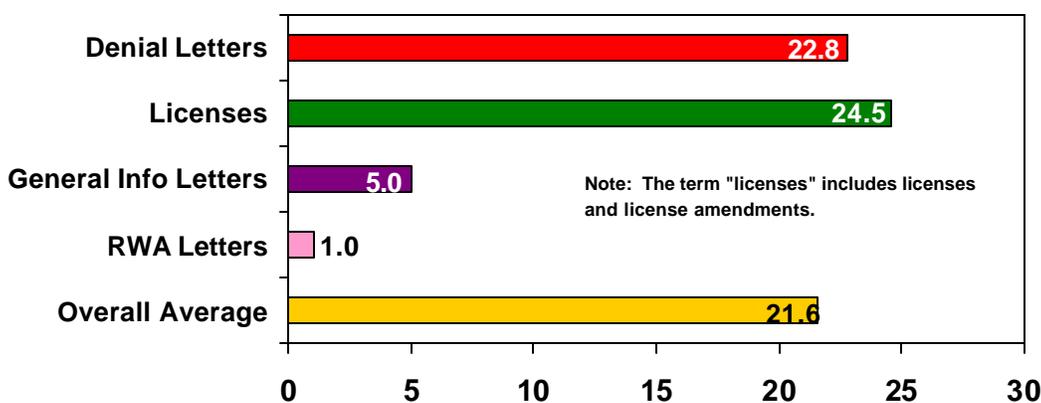
	Agricultural Commodities	Medicine	Medical Devices	TOTAL
License Applications	49	70	107	226
Licenses Issued	51	100	82	233
License Amendments Issued	2	1	4	7
Applications Denied	1	0	3	4

CHART 2
Number of License Applications and Licenses Issued by Country

	Iran	Libya ⁷	Sudan	TOTAL
License Applications	209	1	16	226
Licenses Issued	226	0	7	233
License Amendments Issued	6	0	1	7
Applications Denied	4	0	0	4

GRAPH 1

Average Time for Issuing Licensing Determinations
 (business days)



III. Conclusion

OFAC continues to administer the TSRA successfully by using no more than 0.2 business day on average in both forwarding license applications to other agencies for review and processing license applications following receipt of an approval or denial memorandum from other agencies. The average processing time for issuing licenses decreased by 10.3 percent to 24.5 business days in this quarter of operation from 27.3 business days previously, and the average

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.

time for issuing licensing determinations increased by 11.3 percent to 21.6 business days versus 19.4 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 of operation, 12 licenses were issued under this exception to the interagency review process, enabling OFAC to issue these agricultural commodities licenses on average within a day of receipt of the license application.